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HEMDAT YAMIM

Parashat HaShavua

Shemot, 23 Tevet 5777

“These Are the Names of Israel” – How Does One Enter the List?

Harav Yosef Carmel

We have dealt with helping Jews being accepted and encouraging the conversion of those with patriarchal Jewish lineage. Now we will deal with the question of how to approach the challenges of conversion.

No broad elements of the religious community in Israel treat conversion as a highest priority endeavor, with groups viewing other things as higher on the national agenda. To change this, the political leadership of the State of Israel and Torah leadership need to embark on a program that turns the spiritual absorption of *olim*, especially those from the Former Soviet Union who require conversion, into a major national project. Passiveness with the illusion that matters will work out by themselves, runs the real risk of assimilation within the Jewish State.

Nowadays, a conversion applicant is sent to a year-long course (*ulpan giyur*) and, if lucky, receives an “adopting family” to accompany him into the world of Judaism. The course teaches the candidate many specific halachic issues about which he will be asked before conversion. There is no halachic source for such tests, and, interestingly, there are halachic discussions whether it is permitted to teach Torah to a candidate before conversion (the opinion that it is permitted is accepted (see Bemareh Habazak I:75)). If he does not pass the test, he is not converted.

After the completion of the conversion process, there is no follow-up encouragement to lead a full Jewish life. There is also no enforcement of his practice of the Torah he accepted. State resources are “freed up” to deal with new candidates and fund the conversion courts. (Attempted enforcement and use of authority, especially in such a sensitive area, is questionable). This is one of the reasons that a large segment of converts do not continue to fulfill *mitzvot*.

The failings in *mitzva* fulfillment bring on two reactions. The religious community feels tricked by the candidate and loses interest in further conversions. Potential conversion candidates start to look at the process as a farce, lessening the motivation of serious candidates to start the process. Worst of all, a small minority of *dayanim* try to retroactively cancel conversions, which is against halacha (in 99% of the cases) and is totally inhumane (certainly after the convert has children).

We propose changing the focus of our efforts from preparing the convert to follow-up after conversion. Before the conversion, we should stick to the Rambam (Issurei Biah 14:2) and Shulchan Aruch (YD 268:2): “We inform them the basics of the religion – the oneness of Hashem and the prohibition of idol worship (which most candidates embrace), discussing this at length. We inform them about some of the easier and some of the severe *mitzvot*, and we do not deal with these at length (!!!). We tell about the sins of failing to do *leket*, *shikcha* and *peiah* (stressing helping others), and *maaser sheni* (investment in spiritual matters), and we tell them of the punishments of *mitzvot*. We do not speak much or in great detail, lest it cause him to be bothered and turn away from the good path to a bad one. We draw people near only with matters that are soft and pleasing.”

After the exciting moment of accepting *mitzvot*, one should continue the national and communal “hug” and try to ensure that one who asserted he is accepting *mitzvot* will succeed in doing so.

We need the involvement of communal rabbis, heads of *yeshivot*, *kollelim*, *mechinot*, and *medrashot* together with their students and members of communities. The whole process should be done with great patience, love, and pleasantness. If the religious community will get involved seriously, chances of success will increase and more candidates will step forward.

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Those who fell in wars for our homeland. May Hashem avenge their blood!



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Ask the Rabbi

by Rav Daniel Mann

How Many People Together to Start *Shemoneh Esrei*? – part II

Question: I *daven* at a small *minyan* at which some people *daven* slower than the rest and others come late. We do not always have ten ready to start *Shemoneh Esrei* with the *chazan*. Should we wait for ten, or is six enough?

Answer: [Last week we saw the main sources and arguments of the sides on this matter.]

Several important *poskim* say that six *davening* in the presence of another four (= 6+4) is considered *tefilla b'tzibbur*, based on their understanding of the Rambam and Magen Avraham. This includes Rav Ovadia Yosef (Yechaveh Da'at V:7), Minchat Yitzchak (IX:6,7), Shevet Halevi (XI:20), Beit Baruch (19:3), and B'tzel Hachocma IV:135). Several also report this to be common practice.

The stringent camp includes (in addition to Rav M. Feinstein, see last week) Halichot Shlomo (8:5, in the name of Rav Auerbach), Teshuvot V'hanhagot (I:102, also citing the Brisker Rav), and Rav Y.C. Zonnenfeld (Salmat Chayim, OC 52). The contemporary Ishei Yisrael (12:7) and Tefilla K'hilchata (8:71) treat it as a *machloket* with a slight leaning toward stringency.

The primary disagreement between the two sides may be more conceptual (is it called *tefilla b'tzibbur*?) than practical (may one *daven* in that manner?). For example, the Minchat Yitzchak (IX:7), a member of the lenient camp, says that ten starting together is preferable to 6+4. On the other side, Igrot Moshe (Orach Chayim III:16) relates to 6+4 as a reasonable option in some cases. After all, *tefilla b'tzibbur* is not an absolute obligation and requires the investment of only moderate efforts (see Shulchan Aruch, OC 90:16). There are many questions discussed (including in this column) of preference between full *tefilla b'tzibbur* and other *tefilla* enhancers.

There are also levels of connection between *tefilla* and *tzibbur*. It is best to start *Shemoneh Esrei* exactly with the *minyan*, but starting later is also significant (see differences between Igrot Moshe, OV III:4 and B'tzel Hachochma IV:3). Starting *Shemoneh Esrei* as *chazarat hashatz* begins has value but may not be full *tefilla b'tzibbur* (see this column, Vaeira 5773). *Davening* even in an empty *shul* has value, as does *davening* at home at the time of *davening* in *shul*. 6+4 may also have a status of significant but incomplete value. Teshuvot V'hanhagot (ibid.) calls 6+4 *tefilla b'tzibbur* and ten together *tefillat hatzibbur*. Igrot Moshe (ibid. 29) says that the presence of ten men draws the Divine Presence (see Berachot 6a), but only with ten *davening* together are the *tefillot* accepted in the best way (see ibid. 8a).

The Rambam (see last week) seems to view 6+4 for *chazarat hashatz* as ideal *tefilla b'tzibbur* because *chazarat hashatz*'s importance exceeds that of a *minyan* for silent *Shemoneh Esrei*. The Chatam Sofer (Kovetz 4) holds this, whereas Igrot Moshe (OC III:9) denies such an opinion. The Rambam thus can agree that 6+4 counts only for *chazarat hashatz* but say this suffices. If so, for the majority, who prefer silent *Shemoneh Esrei* to *chazarat hashatz*, the Rambam is not a proof. It might also work only with a full nine people answering every *beracha* and only for those who answer (see Kinyan Torah Ba'halacha IV:5). It also would not help at *Maariv*.

So, there is relative value in being stringent, but at what price?

Philosophically, approaching prayer united with the community is crucial (see Ein Ayah, Berachot 1:48,89). While it is hard to prove that ten starting *Shemoneh Esrei* together are a condition for unity, the Talmudic sources stress maximizing these elements. Therefore we urge the following. A *minyan* that has time for a complete *tefilla* experience (e.g., a *yeshiva*), should wait as long as necessary for ten to start together. Waiting can also remind individuals to come early enough and/or learn the *halachot* of skipping. A *minyan* that needs to stick to schedule (e.g., people must be on time to work) and/or is harder to educate may rely on the lenient opinions rather than tuck on minutes. (One should try to internalize his responsibility for a *minyan*'s existence/proper functioning (see Rama, OC 55:22).)



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Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

Slipping into the Darkness of Individual Focus

(condensed from Ein Ayah, Shabbat 2:294, section I)

Gemara: What is *bein hashemashot* (halachic twilight)? From the time the sun sets, as long as the east side of the sky has redness. When the bottom side has darkened and the top has not, this is still *bein hashemashot*. When the top part darkens and is the same color as the bottom, this is night. The preceding is the opinion of Rabbi Yehuda.

Ein Ayah: The phenomenon of day and night and the transition and relationship between them reminds us of the approach to historical periods in the annals of the Jewish people that can be compared to day and night. Day represents times of liberation and glory, and night represents times of deterioration.

The fundamental difference between these periods is that in the time of greatness, matters relating to the collective have the greatest prominence, and all individuals find happiness and pride in the success of the collective. A situation of “daylight” means that the actions of society are so great that they swallow up the tendency toward individualism.

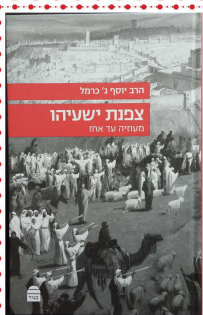
When the nation declines, destruction sets in. The people are scattered, their centers are destroyed, and the spirit of the collective is lost. “The sun sets, and night falls.” Elements of national life disappeared when our Glorious House was destroyed and our unifying capital city lost its centrality. One needs to define the extent to which the national spirit declined in order to set new boundaries between public and private life and calibrate their interaction.

This is important because even after the kingdom ceased, the Temple was destroyed, and the nation was scattered, Hashem still preserved for us a situation in which there were rays of light and the “eastern sky had a rosy glow.” The nation still remembered well its glory, and its connection to their collective successes lived powerfully in its heart.

In the first stage after destruction, the individual felt the loss, even in his personal life in regard to his material state, so that this part of his life could not be complete and full of light. However, in the element of his spirit, there was still a connection to the days of glory, and there was still a connection to the era of liberation.

As time moved on, any connection to the time of independence and national success disappeared, and the last vestige of connection to the national era was lost in the lower realm. However, as long as the individual still felt the spirit of strength and felt a connection to the spiritual grandeur that existed in the upper realm, it was still *bein hashemashot*. There was a mixture of exile and liberation interplaying within the person.

Once even the upper, spiritual realm only had a connection to the individual, not the collective, this already signaled the era of night, of exile. All of these matters are a function of time. As more time goes by from the previous period to the one in which people are now living, the connection lessens. Over time, the dominion of the collective is darkened, as this element of life is lost, and the life of the individual, with its focus on matters of little significance, takes its place. Then darkness of full night becomes fully palpable.



Tzofnat Yeshayahu- Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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P'ninat Mishpat

Meaningless Suit

(based on ruling 74092 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendant (=def) and the plaintiff (=pl) were embroiled in a dispute over real estate during the course of seven years in various levels of secular court. The final ruling was not to pl's liking, and he refused to pay according to the judgment. As enforcement efforts significantly raised the amount due, pl began writing extremely inflammatory letters against def (*pashkivilim*). Pl spread over 10,000 copies in strategic places throughout the country in which he felt it would hurt def. Def sued pl for defamation, and the matter arrived for adjudication at our *beit din*. The arbitration agreement with which they empowered Eretz Hemdah-Gazit related specifically to the matter of defamation and not to the original monetary dispute. During deliberations, pl complained about the fact that he was sued in secular court and now demanded that *beit din* rule that def had acted against halacha in so doing. Def said that after seven years of adjudicating in secular court without complaining about the venue, pl cannot complain at this point or use it as an excuse to justify his defamation campaign. *Beit din* said that due to the limited nature of their present arbitration agreement, if pl wanted to extend the scope, he would have to open a new case. He did so, and def declined to take part in it, prompting the involvement of a special tribunal of three heads of branches of our *beit din* to deal with this matter of precedent regarding the scope of Eretz Hemdah-Gazit's judicial mandate.

Ruling: The activity of the network of rabbinical courts "Eretz Hemdah-Gazit" is intended for two purposes:

1. To enable two interested parties to resolve the conflict between them based on halacha and according to the authority in which the arbitration panel is vested by the Law of Arbitration.
2. To give one side halachic permission to turn to the state courts or to defend himself and raise legal claims in response to a suit in state courts in a case where the other party refuses to adjudicate in *beit din*.

It follows that *Beit Din Eretz Hemdah-Gazit* will act in a case where one side does not agree to adjudicate and there is a possibility of seeking remedy in state court. However, if it is not possible to adjudicate in secular court, we will not get involved in a case lacking the agreement of both sides to involve us.

In the case before us, the state courts have already given a final ruling (after appeal), so there is no possibility of turning to them at this point. Therefore, we will not act on the suit unless the two sides agree to accept our jurisdiction in the matter.

[Ed. note – *this is not to say that no beit din has a halachic right to visit the issue and decide regarding claims of if and when one can sue in beit din after losing in secular court. The point is that the policy of our particular beit din is to work only in matters covered in the Law of Arbitration, which are thus enforceable.*]

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