



Harav Shaul Israeli zt"l  
Founder and President

### Hearing the Sounds

Harav Yosef Carmel

The *parasha* begins with the *devarim* (utterances) that Moshe *diber* (spoke) to Bnei Yisrael (Devarim 1:1), as does the *haftara* that we read recently, “*Divrei Yirmiyahu ... asher haya devar Hashem* (spoke)” (Yirmiyahu 1:1-2). The phenomenon of double stressing the speaking occurs several times in the two *sefarim*. (Parenthetically, the people involved, Moshe and Yirmiyahu, have a lot in common.) It is noteworthy that throughout *Sefer Devarim*, there are connections to the *Aseret Hadibrot* (Ten Commandments). The *Aseret Hadibrot* also begin with a double mention of the root *daber* (Shemot 20:1).

We have demonstrated in the past that throughout *Tanach*, we find that *davar* is a reference to prophecies, and indeed *Sefer Devarim* means that it is the book of Moshe’s prophecies. So too regarding Yirmiyahu, the introductory *p’sukim* mean that these are the prophecies of Yirmiyahu.

There is a question we have to ask about prophets. What body part is key to their prophecy: the eyes, the ears, or the mouth? The following *pasuk* in *Parashat Vaetchanan* may help. “Hashem spoke to you from the midst of the fire; the sound of *devarim* you heard, and a picture you did not see, but rather a sound” (Devarim 4:12). Sound is stressed, so the important thing is hearing with the ears. After hearing, the prophet shares with the mouth. Seeing is of lesser value and is sometimes even negative. Therefore, we should not be surprised that after the story of the traverses through the desert from the time of the Exodus until soon before the entry to the Land, Moshe addresses the people with the words: “Now, Israel, listen ...” (ibid. 4:1). This is followed a little later with the introduction to another important address: “Listen, Israel, to the statutes and the laws” (ibid. 5:1).

So we will posit that the ear is the most important organ, followed by the mouth and only afterward the eyes. Until recently, in order for someone to be able to speak properly, he must have had a functioning ear. With improvements in technology and medicine, in Hashem’s kindness, the situation of the hearing impaired has improved greatly.

One of the people who stressed the importance of hearing was King David, who said: “Ears You formed for me ... then I said (with the mouth): Indeed I have come with the scroll of a book written about me” (Tehillim 40:7-8). One who expounded on this point is Rav Kook’s disciple, Rav David Cohen, who was known as *The Nazir*, in his work “The Sound of Prophecy.”

We end off with a related matter that has been troubling us greatly – the inability of extremists on both sides of the political spectrum to listen and their takeover of the public discourse. The ear has another purpose, other than hearing. The ear is responsible for balance in the body. (Notice that Hebrew uses the same root for the ear and for balance.) Yes, the ear is responsible for that on a physical and on a social level. Let us pray for proper balance, which begins with people listening for the benefit of the needs of their counterparts.

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



# Ask the Rabbi

by Rav Daniel Mann

## The Sick Fasting on Tisha B'av

**Question:** How sick does one need to be to be exempt from fasting on Tisha B'av? What food limitations, if any, does he have?

**Answer:** The closest *gemara* on the subject says that pregnant and nursing women are required to fast on Tisha B'av (Pesachim 54b). *Rishonim* posit that this is because they are considered healthy, but that a woman within thirty days after childbirth and a person who is sick with a not-expected-to-be dangerous illness need not fast (see Ran, Ta'anit 10a of Rif's pages; Beit Yosef, Orach Chayim 554). Although such people must fast on Yom Kippur (see details in Shulchan Aruch, OC 617:4), Tisha B'av is different because it is not a Torah-level prohibition. Even though the non-dangerously sick may not eat a Rabbinically forbidden food (Shulchan Aruch, Yoreh Deah 123:2), the Rabbis built into the institution of the fast of Tisha B'av that it does not apply to clearly sick/weak people (Ran, *ibid.*; Shulchan Aruch, OC 554:6).

How do we define sick in this regard? The leading definition regarding Shabbat leniencies is *nafal l'mishkav* – needing to spend serious time in bed (Shulchan Aruch, OC 328:17). That phrase is not found in the *poskim* here (see Aruch Hashulchan, OC 554:7). Significant fever certainly qualifies, as well as conditions that fasting complicates (see Ohr L'tzion III, 29:(5)). Generally, a situation that prevents the average person from going to work is included. Remember, our sick person is equivalent to a woman in the first month after birth (the differences are that she **can** feel perfectly wonderful, but her body is known to have gone through a major trauma). Rav M. Feinstein (Igrot Moshe, OC IV:114) says that one who is fasting particularly poorly counts as sick. It is very difficult to know where to draw the line on that (consider that fasting is usually difficult for pregnant and nursing mothers).

Regarding a woman after childbirth, the Rama (OC 554:6) says that despite the halachic exemption, the *minhag* is to fast (see Chayei Adam II, 135:2; Mishna Berura 554:13). Regarding a sick person, stringency is less encouraged (*ibid.* and *ibid.*:16).

To what extent do we say the fast does not exist, as opposed to the situation of a dangerously sick person on Yom Kippur, to whom the fast exists but is compromised **as needed** (Shulchan Aruch, OC 618:7)? The Shulchan Aruch (OC 554:6) says it was not instituted for them – apparently, at all. Therefore, several *poskim* said that there is no need to limit eating (Kaf Hachayim, OC 554:31; Avnei Nezer, OC 540; Shevet Halevi IV:56).

It is also possible to say that a sick person should try to limit the amount of eating on Tisha B'av, but the specific size/time formula (*shiurim*) we find regarding Yom Kippur (see Shulchan Aruch, OC 618:8) is irrelevant. The Aruch Hashulchan (OC 554:7) implies that *shiurim* are significant only concerning Torah-law prohibitions. There, they are important for the Torah punishment, which does not apply to Rabbinic prohibitions like eating on Tisha B'av. This is not obvious because the *gemara* (Yoma 79a) bases the amounts for Yom Kippur on their effect on the **experience** of fasting, which can apply to Tisha B'av as well.

The difference between the approaches to why not to require *shiurim* is regarding other means of limiting the eating. The Chayei Adam (*ibid.*) says that one should try to fast part of the day (see Yoma 82a in regard to the partial fasting of children under bar/bat mitzva). Some explain that the delaying or minimizing of the eating does not indicate a partial existence of the fast per se, but is based on the idea of wanting to share with the general pain that everyone is experiencing (see Chut Shani III:93). There may be a distinction between someone who starts the day fully sick and someone who we do not want to fast because it likely will make him sick, in which case he should wait until it is necessary (see Dirshu 554:26).

[Most people reading this are more likely to be more stringent on this matter than required, or even more than preferable, than to be too lenient; it is hard to blame them.]

### “Behind the Scenes” Zoom shiur

Eretz Hemdah is offering the readership to join in [Rabbi Mann's weekly Zoom sessions](#), analyzing with him the sources and thought process behind past and future responses. Email us at [info@erezhemdah.org](mailto:info@erezhemdah.org) to sign up (free) or for more information on joining the group.

**Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.**



# Igrot HaRe'aya - Letters of Rav Kook

## Difficult to Understand a Rabbi's Ruling – #248

**Date and Place:** 29 Kislev 5670 (1909), Yafo

**Recipient:** Rav Shalom Eisenbach, a rabbi who was critical of Rav Kook, as the story implies.

**Body:** I will tell you a story I heard. In the days of the brilliant Rav Leib of Kovna, of blessed memory, the dignitaries of Kovna wanted the brilliant, pious Rav Yisrael Salanter to settle in Kovna. When they asked Rav Leib [whether he agrees with this idea], he told them the following.

If he wants a formal rabbinical position, fine. However, if he wants to live as a private person, I am not happy about it. When they asked him why, he said: Even the most brilliant man and the most lofty righteous person will not be able to understand the mindset of one who shoulders the yoke of ruling for the masses and the anguish he goes through. Thus, he cannot give the rabbi the benefit of the doubt about his decisions. (Ed. note – it seems clear that Rav Eisenbach had complaints about something Rav Kook had ruled, and Rav Kook was intimating, that he was not in a position to understand Rav Kook's decisions.)

## Appreciate Jewish Ottoman Soldiers – #249

**Date and Place:** 2 Tevet 5670 (1909), Yafo

**Recipient:** The Council of Ekron

**Body:** I suggest you, distinguished people, come up with a plan regarding the youngsters who are Ottoman citizens, who are about to start working for the army. See if you can find a good way to help their families, when their lot indicates they will need to serve. We all know that those who work for the army carry the community's load, so that it is proper that the community will notice their status. Especially notice that the *askaria* tax (for matters of work) will apparently be removed because of our brothers' work. I await your prompt response.

## Rafah for Bialystok? – #257

**Date and Place:** 14 Tevet 5670 (1909), Yafo

**Recipient:** Yoel Moshe Solomon, the leader of the Jerusalemites who founded the *moshav* of Petach Tikva, who continued to be active in settling the Land. This letter relates to the group from Bialystok, with whom Rav Kook previously discussed land in present-day Jordan.

**Body:** I wanted to tell you that Mr. Manishevitz from Bialystok, who came with Mr. Shatz of Lodg, on the matter of buying land in *Eretz Yisrael*, on behalf of a big association with significant resources, is now leaning toward acquiring land in Rafah (Rafiach in Hebrew, in today's Gaza Strip), near El Arish, which is under British control. I agree with this. When I became aware that you know about this matter in detail, I thought to recommend to you to come here as soon as possible to discuss the matter with Mr. Manishevitz. Maybe Hashem will be with us, and we will be able to secure redemption of an important plot of land in the Holy Land.

I do not need to rush someone as diligent as you. If you cannot come today, let me know as soon as possible what your thoughts are about the association from Bialystok.

We daven for a complete and speedy *refuah* for:

Nir Rephael ben Rachel Bracha  
Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam  
Tal Shaul ben Yaffa

Neta bat Malka  
Meira bat Esther

Together with all *cholei* Yisrael

# P'ninat Mishpat

## Who Pays for an Unexpected Tax? – part I

(based on ruling 83095 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=pl) and the defendant (=def) were interested in selling pl's house to def, but the sale could not be completed because def was not yet a member of the *yishuv* in which the property is found. Def moved into the house under a rental agreement, which was replaced by a sales contract months later, when the *yishuv* approved def. After the second contract was signed, it became known that a recent change in urban planning rules made it possible to add three rather than two housing units to the house. This fact added significantly to the *mas hashbacha* (betterment tax at the time of sale), which pl lowered by negotiation to 72,672 NIS. Pl argues that for all practical purposes, the sale took place **before** the tax was levied, and it is unfair that this tax, which was levied due to a technicality caused by def, should fall on pl when only def will benefit from the regulation change. Def responds that since the original arrangement was indeed a rental, the tax falls on pl, and, in any case, there is no reason for he who is not selling to pay a sales tax. Def adds that he does not plan to build the extra unit and might not have bought the house if he would have to reimburse pl this extra amount.

**Ruling:** Was the first agreement a sale or a rental? Pl claimed that in three ways it is evident the rental was an unofficial sale. 1. The rental contract mentions the planned sale and lists a price for it. 2. The “rent” will be reduced from the sales price if and when the sale happens. 3. Pl agreed to not sell the house to anyone else during the time def was working on getting accepted to the *yishuv*. Def points out that the “sales price” in the contract was not followed, as def agreed to not count the rental payment toward the sales payment because of another tax that cropped up unexpectedly. Since pl saw the price as not fixed, the agreement was not a full-fledged sale but a statement of hopes for the future.

The question is not what the plans were but whether the sides ultimately built it as a sale or a rental, and the latter is clearly the case. Both its basic terminology and many specific elements of the agreement relate specifically to rentals. Even the matter of the price of the sale did not end up being a sign of sale, considering that it changed. Therefore, there was no sale, and there is no reason that pl, to his misfortune, should not have to pay the *mas hashbacha*.

**Can there be claims of *mekach ta'ut* (nullification of an agreement based on misinformation)?** Factually, it is agreed that the urban planning rules were final and available before the legal sale but that neither of the sides knew about it. This raises the possibility of *mekach ta'ut*. Although *mekach ta'ut* based on mispricing does not apply to real estate, if there was a mistake on a factual point, such as the size of the property, then there is *mekach ta'ut* (Kiddushin 42b). We continue next time about nullifying (elements of) the agreement based on misinformation.

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