YCT Presents

Disabilities Inclusion Torah Reader

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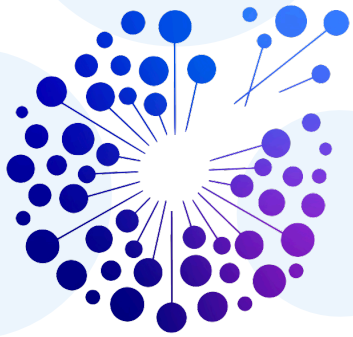

YCT
VIBRANT TORAH LEADERSHIP
ישיבת חובבי תורה

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Introduction

Rabbi Dov Linzer

President & Rosh HaYeshiva, Norman & Tova Bulow Chair, YCT

Every person matters; every Jew matters.

What do we have to do to make this statement not a platitude but a reality? How do our actions or inactions marginalize, exclude, and push away others? How can we make sure that everyone is, and is treated as, an equal member of our community?

In Devarim (30:11-13) we are told that Torah and *mitzvot* are not "hidden from us or far off." The Torah in all its richness is not distant from us. It is not in the heavens or across the sea. There are no barriers between us and the Torah. It is very near to us; it is accessible to all. As Rambam (Laws of Talmud Torah 3:1) writes: "The crown of Torah is standing and waiting to be taken. Whoever wants it can come and take it."

If only that were true. For people with disabilities—be they physical, learning, social-emotional or developmental—the Torah is so often not close at all. The road leading to serious learning of Torah and equal participation in the community's religious and cultural life, its synagogues, and its schools, is strewn with obstacles and barriers. These barriers are erected mostly by inaction and lack of awareness and prioritization, but they are just as high and impenetrable as if they had been erected by an active desire to exclude.

We at YCT are committed to working to change this reality. We believe that everyone is and must be treated as an equal member of the community, and that to make this happen we must prioritize accommodations and accessibility.

Often, the word "inclusion" is used to refer to this approach (indeed, it is part of the title of this Reader), but this term is far from a perfect one. It suggests that someone is on the outside and is being brought in. The focus should not be on bringing anyone it. It should be on ensuring that no one is being pushed away. "Why should we be excluded?" is the cry of those who could not bring the *Korban Pesach*, and it is the cry that we always must be hearing.

To work towards this goal, we sponsor conferences and panels, write op-eds, give shiurim, produce Torah resources and teshuvot, and devote a full week to intensive training of our rabbinical students in these areas, every other year. We also have closed captioning, as well as ASL interpretation on request, for all our public lectures, and have adopted a policy to only agree to speak at events of other organizations if these accommodations are provided.

You can find many Torah resources on disabilities on our website at www.yctorah.org/disabilities. Please visit that page and explore

our Torah, halakha, and general resources on this topic.

We have collected some of those Torah resources, as well as some additional ones, into the current YCT Disabilities Inclusion Torah Reader to mark the end of Disabilities Pride month, as July has so been designated, and the move from Tisha b'Av to Tu b'Av this week.

Tu b'Av was the holiday when all the unmarried women would go out and dance in a circle, trying to find for themselves a mate. Although they were, at some level, competing with one another, there was also a real attempt to ensure that everyone was included, equally. The Mishna in Taanit (4:8) teaches that everyone wore the same, simple white garment, and everyone borrowed a dress from someone else, so that no one would be embarrassed, no one would feel lesser. Indeed, Tractate Taanit ends (31a) with a description of a similar dance that will happen in the End of Days:

> In the future, God will make a circle dance for the righteous and God will sit in the middle, and each person will point to God with their finger, as it says, "And you shall say on that day, behold this is our God. We have yearned for Him and He has saved us. This is the God; we have yearned for him, let us rejoice and exult in His salvation." (Isa. 25:9).

The future, perfect world is one in which everyone is in a circle, in which no matter who we are, no matter our different abilities, we will all be equally close to the center, we will all have equal access to God, to Torah, to what is most holy. And we will exult in the sense of true belonging the comes from being a member of a community in which equity and access are at its core. Such a world is one in which we can truly rejoice in God's salvation. Let us commit to devote ourselves to make such a world a reality. Let us work to make the verse’s declaration that the Torah “is very close to you, in your mouth and in your heart to do it” true for every single Jew.

The Problem with Perfection

Rabbanit Devorah Zlochower

Mashgichah Ruchanit & Senior Scholar, YCT

Originally delivered at Minyan Darkhei Noam, May 10, 2008

My Netanel who is 8 years old informed me a number of months ago that he is a member of a persecuted minority. He is left-handed. Discrimination is rampant, according to Netanel. In addition to the obvious, scissors, golf clubs, spiral notebooks, the gas and brake pedals (which he doesn't know about yet), Netanel has noticed something that had escaped the notice of his left-handed mother, his left- handed father, and his left-handed older brother. Netanel claims that picture books more often have the pictures on the right hand page than on the left hand page. In Netanel's opinion, publishers, authors and illustrators of children's books should be focusing on a more equitable distribution of pictures, dividing them evenly on the left hand and right hand sides of the pages, so that left-handed children do not feel bad. You go, boy! A feminist's child taking the battle one step further!

Now this is no trivial battle. For Netanel is not only blessedly different in his left-handedness, he is a child with other differences as well. He is different than his classmates because he is an observant Jew. And he is different than the other 8 year old boys in our community because he does not attend the local yeshiva day school but instead spends almost 3 hours on the bus everyday to attend a wonderful special ed. school on the East Side of Manhattan. Netanel is keenly aware of these differences and quite sensitive to their implications.

I often wish I could live in Netanel's ideal world. It is a world governed by a fine sense of right and wrong; a world in which no one is the underdog, presidents are elected because of their kindness and their care for the environment, and where the good guys win not by dint of their muscles and weaponry but because they are on the side of that which is good and just. It is a world governed by the maxim ואהבתם את הגר כי גרים הייתם בארץ מצרים – And you shall love the stranger for you were strangers in the land of Egypt.

Our world, the real world, where my sons need to learn to manage is often very different. When I look at our world through my sons' eyes I think of the left-handed kohen. Now this southpaw kohen does not make an appearance in our Torah portion, but according to Tractate Bekhorot he is lurking nearby.

Our parsha this morning, Parshat Emor, is a struggle for me year after year but now, given my sons' challenges, with even greater poignancy. In this parsha, the Torah addresses the disqualifications of the male descendants of Aharon, the kohanim, the only individuals who do the Divine Service in the

Temple. I understand that there would be particular strictures placed upon those who were called לשרת בקדש – to serve in God's sanctuary necessitating greater distancing from death and its ensuing state of טומאה. After all, the Torah uses the root קדש 7 times at the beginning of our parsha to capture the special status of the כהן.

We are told:

וקדשתו כי את לחם אלקיך הוא מקריב, קדש יהיה לך, כי קדוש, אני ה' מקדשכם

And you shall sanctify him for he brings close the food of your God, he shall be holy to you, for I, God, who sanctify you am holy.

What I have a great deal of difficulty understanding is how this increased need for קדושה translates into a rejection of those male descendants of Aharon whose physical, often superficial differences make them stand out.

וידבר ה' אל משה לאמר: דבר אל אהרן לאמר איש מזרעך לדרתם אשר יהיה בו מום לא יקרב להקריב לחם אלקיו

And God spoke to Moshe saying. Speak to Aharon saying: A man from among your seed for all generations who has a מום—usually translated as a blemish—may not approach to offer the food of his God.

כל איש אשר בו מום מזרע אהרן הכהן לא יגש להקריב את אשי ה' מום בו את לחם אלקיו לא יגש להקריב

Any man that has a מום from the seed of Aharon the priest may not approach to offer the fire offerings of God, there is a מום in him, God's bread he may not approach to offer.

And again:

אך אל הפרכת לא יבא ואל המזבח לא יגש כי מום בו ולא יחלל את מקדשי כי אני ה' מקדשם

He may not come to the פרכת and he may not approach the altar for there is a מום in him so that he not desecrate my sanctuary for I am God who has sanctified them.

In הלכות ביאת המקדש, the Rambam lists 142 separate categories of מומין. There are מומין that disqualify both kohanim from serving and animals from being brought as sacrifices – there are 50 of those; מומין that disqualify kohanim alone – there are 90 of these, and two additional ones which do not invalidate the service done by a kohen possessing one of them but they don't look good. The vast majority of these מומין concern physical appearance. And oh yes, lefties need not apply. Tosefta Bekhorot 5:8, cited in Bekhorot 45b, states:

ת"ר איטר בין ביד בין ברגל פסול. השולט בשתי ידיו רבי פוסל וחכמים מכשירין.

Our Rabbis taught – one who is left-handed or left-footed is invalid to do the service. One who is ambidextrous, Rebbi invalidated but the Sages declared him fit.

Why is the lefty invalid?
Rashi explains:

איטר ברגל - שכשמהלך עוקר רגל השמאל תחלה מה שאין דרך בני אדם.

Left-footed. When he walks he lifts up his left leg first which is not the normal manner of people.

So what's wrong with lefties? Simply, most people are righties so lefties deviate from the

norm. That's it. And this is sufficient to invalidate a kohen from doing the service!

It's not that I don't understand this at all; I do. There is a great deal of pomp and circumstance in the משכן. Back at the end of ספר שמות we were told of the large quantities of gold used to construct the holy vessels of this structure. The משכן itself, built of wooden boards was covered by brocaded curtains so that only the curtains and the silver sockets underneath were visible.

Kohanim too are vessels; in many ways no different than the menorah or the שלחן or the מזבח. And like the structure of the משכן and the כלים inside, these living vessels demand symmetry, evenly matched kohanim, indistinguishable, like the 6 arms of the menorah or the 12 trays of the שלחן. But this aesthetic, when it comes to the human כלי קדש carries a high price; it requires rejection.

As we read through the list of מומין disqualifying kohanim from the עבודה and the list of מומין disqualifying animals from being brought as sacrifices, we are struck by the overwhelming similarity of these lists but there is an important difference I want to focus on. There is a term that appears a number of times in the section of animal blemishes but does not appear in the kohen's list. We are told that the animal needs to be תמים, usually translated as perfect, both in verse 19 and again in verse 21. Here in verse 21, the Torah states:

> ואיש כי יקריב זבח שלמים לה' לפלא נדר או לנדבה בבקר או בצאן תמים יהיה לרצון כל מום לא יהיה בו

> And if a man brings a peace-offering to God to fulfill a vow or donation, from cattle or sheep, it shall be perfect to be accepted, it may not have any blemish in it.

The word תמים is absent from the section dealing with human מומים; only the sacrificial animal is described as תמים. With all the emphasis on the disqualifying מומין, the kohen is still not mandated to be תמים. I would like to argue that תמים does not mean to be without מום and then when it comes to human beings and our service of God, we are asked to be תמים but תמים means something different.

Where else does the Torah use the term תמים?
The Torah uses תמים aside from animal sacrifices in 3 different places.
1. Noah is described as איש צדיק תמים היה בדרתיו את האלקים התהלך נח. Noah was a righteous man, תמים in his ways, Noah walked with God.
2. God says to Avram right before God changes Avram's and Sarai's names and commands Avraham to circumcise himself and the males of his household:

> ויהי אברם בן תשעים שנה ותשע שנים וירא ה' אל אברם ויאמר אליו אני קל שקי התהלך לפני והיה תמים

> And Avram was 99 years old and God appeared to Avram and said to him: I am the Lord Sha-d-d-ai, walk before me and be תמים.

3. After prohibiting us from consulting the various soothsayers and practitioners of witchcraft, we are told in the 18th chapter of the book of Devarim: תמים תהיה עם ה' אלקיך: Be תמים with the Lord your God.

So what does it mean to be תמים in one's devotion or service to God?
Ramban, connecting the passage in Devarim to God's command to Avraham tells us that it means to believe in God alone as Omnipotent.

I would emphasize a little differently here - to believe in God's perfection and God's alone. We humans are not perfect beings, we have our flaws, the things that we cannot do as well as the potentials that each one of us contains. We are to seek perfection in God alone.

In our communal life, in our schools, in our shuls, we are to be Godlike, not in a vain pursuit of perfection but in imitating God's qualities: כי האדם יראה לעיניים וה' יראה ללבב. Humans see what is visible to the eyes; God sees what is in the heart. We need to see beyond what our eyes see and to see into the heart, the preciousness of each soul. When we look at each other we need to remember חביב אדם שנברא בצלם – how precious is the human being who has been created in the image of God.

Our service of God and our life as a community is enriched when we embrace all of our varieties. Perfection and flawlessness is for animals being brought upon the מזבח. We need to serve God in all our particulars and only then can we form a community that can do God's will בלבב שלם with a whole heart.

Inclusion Doesn't Happen by Accident

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The lighting of the menorah opens our *parsha*:

> "Command the Children of Israel and they shall take to you pure olive oil, beaten for the light, to cause the lamp to burn *tamid*, constantly." (Shemot 27:20)

The placement of these verses is curious, as the more appropriate place would have been in last week's *parsha*, together with the making of the menorah. The verse also stresses not just the lighting of the menorah, but the donating of the oil for that sake. In this way, it echoes last week's *parasha* that opens with a command to donate various items to the making of the Tabernacle.

These opening verses may be addressing a deep challenge in the sacrificial service. For while everyone donated to the Mishkan, only the *kohanim* were able to actually perform the service on a daily basis. This special role of the *kohanim* is, in fact, the emphasis of our *parsha*. It is why they require special clothes, it is why they will undergo a sanctification and initiation ceremony – so that they, and no one else – will be dedicated to the service in the Temple. What, then, of the people's involvement?

The answer, the Torah is saying, is that those opportunities do exist. Don't overlook them or minimize their importance, we are being told. Even before we start talking about the *kohanim*, here is a way that everyone can participate on an ongoing basis. Donate the oil for the menorah. The donations in Terumah were a one-time deal, and anyway, it is usually the rich that make those types of donations. But going forward, you can donate the oil for the menorah on any given day. You can also be a part of the daily Temple service.

This idea is reflected in our Shabbat *davening*, where we have a special blessing, a *mishebeirach*, for *hanosnim ner la'maor*, those that pay the electric bill, that donate to the day-to-day upkeep and running of the synagogue. It is a blessing for those who are *oskim b'tzarchei tzibbur be'emunah*, who volunteer their time to stuff envelopes, to set up the tables for *se'udah Shlishit*, to organize the bikkur cholim committees and to do the *shemira* for those who have recently died. It is a blessing for those who for those whose quiet work keeps the lights on, day after day.

Read this way, the giving of the oil is a way for people otherwise excluded to be able to contribute, a way that is often undervalued. It is an important message to us to ensure that everyone can contribute and participate in some way and to make sure that these opportunities are always available. And to make sure that these contributions and these

people are given the recognition that they truly deserve.

Hazal, however, took it further. For although the verses demand that the menorah be lit by Aharon and his sons, the Gemara tells us that the "lighting of the menorah is not a priestly service" (Yoma 24b) and Rambam, following this to its logical conclusion rules that "lighting the menorah can be done by non-*kohanim*." (Laws of Entering the Sanctuary 9:7). So this, unlike the rest of the service of the Temple, is, at least in theory, more accessible to every individual.

This, then, would explain why this service appears before the making of the priestly garments, whereas the daily sacrifices and the burning of the incense appear afterwards. Those latter two require *kohanim*, *kohanim* who are wearing the right garments, who have undergone the sanctification ceremony. That's a lot of barriers. The lighting of the menorah, in contrast, can be done by anyone, man or woman, dressed in any way and in whatever circumstance.

What is signified by the lighting of the menorah? Light immediately suggests illumination in the metaphoric sense: knowledge, wisdom and understanding. The Midrash (Shemot Rabbah 36:3) puts it plainly: light helps you see where you are going. The lighting of the Menorah, for the midrash, represents the learning of Torah. Torah illuminates for us how to live our lives, how to avoid stumbling and sinning, how to serve God as best as we can.

The Midrash goes further. Light can also symbolize a mitzvah, and as such,

> "Whoever performs a mitzvah is as if he has lit a light before God and given life to his soul."

Doing mitzvot in a connected way fills us with meaning, animates us, gives us religious sustenance.

Torah connects us to God and to the wisdom of our tradition, gives us direction, makes our life of mitzvot one of depth and meaning. It can, it must, be accessible to all. The mishna in Avot tells us that the crown of the priesthood is only for Aharon's descendants, but the crown of the Torah is sitting and waiting for anyone to take. But is this really true? The menorah, in theory, could be lit by anyone, but in practice, only the *kohanim* ever did it. The Torah, in theory, can be learned by anyone, but in practice, many have been excluded. Until very recently, women were the most obvious of those excluded from serious Torah study, but today, exclusions persist in more subtle, and sometimes invisible, ways.

Those with learning and developmental disabilities are excluded from the vast majority of Jewish schools and synagogues. Sometimes they are actively rejected, told that they do not "fit in" or will impact the image of the school in a negative way. Other times, the rejection is more by omission than commission. There are not sufficient structures and professionally trained staff to make the school or the shul a feasible option.

Left to their own devices, parents try to homeschool these children in Torah, but what resources are available to them? For many people, the texts of Torah learning are themselves the biggest obstacles. They are dense, difficult, often unpunctuated, and written in a foreign language. Where are the Torah graphic novels? Where are the books of halakha, mishna and Gemara that communicate the depth of our tradition with illustrations and stories, that can be absorbed

by those with little or no Hebrew reading skills? Such resources would bring light to all: special education is good education.

For the physically disabled the story is not much better. While we are generally good at building ramps, how often is it that we have the resources available so that the blind or the deaf can learn Torah equally with those blessed with hearing and sight? How many synagogues have braille siddurim? How many lectures make signing or closed captioning available? The Talmud tells us that although a blind person does not directly benefit from light, she still makes the blessing, "Who has created the luminaries", because she benefits indirectly – a person with sight can see and help guide her. But have we done this? How much do those of us with sight share the benefits of our light? How much do we make sure that the light of the menorah is available to all?

We are doing somewhat better in these issues than we had in the past. Many schools are becoming more invested in ensuring that every child receives a Jewish education, and are working at developing special education programs, although there still is a far way to go. I was pleasantly surprised to discover at a JOFA conference a few years ago that signing was available, and that during my lecture, multiple signers were signing at breakneck speed (I tend to talk fast).

But even the best intentioned among us need to be reminded of this constantly. A few years ago, when the yeshiva ran its biannual week-long program on the rabbi and people with disabilities, we video-recorded the sessions but failed to make closed-captioning available, nor did we have any signers present during the week itself. I sometimes feel that I speak a good game, but have not fully internalized the sensitivity and vigilance that is required, that will make providing such access natural and second nature.

In the opening verse of the *parsha*, the word *tamid*, constantly, stands out. It is a word that occurs twice more in our *parsha*, by two other Temple services: the offering of the daily communal sacrifices and the burning of the incense. The message is clear: serving God requires daily dedication and consistency. We cannot build a holy community, a place for God to dwell among us, without daily dedication. When we first learn new halakhot, the details and the attention they demand can overwhelm us, but then they become second nature, they become a self-perpetuating *tamid*. So, too, our daily dedication must include not just the performance of the mitzvot, but also the lighting of the menorah, making the Torah available to all. The details will overwhelm us at first, but if we attend to them *tamid*, they will become a *tamid* that becomes natural. And we will have made for ourselves a community wherein God can truly dwell.

A House of Hopes

Mrs. Chava Willig Levy *z"l*

Chava Willig Levy, z"l, was an internationally noted lecturer, award-winning author and an outspoken advocate for the disabled, whose published writings in both Jewish and secular media have been read by millions. We mourn her passing, at the age of 71, this last Pesach, April 6, 2023.

Reprinted, with permission, from "Total Immersion: A Mikvah Anthology," ed. Rivkah Slonim, Jason Aaronson, 1996.

Etymology fascinates me. Take my name, for example. Chava, the biblical name for Eve, means mother of all living. As a little girl, I remember learning from my parents that names are very meaningful. Quoting the Talmudic sages of long ago, they told me that parents are granted a moment of prophecy when they choose their newborn's name.

I took their words to heart. Not surprisingly, children have always made me weak in the knees. The fact that a 1955 bout with polio made me very weak in the knees never deterred me from my dreams of motherhood. My name was prophetic; surely it would contribute to my destiny.

But in spite of my name's all-embracing quality, it looked unlikely that anyone would want to embrace me or, consequently, that I would ever know the joy of embracing a child of my own. So, in spite of my reputation as a disability rights activist, I hardly protested when the entrance to my home town's new *mikvah* boasted a long stairway. *Mikvah* and motherhood: Frankly, I never thought I'd enter either institution. The barriers to the first were architectural; the barriers to the second, attitudinal. Together, they made me feel- not always, but often enough-powerless, insignificant, and isolated.

In His infinite mercy, the Master of the Universe felt my pain and, through the subtlest of orchestrations, sent me a wonderful husband. Today, *mikvah* and motherhood are two responsibilities I embrace with infinite joy. And now that the privilege and pleasure of using the *mikvah* is mine, I find myself once again intrigued by etymology.

The word *mikvah* means a gathering of water, as stated in Genesis (1:9): "Let the waters be gathered below the heavens to one place." For me, this verse evokes an image of powerless, insignificant, isolated droplets of water converging and ultimately becoming a mighty force. Maybe that is why the mitzvah of *Mikvah* is so precious to me: It reminds me that God can transform trouble into triumph in the blink of an eye. It reminds me that having a disability is not tragic. What's tragic is the stigma people attach to disability. What's tragic is being isolated, being left out. And *Mikvah*-derived from the concept of gathering-subtly reminds all of us that we must prevent that tragedy by gathering in each member of our community.

Mikvah also is linked to the word hope. It is the place where *tikvot*, hopes," reside. How many of us have come to the *mikvah* to pour out our hopes to God? And isn't it interesting that for our *tevilah*, "immersion," and the *tefillah*, "prayer," accompanying it to be kosher, we have to stand before God just as He made us? He cares about our hopes, attaching no stigma to physical imperfections, be they large or small.

My first *mikvah* visit fulfilled a lifelong hope for marriage. On scores of subsequent trips, the *mikvah* renewed my hope that someday my husband and I would be blessed with a child. For six years, the fulfillment of that hope eluded us. I'd pray for other women struggling with infertility-partially, I confess, to hang my hopes on the Talmudic principle that one who prays for a friend is answered first.

One thing I could never hope for was privacy. Like many women, I cherish the anonymity surrounding the *mikvah* experience. But ironically, whenever I have to go to the *mikvah*, sometimes as many as eight women know about it—and who knows how many husbands!—simply because of the help I need getting to and from, and in and out of, the *mikvah*, not to mention my wonderful neighbors' busy schedules.

Before experiencing the miracle of seeing my hopes for a child-indeed, for children-fulfilled, there were many emotional *mikvah* visits. As the seasons turned, I felt like a member of the U.S. Postal Service: "Neither rain, nor snow, nor sleet, nor hail .. ." would deter me from my "appointed rounds." There had been rainy trips and snowy trips. There had been Friday nights and Seder nights, Purim nights, Rosh Hashanah nights, and post-Yom Kippur visits. Many were somber, tension-filled experiences. But one visit stands distinctly apart. It occurred on a winter evening, two years before our first child was born. Our *mikvah* lady greeted me with a solemn face.

"You shouldn't have come tonight," she disclosed in her thick European accent. "We have a terrible problem. In fact, you should go straight home."

My heart sank. Preoccupied with infertility, I believed timing was everything; a day lost could mean a month lost.

"What's wrong?" I asked.

She replied, "Our heater broke. The *mikvah* water is ice cold."

I burst out laughing. "Is that all? I thought you were going to tell me that the *mikvah* had no water!”

Needless to say, I took the plunge.

And, time after time, I feel the exhilaration of that plunge. The *mikvah* waters transform me from a woman with four atrophied limbs into— honest to God a ballerina! For a few glorious moments, my arms extend effortlessly. And as I ascend unassisted the three bottom-most steps, I marvel at the miracle of human grace and motion.

Of course, with one more step, gravity returns. The mood, however, is anything but grave as my helper assists me up to the landing, back to our room, and into my clothing. Our conversation, ranging from the sublime to the ridiculous, flows so easily ("We've got to stop meeting like this," we often tell each other, sotto voce). It is inevitably the end of a long day. I ought to be exhausted; I'm thoroughly energized.

The *mikvah* waters are the primary source of my renewed energy. But coming in a close second is the *mikvah* bulletin board, whose array of business cards and announcements never fails to dazzle me as I head for the blow dryers. Promoting the services of psychiatrists, swimming instructors, social workers, and seamstresses; podiatrists, pianists, and public relations consultants; attorneys, artists, and advertising executives; caterers, cardiologists, and calligraphers, it puts to rest the stereotype some slap on those women committed to the *mitzvah* of *Mikvah*: "victims" of an "archaic, oppressive, offensive ritual." The way I see it, these women resemble the *mikvah* waters: a mighty force to reckon with, even if they enter this house of hopes one by one, with anonymity, without fanfare.

Perhaps that is why many women conclude their *mikvah* immersion with the *Yehi Ratzon* prayer, a plea for the rebuilding of the Temple in Jerusalem. They are busy women, but not too busy to shift their gaze from a tiny, holy house of hopes--where they pour out their personal dreams and dilemmas-to the holiest house of all, whose reconstruction will coincide with a universal dream come true and the resolution of all dilemmas: "Behold, I will bring them from the northern land and gather them from the ends of the earth, among them people who are blind and lame, pregnant and childbearing mothers together; a great congregation will return here" (Jeremiah 31:8).

I believe that glorious gathering will occur because of the women who, month after month, generation after generation, have whispered this prayer, relinquishing their claim on God's personal attention for a greater cause. Surely, in their merit, God will never relinquish His People. Surely, in their merit, God will rebuild His house of hopes.

The Mandate of Inclusion

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Introduction [source 1]

When it comes to our responsibilities towards those with disabilities, whether physical, educational developmental, or social-emotional – and indeed, any person or group that is being or can easily be marginalized – we first must problematize the use of the word "inclusion." This word suggests a group or person who is on the outside that we – those who are the true members of the group – will now bring close and include among us. In fact, our first obligation is to recognize that we are all part of the group, and that it is our mandate to not exclude and push – though action, inaction or simple inattention – anyone to the margins or outside the group entirely.

What do the following verses tell us about inclusion and exclusion?

1. Numbers 9 | במדבר פרק ט

(ז) ויאמרו האנשים ההמה אליו אנחנו טמאים לנפש אדם למה נגרע לבלתי הקריב את קרבן ה' במעדו בתוך בני ישראל: (ח) ויאמר אלהם משה עמדו ואשמעה מה יצוה ה' לכם:

And those men said unto him, We are defiled by the dead body of a man: wherefore are we kept back, that we may not offer an offering of the Lord in his appointed season among the children of Israel? And Moses said unto them, Stand still, and I will hear what the Lord will command concerning you.

The grievance that the people who were *tamei* and could not eat the *korban Pesach* – could not participate in ritual of communal and national identity - raised to Moshe {source 1} was not a request for inclusion but rather the fundamental wrongness of exclusion: "Why should we be excluded?!" The rightness of their complaint led to God issuing a new law, ensuring that nobody would be excluded. This should serve as a model for our religious leaders and us as a community. Most people are kind and caring people, and we never knowingly exclude someone or discriminate against him or her. Often, however, we fail to realize how things we are not doing – things we may not even be aware of – are telling people that they are not wanted.

I remember hearing Rabbi Michael Levy, a rabbi who is blind, speak at the yeshiva on the topic of disabilities. He said whenever he meets a shul rabbi, he asks him "Do you have Braille siddurim?" The answer invariably is "no." "Why not?" he then asks. "Well, because no one blind ever comes to the shul."

At this point, Rabbi Levy told us, he usually pauses a few seconds, and then says, "Do you think there might be a reason that no blind people are coming to your shul?". The problem most of the time is not conscious exclusion, it is an exclusion that emerges from not dedicating ourselves to the task of thinking of all that needs to be done to make sure that everyone is included.

This verse also demonstrates that the people who complained to Moshe were given a voice and were able to be part of the process. This underscores a key principle of the disabilities community: "Nothing about us without us." If we truly believe that everyone is part of the community, then we include them in the decision-making process, not merely make decisions – no matter how helpful and well-intended- without their involvement. Such involvement not only recognizes that everyone is part of the community, it also ensures that all the relevant issues will be raised and that the needs will be more accurately understood.

Significantly, God's response that there would be a second Paschal sacrifice in the following month, ends with a verse underscoring that the *ger*, the sojourner, also may and must bring the Paschal sacrifice. In this foundational ritual of community identity, we must ensure equality and full membership for everyone, even – or perhaps especially - for those who are likely to be seen as at the edges or even on the outside. We can allow no one to be excluded.

Mitzvot Relating to the *Ger* [sources 2-5]

A more detailed and specific understanding of our obligations in this regard can be learned from the mitzvot relating the *ger* – to love the *ger* and to not afflict him {source 2-4}. In looking at the following verses, try to understand who – according to *pshat* – is the *ger* that the Torah is referring to. Is it the convert, as understood by the Rabbis, or someone who is not yet part of our community? What do these two readings tell us about our obligations to those in and out of our community?

Take note how the Torah {source 4} juxtaposes God's elevated status with God's care for the widow, the orphan and the stranger. What can be learned from this juxtaposition?

Take note, also, how the Torah {source 2-4} connects these mitzvot to our own experience in the land of Egypt. What is the purpose of making this connection, particularly in these mitzvot as opposed to others?

2. Exodus 23 | שמות פרק כג

(ט) וגר לא תלחץ ואתם ידעתם את נפש הגר כי גרים הייתם בארץ מצרים

Also you shall not oppress a stranger: for you know the heart of a stranger, seeing you were strangers in the land of Egypt.

3. Leviticus 19 | ויקרא פרק יט

(לג) וכי יגור אתך גר בארצכם לא תונו אתו: (לד) כאזרח מכם יהיה לכם הגר הגר אתכם ואהבת לו כמוך כי גרים הייתם בארץ מצרים אני ה' אל-היכם

33. And if a stranger sojourns with you in your land, you shall not wrong him. 34. But the stranger who dwells with you shall be to you as one born among you, and you shall love him as

yourself; for you were strangers in the land of Egypt; I am the Lord your God.

4. Deuteronomy 10 | דברים פרק י

(יז) כי ה' א-להיכם הוא א-להי האלהים וא-דני האדנים הא-ל הגדל הגבר והנורא אשר לא ישא פנים ולא יקח שחד: (יח) עשה משפט יתום ואלמנה ואהב גר לתת לו לחם ושמלה: (יט) ואהבתם את הגר כי גרים הייתם בארץ מצרים:

17. For the Lord your God is God of gods, and Lord of lords, a great God: mighty and awesome, which favors no person, nor takes bribes; 18. He executes the judgment of the orphan and widow, and loves the stranger, giving him food and garment. 19. Love you therefore the stranger; for you were strangers in the land of Egypt.

Who is the *ger* in the Torah? The Rabbis understood this to be the convert – the person who started outside of the Jewish people but is now a member of our faith. The *pshat* of the verses {sources 2-4}, however, is that the *ger* is the sojourner or immigrant – the foreigner who is dwelling in, or has come to live in, our land (as opposed to the *nakhri*, the foreigner living in a foreign country). It is in this way that the Torah can say that we were *gerim* – sojourners, not converts – in the land of Egypt, and that there must be one law for the citizen (*ezrach*) and the sojourners/immigrants in the land. At the *pshat* level, the Torah is telling us that we must treat even a person who is an outsider as if she is one of us, if she is currently living among us. For the Rabbis, who lived after we lost sovereignty to the land, and at a time when our identity was defined purely by religion, and not by land and country, the *ger* of the Torah meant someone who was among us in a religious sense, i.e., the convert, who was fully one of us, or in some cases the *ger toshav*, the non-Jew who keeps the Noahide laws and subscribes to our religious system. In this understanding, the Torah's mandate is more limited – not that we must treat the outsider equally, but rather that we must treat those who came from the outside and who are now one of us with full equality.

In line with the Sefer HaHinukh {source 5}, this concept of *ger* and the attendant obligations, can logically be extended to all people who may find themselves alienated, excluded, at the margins, or without proper communal support, a category that would clearly include those with disabilities.

5. Sefer HaHinukh, Mitzvah 431 | ספר החינוך מצוה תלא

ויש לנו ללמוד מן המצוה היקרה הזאת לרחם על אדם שהוא בעיר שאינה ארץ מולדתו ומקום משפחת אבותיו, ולא נעביר עליו הדרך במצאנו אותו יחידי ורחקו מעליו עוזריו, כמו שאנו רואים שהתורה תזהירנו לרחם על כל מי שצריך עזר.

We can learn from this valuable mitzvah to have compassion on a person who is in a city that is not in the land of his birth or the place of his family, and that we should not bypass him when we find him alone with those who would help him distant from him. Just as we see that the Torah commands us to have compassion on all who need help.

Returning to Devarim 10:19 {source 2}, we see that before telling us that we must love the *ger,* the Torah tells us that God, who is high and mighty, loves the orphan, the widow

and the *ger*, those who are most vulnerable and likely to be marginalized. The point of this juxtaposition is to teach that ethical acts are some of the most profound religious acts – that we are most acting like and close to God not when we are doing ritual mitzvot that set us apart from everyone else (trying to be "high and mighty" like God), but when we are doing moral acts towards our fellow human beings. Our ethical obligations are religious ones, and our priorities must be aligned accordingly. As Reb Chaim Solveitchik said when asked why he is so lenient regarding violating Shabbat for almost any health issue: "Don't say I am lenient regarding Shabbat; I am very strict regarding *pikuach nefesh*, the obligation to protect life. [See below, in the discussion of sources 10-11.]

To Love the *Ger* [sources 6-9]

The Torah connects the mitzvah to love the *ger* to the fact that we were *gerim* in the land of Egypt {sources 2-4}. The purpose of this is to underscore the weight of our obligation – based on our personal experience, we will understand how important these *mitzvot* are. These verses also teach, I believe, what the mitzvah to love the *ger* is about. Having a shared experience allows us to understand the other, to see ourselves in their position; to empathize, not merely to sympathize. This is stated explicitly in the Sifra {source 6}. To "know the soul" of another person is to fully understand and identify with them, in other words, to empathize with them.

6. Sifra, Kedoshim, Parsha 3, Vayikra 19:34 | ספרא קדושים פרשה ג

כי גרים הייתם בארץ מצרים דעו מנפשן של גרים שאף אתם הייתם גרים בארץ מצרים

"For you were gerim in the land of Egypt" – [you must] know the soul of gerim, for even you were gerim in the land of Egypt.

It is possible to understand that this is the very mitzvah to love the *ger*: to empathize with the *ger* and his or her plight.

In the disabilities world, there is a saying that the world is not divided between those with disabilities and those without, but between those who have disabilities and those who do *not yet* have disabilities. G-d willing, we will live a long life, and eventually we will all deal with some limitations of our abilities – mobility, sight, hearing, and mental acuity. When I am standing behind an elderly person in the checkout line, who is slowly counting his change and taking forever to finish, I can grow very impatient. At that moment, I remind myself – that person in front of me is *me* 20 years from now. How would I feel about the young whippersnapper behind me who didn't have time to let me finish my shopping? With a *ger* we have a shared past, with those with disabilities we have a shared future. The key is empathy. Once we identify with the other, everything else will flow from that.

Why the additional mitzvot?

The Talmud (Baba Metzia 49b) states that to oppress a *ger* falls under two prohibitions: oppressing a *ger* and oppressing a fellow Jew. Similarly, Rambam states {source 7} that there are two mitzvot to love a *ger*: the mitzvah to love a *ger* and the mitzvah to love a fellow Jew.

Are these extra mitzvot regarding the *ger* just a repetition and reinforcing of the mitzvot regarding another Jew, or do they add a new dimension to the mitzvah? Notice how Rambam {source 7} states that the mitzvah to love the *ger* is similar to the mitzvah to love God. What parallel does

Rambam see here? Couldn't one equally say that the mitzvah to love a fellow Jew is similar to the mitzvah to love God?

7. Rambam, Laws of Character Traits, 6:4 | רמב"ם הלכות דעות פרק ו הלכה ד

אהבת הגר שבא ונכנס תחת כנפי השכינה שתי מצות עשה, אחת מפני שהוא בכלל ריעים ואחת מפני שהוא גר והתורה אמרה ואהבתם את הגר, צוה על אהבת הגר כמו שצוה על אהבת עצמו שנאמר ואהבת את ה' א-להיך, הקב"ה עצמו אוהב גרים שנאמר ואוהב גר.

To love the *ger* who has come and entered under the wings of the Shekhina is two mitzvot. One because he is included in the category of "your neighbor," and one because he is a *ger* and the Torah says, "And you shall love the *ger.*" (Deut. 10:19). God commands to love the *ger* just as He commands to love Himself, as it says, "And you shall love the Lord your God." God Himself loves *gerim*, as it says, "And He loves the ger."

Rambam's statement can be understood when we note that when it comes to loving one's fellow Jew the Torah states *vi'ahavta li'reyacha kamokha*, using the preposition *li,* 'towards', whereas when it comes to loving the *ger* the Torah states *vi'ahavtem et ha'ger*, using the word *et* to identify the object of the verb, the object of the love. The use of the word *et* is the same as we find by the mitzvah to love God: *vi'ahavtah et Hashem E-lokekha*. This small difference points to two different types of love.

Ramban {source 7} explains the significance of the preposition *li*, love *towards* your neighbor.

8. Ramban, Commentary on Torah, Vayikra 19:17 | רמב"ן ויקרא פרק יט פסוק יז

וטעם ואהבת לרעך כמוך - הפלגה, כי לא יקבל לב האדם שיאהוב את חבירו כאהבתו את נפשו, ועוד שכבר בא רבי עקיבא ולמד חייך קודמין לחיי חבירך (ב"מ סב א):

אלא מצות התורה שיאהב חבירו בכל ענין כאשר יאהב את נפשו בכל הטוב. ויתכן בעבור שלא אמר "ואהבת את רעך כמוך", והשוה אותם במלת "לרעך"... שיהיה פירושו להשוות אהבת שניהם בדעתו... ויצוה הכתוב שלא תהיה פחיתות הקנאה הזאת בלבו, אבל יאהב ברבות הטובה לחבירו כאשר אדם עושה לנפשו ולא יתן שיעורין באהבה

The sense of "Love thy neighbor as thyself" – is an exaggeration, for a person (lit., a person's heart) cannot feel the same love for his friend as he feels for himself, and moreover, Rabbi Akiva already taught that your life comes before your friend's life (Baba Mezia 62a).

Rather, the mitzvah of the Torah is that you should love your friend in all matters, just as you love yourself regarding all good things. It is possible because the verse did not say, "Love [no preposition] thy neighbor as yourself" but rather equated the two (self and neighbor) with the word "to (li-) they neighbor]… that the meaning is to equate the love of the two (yourself and your neighbor) in your mind. … Thus the verse warns against having this petty jealousy in one's heart, but rather you should love your friend with heaping upon him all good things just as you would do to yourself, and not give measures and limits to one's love.

Ramban states that it is impossible to truly love our neighbor *kamokha*, as much as we love ourselves. However, the Torah is not commanding us how we are to feel about our neighbor, only how we are to act: love *towards* your neighbor. In other words: do unto your neighbor as you would have him do onto you. This, we can note, is in contrast to the mitzvah to love the *ger* (and – *li'havdil* – to love God). There we are told to love *et*, to actually love the *ger*, to actually have the emotion of love for the *ger.* Since the Torah is commanding us to actually love the *ger,* it drops the word *kamokha*, 'as yourself,' since it would be impossible to love someone else as much as we love ourselves (and those who are closest to us). The key, though, is that the mitzvah to love the *ger* is not to limit it to how we act. We must actually feel love for the *ger*, a love that I have described above as empathy.

To do properly for those with disabilities, we must truly care and feel and identify with their situation. I remember once talking to a rabbi about the question of whether a kohen who was confined to wheelchair could do *birkhat kohanim*. This rabbi was not motivated to explore whether there could be any halakhic allowance for this. "What's the big deal?" he said. "I'm not a kohen; I never get to make *birkhat kohanim.* Let him just accept it and move on." Such a response is a failure in the mitzvah of *ahavat ha'ger*. There was no attempt to really feel for the other person, to begin to understand how being a wheelchair user can strip a person of their autonomy, engagement with the world.

Let us not forget that *birkhat kohanim* takes place with families – a father and his children go up to do *birkhat kohanim* together. But now a son is confined to a wheelchair. He sees his father and brothers go up, and he must remain behind. What does this do to his sense of identity and sense of self? He is being told that he is not really a kohen like they are, he is not even an equal part of his own family – he is left behind, literally, because he is in a wheelchair. At a time when his physical condition tells him that he no longer is who he was, what would it mean for halakha to come and rob him of his identity, to tell him that from a Jewish perspective as well "you no longer are who you think you are"?

Thinking this way isn't easy. It requires effort, and the exercise of both imagination and empathy. And it requires encounter and engagement - getting to truly know the people who your actions, or your halakhic rulings, impact. This is the mitzvah of *ahavat ha'ger*.

A final aspect of the mitzvah of loving the *ger* is added by Rav Hutner {source 9}. Rav Hutner notes how the verse {source 4} states that God does justice for the orphan and the widow, but when it comes to the *ger*, the Torah states that God loves the *ger*. This indicates for him that the *ger*'s status is not (just) because he is in a vulnerable and potentially marginal position, like that of the orphan and the widow. In what way might the *ger* be in a different category than the orphan and the widow, and how might this connect to the mitzvah to love the *ger*?

9. Pachad Yitzchak (Rav Yitzchak Hutner), essay 8, section 2 | פחד יצחק, פסח, מאמר ח' אות ב'

והנה בכמה פסוקים בתורה נכלל הגר והיתום והאלמנה בחד ענינא והצד השוה שבהם הוא שהם אנשים נעזבים לנפשם ואנחנו ממשיכים

בזה את הקו הלאה ואומרים שאם אהבת הגר באה מצד שהוא אדם גלמוד ונעזב אין מצות אהבת גרים מתקיימת ע"י אהבה זו שהרי נתבאר לעיל שטעם האהבה נכנם בכלל מצות האהבה וטעמה של אהבת הגר הוא מצד מעלתו שנכנס תחת כנפי השכינה ולא מצד היותו אדם שיאן לו גואלים. ואם חסרה לה לאהבה טעם הנדרש אין בזה קיום מצוה.

ומאירים הם דברי הרמב"ם שדוקא על אהבת הגר הוסיף שצוה על אהבת הגר כמו שצוה על אהבת עצמו. כלומר, כמו שאהבת השם היא אך ורק אהבת המעלה ואין שם מקום כלל לענין של רחמנות כמו כן אהבת הגר אינה מתקיימת אם האהבה איננה אהבת המעלה. ומה שהוסיף עוד הרמב"ם שהקב"ה בעצמו אוהב גרים כוונתו להוכיח את היסוד הנ"ל דזה לשון הכתוב עושה משפט יתום ואלמנה ואוהב גר הרי להדיא דמחולק הוא מהיתום ואלמנה דביתום ואלמנה אמר עושה משפם ודוקא בגר אמר אוהב גר ואם אהבת הגר היתה באה מפני שהוא נזקק לאהבה ביותר לא היה חלוק בזה מן היתום והאלמנה וזה שכתב הרמב"ם דהקב"ה בעצמו אוהב גר דהיינו מדחזינן דחלוק הגר לענין אהבה מן היתום והאלמנה שמע מינה דאהבת גרים אהבת המעלה היא

Behold in a number of verses in the Torah, the *ger*, the orphan and the widow are placed in the same group, and the common denominator between them is that they are people who are marginalized (lit., abandoned alone). We can take this line of thought further and say that if love of the *ger* emerges from the fact that he is a bereft and abandoned person, then the mitzvah of loving the *ger* is not fulfilled through this love. For we have explained above that the motivation for the love is part of the mitzvah of love, and the reason for the mitzvah to love the *ger* is because of his high level, that he came under the wings of the Shekhinah, and not because he is a person that has no redeemers. And if the love is lacking the necessary motivation, then there is no fulfilment of the mitzvah.

The words of Rambam are illuminating in this regard, as it is specifically in the case of loving the *ger* that he adds "God has commanded us to love the *ger* just as He commanded regarding love of Himself." That is to say, just as love of God is only a love due to God's greatness, and there is no place in this love for an element of compassion, similarly love of the *ger* is not fulfilled if the love is not a love due to [the *ger*'s] high level. What Rambam adds, that God Himself loves *gerim*, his intention is to prove that this foundation, for this is the language of the verse, "God does the justice of the orphan and the widow, and loves the *ger* [to give him bread and clothes]." Behold it is explicit that the *ger* is distinct from the widow and the orphan, for in the case of the widow and the orphan the verse states that God "does justice", and it is only in the case of the *ger* that the verse states that God "loves the *ger*". Now, if loving the *ger* was due to his greatly needing love, he would not be distinguished in this regard from the widow and the orphan. This is what Rambam means when he writes that God Himself loves the ger, that is to say, that since we see that the verse distinguishes the *ger* from the widow and orphan in the matter of love, we can infer that loving the *ger* is a [distinct] love due to his high level.

For Rav Hutner, the love that God shows the *ger* and our obligation to love the *ger* is not a function of his potentially disadvantaged status. Rather, it stems from our recognition of the elevated status of the *ger*. A *ger* has made an amazing choice – to leave his past life, and all its freedoms, and to be part of the Jewish people. This demands recognition and acclaim. This is why God loves the *ger*, and it is in this way that love of the *ger* is to be compared to love of God.

A person with disabilities has also made an amazing choice. She has chosen to stay within the Jewish community even when receiving so many messages that she is not wanted and not welcome. We have not institutionalized accessibility or those with physical, learning, social-emotional, and developmental disabilities, not in our schools, not in our synagogues, and not in our Jewish institutions. Their choice to stay in the community must move and inspire us to respond in kind. We must do everything in our ability to institutionalize accessibility and to make sure that she has an equal a place within our community,

To Not Afflict the Ger [source 10]

There are to mitzvot regarding afflicting a fellow Jew – not to afflict him with one's words and not to afflict him financially, that is, not to overcharge him. These mitzvot are doubled for a *ger* {source 2-3}. One may not verbally afflict a *ger* because he is a Jew and because he is a *ger*; and one may not financially afflict him both because he is a Jew and because he is a *ger*.

These special mitzvot seem to be the other side of the coin of the mitzvah to love the *ger*, and to just be repeating and underscoring the mitzvot to not oppress or afflict a fellow Jew. But it goes deeper than that. The point of the repetition is first to warn us to not feel that we can act with less care towards this person who we perceive of as different, as not fully one of us. Second, when it comes to verbal affliction, we must know that our words and actions can be much more hurtful when experienced by someone who might already feel vulnerable and marginalized (see Baba Metzia 59a). Implicitly questioning someone's membership in the group, or just calling out a person as different, is a form of *ona'at ha'ger*. In the case of disabilities, I know of a shul that had a ramp to the *bimah*, and insisted on everyone using it, so no one would have to feel different. Then a new rabbi came, and declared that the ramp would only be taken out when needed. As a result, a number of the members who were disabled, felt singled out for their difference and marginalized by the community, and they eventually left the shul.

In the case of disabilities, we as a community are also guilty of the second type of afflicting, the prohibition against overcharging. When a person with disabilities wants to enter a school – and let us not forget that there are still many schools who will not accept students with certain disabilities – the tuition is exorbitant, usually double that for a child without disabilities, and the cost has to be shouldered fully by the parents. This is true in camps as well. The same is true in camps. In most cases, even the camps that accept students with disabilities, place the burden of any additional costs – for a shadow, for physical accommodations – on the shoulders of the parents. Technically, this is not over-charging, for the costs are great in these cases and more services that are being

provided. Morally, however, it is definitely overcharging. We as a community are saying: to get equal education, to get an equal camp experience – you, the person with disabilities, must pay much more than everyone else.

So far we have been looking at the mitzvot against afflicting a *ger* as a mere repetition and underscoring of the same mitzvot that apply to every Jew. Or Samayach {source 10} takes this one step further, and demonstrates how these mitzvot take on another dimension when applied to a *ger*. He points out that these mitzvot, when applied to a Jew, refer to two things: not overcharging (monetary affliction) and not saying hurtful words (verbal affliction). However, in the case of a *ger,* Rambam indicates that they are intertwined – to afflict a *ger* with money is to afflict him with words, and vice-versa. Why might this be?

10. Or Samayach, ad. loc. | אור שמח שם

והא דעובר במאנהו בממון גם על לאו דלא תונו איש את אחיו, דמיירי באונאת ממון, גם על לאו דלא תונו איש את עמיתו דמיירי באונאת דברים, דבגר אם מאנהו בדברים נשפל בדעתו, וסובר כיון שהוא מעם אחר הקילו ישראל בממונו, וממונו מותר, ואין דורש ומבקש עבורו, והרי זה כאונאת ממון... שהוא ירא לכנוס במסחר וקנין עם ישראל בן ברית פן ידחקהו ויאנהו, וכן אם אינה אותו בממון סובר שמצד שהוא שפל אצל ישראל שאינו מגזעם לכן מאנהו, ואין לך שפלות דעת מזה, והוי כמבזהו ומשפילהו, משא"כ בישראל לא שייך זה, ולא עבר על אונאת דברים או ממון רק בלאו דיליה לחודא:

The reason a person transgresses when he oppresses a *ger* in monetary matters both on the prohibition of "do not oppress one man his brother" which refers to monetary oppression, and the prohibition of "do not oppress one man his neighbor" which refers to verbal oppression, is because in the case of a *ger*, if one oppresses him verbally, he will become despondent and believe that it is because he comes from another nation that [he has been treated this way], and people will feel free to take advantage of him (lit., his property is permissible), and no one will come to his defense, and behold this is like monetary oppression… for he will fear to enter into business and commerce with a fellow Jew lest he be taken advantage of and cheated. Similarly, if one oppresses him monetarily, he will believe that it is because Jews see him as a person of low regard since he is not of their stock, and therefore this person has cheated him, and there is no greater feeling of despondency than this. Thus, this case is as if one has shamed him and degraded him. This is not the case with a naturally born Jew, and in such a case when there is verbal or monetary oppression one only transgresses the prohibition that is specific to it.

Or Samayach explains that the difference in the case of the *ger* is not due merely to what thing is being said or done, it is due to how a thing is being heard or perceived, by the *ger* and by the community. A person might overcharge everyone, but when the *ger* experiences it, he is hurt emotionally as well; for him, it is a further sign of rejection and marginalization. And when a *ger* is verbally insulted, it pushes him to the margins, causing him to withdraw from the community

and the community to withdraw from him, which brings about financial loss as well.

Whenever we are dealing with a person who is not fully embraced by the community, we must be particularly sensitive to how thoughtless words or deeds can lead to feelings of rejection and alienation, and how one act of rejection or disregard by one member of the community can set the model for others to act likewise.

There is a concern that overdoing this – being hypersensitive in all interactions with a *ger* or a person with disabilities – feeds into a mindset of victimization, and also serves to set them apart from the community. My first response is that I would rather err on the side of hypersensitivity than on the side of insensitivity, and that the risk of encouraging a mindset of victimization is less of a concern that a risk of continuing to marginalize members of our community. Beyond that, the concern of encouraging such a mindset can be countered if we remember the principle "Nothing about us without us." (see discussion under source 1). If we include people in the process of accommodation and not merely make them the objects of our sympathy and sensitivity, they will not be seen or see themselves as victims.

Equality [source 11]

Treating a *ger* as an equal and not as a special case is highlighted by the mitzvot relating to a *ger* as recorded by Rav Sadyah Gaon {source 11}. In his list of mitzvot, Rav Sadyah Gaon does not list a mitzvah to love the *ger* or to not afflict the *ger*. He only has one mitzvah, the mitzvah of equality: the *ger* must be treated as a citizen. How does this reframe our responsibility to the ger?

11. Book of Mitzvot, Rav Saadyah Gaon | ספר המצוות לרב סעדיה גאון

גירי הצדק כאזרח

The *ger* shall be like the citizen

Sadyah Gaon's bracketing of the proactive mitzvot to love and not oppress the *ger*, and his underscoring of the mitzvah to treat the *ger* as an equal raises the long-standing debate problem of affirmative action. As long as affirmative action measures are in place, a certain population is being singled out as different, and not really treated as equals. On the other hand, as long as there are systemic injustices in society, we need affirmative action to serve as a corrective; we cannot make equality exist just by acting as if it already exists. There is no getting out of this tension – the need for proactive mitzvot {sources 2-10} and the demand of fully equal treatment {sources 11}.

In the world of disabilities this happens all the time. In order to get necessary accommodations, people must be put into categories and assigned labels – autism, intellectual disability, emotional disturbance, and the like. But doing this is also reductive and singles them out, making people see just the labels and not the person.

I once heard Dr. Adrienne Asch, of blessed memory, a bioethicist who herself was blind, say that people with disabilities do not have special needs. They have the same needs as everyone – to be loved, to be included, to be educated, to be able to achieve self-actualization. Their needs are the same; they just require specific accommodations to meet those needs. This is the true goal of equality: to see our community in all its diversity; to realize that we all have the same needs and the same goals in life; and to

realize and actualize that we must give everyone the accommodations he or she needs to satisfy those needs and to achieve those goals.

A Mandate for Poskim [source 12-13]

I think it is fair to say that 98% of what needs to be done in the area of "inclusion," is at the communal and institutional level – education of the community, and proper accommodations in schools, shuls, and camps. But sometimes there are also halakhic obstacles to inclusion and full participation in certain areas. In such cases, we find that there are poskim who feel compelled by the mandate of inclusion to find a way that halakha can accommodate those who would be excluded.

For example, the halakha states that a *ger* may not hold a position of authority. Rav Moshe Feinstein {source 11} was asked on the basis of this a *ger* would not be allowed to be a Rosh Yeshiva. Notice how he precedes his halakhic analysis with referencing the mitzvah to love the *ger* and how this must inform the halakhic process.

12. Iggrot Moshe, Yoreh Deah, 4:26, Rabbi Moshe Feinstein | שו"ת אגרות משה יורה דעה ח"ד סימן כו

בענין מינוי גר לראש ישיבה ומשגיח...

אבל למעשה יש לידע, שהמצווה של ואהבתם את הגר (דברים עקב י' י"ט) מחייבת אותנו לקרבם ולהקל בכל עניינים אלו. ולפיכך אחר ישוב גדול נראה, שאין להחשיב משרות אלו בתקופתנו כענין של מעשה שררה....

Regarding appointing a *ger* to be a Rosh Yeshiva or a *mashgiach*....

However, in practice you should now, that the mitzvah of "and you shall love the ger," requires us to bring them close and to be lenient regarding all these things. Thus, after great thought it appears that we need not consider such appointments in our time like appointments of authority...

In approaching this question, Rav Moshe states that he had to weigh the restriction of a *ger* to hold a position of authority against the obligation to love the *ger* and treat him equally. For Rav Moshe, the mitzvah to love the *ger* mandated for him that he interpret the restriction to hold a position of authority as narrowly as possible. He concludes that a *ger* may become a Rosh Yeshiva because such a position is one of consensual, and not imposed, authority.

In the area of disabilities, an example of this approach is an *aliyah* for a blind person. The Shulkhan Arukh (OH 139:3) rules that a blind person cannot receive an *aliyah* (Rema disagrees). R. Benjamin Aaron b. R. Avrohom Salnik {source 13} wrote a responsum on this matter after he became blind himself and understood what it meant to be excluded in this way (see discussion above regarding empathy under "To Love the *Ger*"). He is explicit that the obligation to not exclude someone from this mitzvah propels him to find a halakhic solution.

13. Responsa Maseit Binyamin, 62 | שו"ת משאת בנימין סימן סב

R. Benjamin Aaron b. R. Avrohom Salnik lived in Poland, ca. 1550-1620. He was a student of R. Moses Isserlis (Rema)

ואני אמרתי אף אם רוח המושל יעלה עליך מקומך אל תנח. כי לעולם לא יזנח. ומימות אבי זנוח. התורה בקרן זויות מונח. כל הרוצה יבא ויטול. ומצוה אחת לא יבטל. כי זה עתה לעת זקנתי חשכו הרואות בארובות. ותכהנה

עיני מראות. ולפי אשר עלתה במחשבה של הרב ז"ל יגרשני מלהסתפח בנחלת ה' ותורת אמת חיי עולם. לבלתי אחשב במספר המנויין לעלות. ולכן אמרתי וגמרתי בלבי חלילה לי מלעזוב את דרך עץ החיים ומלאחוז בענפיה אהבתי זאת התעודה מימי קדם קדמתה. משפטה ודתה. וגם לעת זקנתי בל אשליכה. ובה אתהלכה. ואפתח בדבר הלכה. לראות על מה עשה לי הרב ככה.

עוד תמיהני על דברי האוסרין דהיאך החליטו הדין לפרוק עול מלכות שמים מעל האנשים ובפרט במצוה רבה מפורסמת כזו...נאם בנימין אהרן ב"ר אברהם סלניק ז"ל יום ה' ג' תמוז ש"ע לפ"ק לפרשה כי כל העדה כלם קדושים:

And I said, "If the spirit of the ruler rises against you, leave not your place" (Kohelet 10:4), for you should not be cast off forever (Eicha 3:31). For from times of Avi Zanoach (Moshe, cf. Chronicles I, 4:18), the Torah has always been placed in a corner (accessible to all), so that whoever wishes may come and take it. And even one mitzvah should not be negated. For behold, now in my old age, the sight from my windows has darkened, and my eyes have grown dim from sight (cf., Breisht 27:1). According to what the Rabbi (Yosef Karo) opined, I will be driven away this day from seeking refuge in the inheritance of the Lord (I Samuel 26:19), in the Torah of truth and of eternal life, that I shall not be included in the number of those who are counted to rise up (and read). Therefore, I said and decided in my heart, "God forbid that I should abandon the way of the tree of life, and from my youth I have grasped onto its branches, its laws, and its rule. Even in my old age I shall not cast it off. On its path I will tread." And I will open with the matter of halakha, to see for why the Rabbi has done such a thing to me.

I remain astounded regarding those who forbid – how have they decided the law [with the effect] of casting off the Heavenly yoke from people? How much more so regarding an important and public mitzvah such as this!.. Binyamin Aharon ben Avraham Salnik, z"l, Thursday, 3 Tamuz, 5370 (1610), Parshat "For the entire community is all holy."

Clearly, both Rav Moshe and Rav Salnik found legitimate halakhic solutions. This mandate does not allow one to go outside the halakha. But this mandate can and did push them to find a path within the halakha to make the community as inclusive as possible.

In the end of his responsum, he makes a statement that reverses the normal way of thinking about such issues. Such issues are normally framed as follows: we really should be strict and not allow it, and those who are arguing to be lenient and find an accommodation have the burden of proof. He states that the framing is the reverse: We must be strict on the obligation to not reject and exclude, and those who would be lenient against this obligation, and exclude someone from this mitzvah, must justify how they could be so lenient. This echoes the earlier story of Reb Chaim Soloveitchik about not being lenient regarding Shabbat, but

being strict about saving a life. In the area of exclusion however, the calculus is even more compelling. We are not just weighing human concerns against "religious ones." Excluding people comes at a profound religious cost as well. When someone feels rejected and unwanted, they may become alienated from the Jewish community, Torah and mitzvot and "cast off the yoke of mitzvoth." This has happened countless times. Sometimes, when a family cannot find a Jewish school or a welcoming shul for their one child with disabilities, the entire family will choose to leave the community: "If you don't want my kid, then you don't want me."

Conclusion

The mandate to not exclude, to see our community in all its diversity with all its members, to speak about "us" rather than "we" and "them" is something that we must embrace, internalize and actualize. This is a mandate for poskim, but more importantly – a mandate for the community. We must continue to educate, to make accommodations, to provide, and to include everyone in the process, so that no one will be able to say "Why should we be excluded?"

Disability and Judaism: A Study in Halachic Responsiveness

Rabbi Dr. Benjamin Lau

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1. We all have disabilities

To be a person of Torah is to take on a quest to reveal the light of God which shines out of the Torah, as it has been revealed to human beings. *Halacha* [Jewish law], in as far as it is a translation of the Godly Idea into human behaviour, must radiate that light for which all those who worship the Almighty pray. Among the subjects that linger disconcertingly between light and darkness is society's approach to people with disabilities. Already in the Talmud we find the story of one of the greatest scholars of the Tanaitic period (70-220 CE), Rabbi Simeon ben Eleazar, who studied Torah from Rabbi Meir, and returned home completely caught up in the joy of his studies, which consumed his entire character:

> He happened upon a man who was extremely ugly. The man said, "Shalom to you, Rabbi!" Rabbi Simeon did not reply. Instead he exclaimed, "Idiot! How ugly that man is! Could it be that all the people of your city are as ugly as you?"
>
> The man said, "I do not know, why not go to the Artisan who made me, and tell Him, 'How ugly that vessel is that You made!'"
>
> When Rabbi Simeon realized that he had done wrong, he dismounted from his donkey and fell down at the man's feet, saying, "I fully accept – please forgive me." "I will not forgive you," said the man, "until you go to that Artist who made me and tell him, 'How ugly that vessel is that You made.'"[1]

The gap between the harmonious light of Torah and this offence to perfection that is the "extremely ugly" man, strikes Rabbi Simeon like a blow. The Torah he has been learning has not refined his character, but rather had sharpened his aspiration to "angelic" completeness, which refuses to encounter an ugly reality.

The "ugly man", then, refers Rabbi Simeon to the source of all ugliness in the world: the Holy One, the Artisan who made him. This is a decisive religious statement, which seeks to cancel out the categories of beautiful and ugly as seen by human beings, and to bring them instead to a more holistic vision, which takes account of the fact that God created all of mankind, in all the forms it may take, in His own image. Not, that is, with a godly body – for God has no body – but rather with an essential nature that is divine, an associate in the creation and advancement of the world. Man created in God's image is not God – he is "a little less" (Ps. 8:6). This is what brings us

to the absolute knowledge that all of us are people with disabilities.

It is worth remembering that when we engage with sources from the past we are touching the very pulse of a society's life. The sources of the Oral Law are shaped in a human society and are intimately bound both to the norms of that society and to changes in those norms. What approach has Jewish society taken through the ages to people with physical and cognitive disabilities? Did the Torah lead to these people's acceptance into society, or was she part of the universal tendency to exclude? What attitude has the religious community taken in the modern era, as the world outside goes through a process of acceptance and integration? Has the religious world led this movement, gone along with it, or remained far behind?

There is a genuine expectation that the world of Torah should pave the way when it comes to attitudes to people with disabilities, people who were also created in the image of God. There are also disappointments, as we look at the sources and see where the great minds of the outside world have taken society vast leaps forward with regard to these attitudes, while Jewish scholars merely reacted later on to these ethical advances.

I would like to demonstrate with two examples; one in which the halacha has followed after human progress, and one in which it has led the way for humanity as a whole. First – in relation to deafness, and second – to blindness.

2. The Status of Deaf People – Halacha's Response to a Change in the World

In the Jewish Law of ancient times, deaf people had the same status as the mentally retarded. They were distanced from society and free of its obligations. Until the 18th century, people with severe hearing impairments were not integrated into the education system and nothing useful was expected to come of them. The sages, likewise, related to deaf people as to people with no intelligence, exempt from all the obligations of a mature human being.

With the establishment of schools for the deaf, and the development of sign language, which enables people with severe hearing impairments to communicate with those around them, the world has made huge steps forward in its relations with deaf people. It is fascinating to read the attitudes expressed by rabbis during the period in which people with aural impairments were just beginning to be integrated into society.

The discussion centered around the question of whether the change in the status of deaf people in society should influence their status in halacha; are these people now obligated by the commandments? Are they able to be married and divorced? May they perform other legal actions that require mature awareness? In the words of Rabbi Azriel Hildesheimer (late 19th century) we may find an interim summary:

> In the case of a deaf person who has been taught to speak in a school for the deaf (in the technique that has been developed in recent years), such that there is no difference between him and other people, apart from lacking the sense of hearing and a certain degree of speech impediment, while his intellect and understanding in all dealings are as those of any hearing person, the leading authorities of our generation are in disagreement. Some say that such a person is like a hearing person in every way, and has the legal status of one who speaks but does not

> hear. Others categorize him as a 'retarded person', giving him the same status as one who neither speaks nor hears. Other authorities are undecided and judge strictly in each case, because of the doubt.[2]

One of those who deemed this group to be 'like any hearing person' is the Great Rabbi Chaim of Sanz, of blessed memory, who wrote a responsum[3] to Rabbi Yehuda Libush of Levov, to demonstrate that a deaf person who has learnt to communicate is like a hearing person, with the legal status of one who 'speaks but does not hear'.

Among those who did not reach a decision on the matter was the great Rabbi M. Shik. Rabbi Shik investigated the matter in depth in his responsum (Even Ha'Ezer 79), and his indecision is implied the conclusion of a long discussion of several different categories of deaf people:

> And all the same it seems that a deaf person who has accustomed himself to speak at a school still has not removed himself from doubt. He is not to be considered a person of full intellect, and is not to be counted in a minyan [quorum of ten men needed for communal prayer], or relied upon to fulfill ones' obligations [vicariously, eg by making the collective blessing over wine on Shabbat], and one cannot eat meat that he has slaughtered; in my humble view this is the correct approach to take.

The doubt over which these authorities are debating is the question of whether a deaf person's intellect is normal or defective. Professor Victor Jenner brought about a global change in this area when he published his pedagogical treatise for the training of deaf and dumb children (1832-6). He proved that people with hearing impairments have full capability to acquire spoken language: they have sufficient intellect to learn languages, the necessary speech organs, the senses required to take in linguistic forms, and that beside all this they also have other means of communicating with others. This research took root in the world, and from the mid-19th century onwards, attitudes to deaf people in Western Europe improved immensely.

Rabbi Hildesheimer lived at the end of the 19th century, read the relevant studies, and saw the educational achievements of the schools for the deaf. As a result of all this he reached the following conclusions:

> The realities have disproved the view expressed by the great Rabbi M. Shik, that a deaf person who is educated acts like an ape; namely, that he does nothing but what has been fixed and imprinted in him through repetition and rote-learning, and that he has no free choice or intellect.

Rabbi Hildesheimer's responsum proceeds to demonstrate that the rabbis of mid-19th century Germany had continued to debate the point, without fully accepting the change in the legal status of people with aural impairments. A generation later, however, Rabbi Hildesheimer himself was well aware of the implications of the scientific and pedagogic changes that had taken place in the area of hearing impairment. In response to those rabbis continuing to relate to the deaf as to people without mental faculties he writes:

> … This, however, was the prevalent attitude to deaf people at that time (Sha'ar Haz'kenim was published in 1830, and it is not recorded when that specific responsum was written. Rabbi Y.D. Bamburger's responsum, likewise, does not record the time of its

writing). Medical writings from that period upheld the same views, and it is only later on that the doctors' opinions were amended, until they reached the conclusion that deaf people have mental powers (and only a difficulty in bringing this potential into full expression) and this view has been borne out in the experience of our own times. There is no contradiction here with the words of our sages, who only referred to deaf people with no opportunity to access their own intellectual potential. In my humble view we must not follow these great minds in deciding that a deaf person's education has no significance. In post-factum cases, however, we must certainly make efforts to rely upon their words.

Behind the debate on the status of people with hearing impairments stands a deeper disagreement on the ability of society and scientific progress to affect basic assumptions in the world of the Torah. Rabbi Hildesheimer, aware of this anxiety, reassures his readers:

There is no doubt that research in the natural sciences has no authority to contradict the traditions received from the sages. Here, however, we are simply interpreting the sages, to determine whether they made no distinction between one deaf person and another, or whether their intention was only to rule on a deaf person without eduction.

A hundred and fifty years have passed since this was written, and today almost all *halachic* authorities agree that people with hearing impairments may be integrated into social frameworks, and so, without question, also into religious ones. This is a rare and definitive development, which points to society's power to influence legal attitudes, and among them those of our own *halacha*.

3. The Status of the Blind – *Halacha* as a Pioneering Force

Like deaf people, people with severe visual impairment have also experienced a remarkable improvement in their status. In the past it was commonplace to alienate blind people and to degrade them. Blind people had no means of earning a living, and instead went begging from door to door or on street corners. Most blind people were condemned to lives of suffering and could aspire to no personal achievements. The exceptional few, Homer, Braille, Helen Keller and others, showed outstanding talents and were the exceptions that prove the unproductive rule. As in the case of deaf people, here too attitudes have changed in the modern age, with the establishment of schools using Braille script (invented in 1829).

In contrast with deafness, blindness was an area of disagreement among the *Tana'im* [sages of the Mishnaic period, c. 70-220 C.E.]. Rabbi Yehuda deemed a blind person to be exempt of all religious obligations, while the other sages judged him to be obligated. The Mishna in Tractate Bava Kama states that 'One who humiliates a blind person is found liable'. The Mishna here is raising the question of the damages payments one might be required to pay a blind person upon whom one has inflicted bodily harm. Harming a 'normal' person requires one to pay, among other expenses, a payment for the humiliation involved. Without entering into the intricacies of the discussion, we may understand that 'humiliation' payments are paid to a person in response to the damage rendered to his standing in society. The very ruling that one who humiliates a blind person is expected to

hand over a humiliation payment raises the possibility that somebody must have thought otherwise. The Talmud, indeed, seeks to claim that this mishna does not correspond to the attitude of Rabbi Yehuda, one of the Galilean sages of the latter half of the second century:

> This mishna is not compliant with the view of Rabbi Yehuda, as we have been taught, "Rabbi Yehuda says: A blind person has no humiliation payment; and in this way Rabbi Yehuda would offer reprieve to people who would otherwise be condemned to exile [for manslaughter], to lashes and to the death penalty.[4]

The Talmud offers formal rationales to explain the attitude of Rabbi Yehuda, but these are not our concern. Of interest to us is the bottom line, and its significance is that a blind person is in no way integrated into the family of man. The Tosafists (of twelfth century France) experienced unease with the definition of blindness in Rabbi Yehuda's teachings, and qualified his position:

> A blind person who humiliates another is exempt [from payment], but one who humiliates a blind person is obligated, for it does not make sense that he should be exempt.[5]

The statement here is an interesting one. The blind person is liberated from responsibility, but society is not liberated from the responsibility to care for him. In relation to the blind, then, we find enormous responsibility on the part of the sages, who consistently seek to include the group in the community. One prominent example of this is the question of calling a blind man up to make a blessing over the Torah scroll in the synagogue. The medieval Jewish legal authorities debate the ability of a blind man to bless over the Torah, when he clearly cannot read the words, for 'words in writing are not to be said from memory'. In conclusion, however, many of these authorities agreed that this was a case worthy of the principle 'It is time to act for God; they are uprooting Your Torah'.[6] Rather than risk losing the human being within the blind man they agreed to rule that he should be called up to the Torah and bless over it, just like any other, fully obligated man. The decision was made hundreds of years before any mainstream social awakening with regard to the needs of the blind community.

4. *Halachic* Attentiveness to Social Trends in Relation to the Place of People with Disabilities in Society

As we have seen in these two examples, *Halacha* is not indifferent to changes in the status of people with disabilities in society. At times it creates the change; at others it responds to it. Today we witness significant social alertness to the place of people with disabilities within our society. Accessibility for people with mobility problems, subtitles for people with hearing impairments, Braille for people with visual impairments and so on and on. The State of Israel devotes significant budgets to this issue, and there is a special chair in the Law Ministry for dealing with issues relating to people with disabilities.

Halacha must listen to the voices welling up from the depths of society, and respond to them. The public's attitude to people with disabilities is awakening the world of the *halacha* to find within itself the mechanism that will make it possible to include all people with disabilities within it. I will demonstrate this through a discussion of the question of whether a cohen with a physical blemish may go up to the ark to bless the congregation with the priestly blessing.

The Mishna in Tractate Megilla lays down that "a cohen who has blemishes may not raise his palms [to participate in the priestly blessing]".[7] The Talmud understands the *mishna* in its broad sense, describing all the kinds of blemish that could invalidate a cohen from raising his palms. The *amoraim* [sages of the Talmudic period, c. 220-550 C.E.] rise to the occasion and offer their own contributions to this list of disqualifiers:

> Rav Huna said: A zavlagan [the medieval commentators were divided as to whether this describes a person with a disease causing excessive tearing or salivation] may not raise his palms.

This brings the Talmud to raise an objection:

> Yet there was a certain zavlagan [priest] who lived in Rav Huna's neighbourhood, and he used to raise his palms!

Could it be that Rav Huna does not practice what he preaches? The answer follows:

> That [particular priest] was familiar in his own city.

As the discussion continues, an early source is brought, declaring that a man's familiarity in society is the factor that determines whether he may take part in the priestly blessing, or whether his presence, with his physical deformities, will cause a social problem. The section continues to tell exactly the same story, as an event that took place in the beit midrash [study hall] and city of Rabbi Yochanan, Tiberius:

> Rabbi Yochanan said: A [priest] who is blind in one of his eyes may not raise his palms. Yet there was a certain man [like that] in Rabbi Yochanan's neighbourhood who did raise his palms! That man was familiar in his own city.

Here the case in question is not that of a *zavlagan* but of a man who is partially sighted. In principle, such a man is disqualified from giving the priestly blessing – but the community have the power to rule otherwise by their actions. If the man is familiar in his own city, then he raises his hands to bless the congregation.

This distinction is delineated in the *halacha*.[8] It is clear that if the community had not reacted to those 'blemished' people with acceptance, the attitude of the *halacha* would not have changed; neither in the eyes of Rav Huna nor in those of Rabbi Yochanan.

If this is the case, the public has enormous power to define the place and standing of people with disabilities in society. Our attitude towards the disabled is not decreed from heaven. It rests upon the attention and responsibility of the entire community. If we know to see the good and the light within each one of us, we will succeed in containing every creation, in fixing the place of people with disabilities in the very heart of the community, and in allowing each and every person to take a part in our shared effort to repair the world by the light of the Torah.

[1] Ta'anit 20a-20b.

[2] *Responsa of Rabbi Azriel Hildesheimer*, II, Even Ha'Ezer, Hoshen Mishpat ve'Miluim, 58.

[3] *Divrei Chaim* II, Even Ha'Ezer 72. Printed previously by Rabbi Yehuda Levov in *Malechet Heresh*, Vienna, 1864.

[4] Bava Kama 86b-87a.

[5] Ibid.

[6] The principle is brought into play in extreme cases when it is deemed necessary to contravene a Torah injunction in order to preserve the spirit of the law (translator's note).

[7] Megilla 24b

[8] *Shulchan Aruch*, Orach Chayim 128

Vibration-Sensing as a Means of Fulfilling the Mitzvah of Shofar

Rabbi Ben Greenfield

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Introduction

Many deaf people have a unique capacity to sense vibrations caused by music and loud noises. Some of these individuals have a finely attuned sense of these vibrations, beyond what a hearing person would detect. Indeed, one study compared the brain activity of people born deaf with the brain activity of hearing people when experiencing specific sets of vibration, and found that the deaf individuals processed the stimuli not in the parts of the brain associated with touch, but with sound.

Can the Mitzvah of Shofar on Rosh Hashana be fulfilled by a deaf person through experiencing vibrations produced by a Shofar? If the answer is yes, there will be important ramifications for a number of specific Halakhic questions:

- While deaf people are typically seen as exempt from the Mitzvah of Shofar, would such a person (if male) be fully obligated to "hear" Shofar in this manner?
- Should a *bracha* be recited when blowing Shofar solely for a deaf person who experiences it through such vibrations? What *bracha* would that be?
- Can a deaf person who "hears" the vibrations of Shofar blow Shofar for hearing people?

Even if the answer is "well, maybe", there will be important practical ramifications for such people on Rosh Hashana.

- Should such a person take steps to "hear" Shofar in this manner, as it may reasonably constitute a fulfillment of the Mitzvah?
- If a person who relies on hearing aids in order to hear Shofar is themselves capable of detecting vibrations from the Shofar, should they *also* make sure to detect and focus on the vibrations?

There are two possible paths towards arriving at a "yes":

A. Establishing, on a scientific/factual level, that the vibration-sense that some deaf individuals experience is itself a form of hearing, such that Halacha has little reason to differentiate between this and "natural" hearing. (I offer a brief treatment of this path here, though it is not the primary focus of this paper.)

Consider, for an extreme example, bone conduction. This is the phenomenon by which vibrations from the outside world (e.g. from a guitar) are transmitted directly into a person's bones, causing the bones of the body to slightly vibrate. This vibration is detected by the cochlea which converts it into electric signals and sends them to the brain, where they are processed into experience of sound. This is in contrast to typical hearing ("air conduction") in which vibrations in the outside world pass through the air (in the form of sound waves), enter the outer ear, and are amplified and directed by various parts of the inner ear, before likewise being detected by the cochlea and processed by the brain.

It is often reported that Beethoven used bone conduction to continue composing even as he steadily lost his natural hearing. With a rod placed on his piano and held in his teeth, the music would vibrate his facial bones as he played, stimulating the cochlea and producing sufficient musical stimuli for Beethoven to create masterpieces. Today's bone conduction headphones (marketed to hearing people) work similarly. Instead of sending sound waves into the ear, they send vibrations into bone, with the effect of producing sound in the listener's brain.

It is difficult to describe bone conduction as anything other than "hearing." The quality may be lower than one might expect from air conduction, but sound is clearly heard. If one can imagine a bone conduction mechanism for transmitting vibrations directly from the Shofar, it would be quite plausible to argue that the experience produced is itself a form of hearing, and that the Mitzvah is obviously fulfilled by it.

Far less clear-cut are the range of vibration-senses that deaf people experience when exposed to loud sounds. A person who was born deaf and is sitting close to a Shofar may detect unique vibrations from such an experience, though obviously not as clearly or completely as they might through direct bone conduction. Indeed, such vibrations may produce stimulation in the auditory parts of their brain, though it is unclear if they are experiencing it as "sound" in the sense that hearing people do.

It is not my intention to sift through the scientific/factual evidence, as it applies to the wide diversity of experiences of different kinds of deaf and hard of hearing people. Suffice it to say that to the extent scientific or factual evidence points to a lived experience akin to hearing, a strong case can be built that Halacha should recognize it as hearing.

B. Conceding that the vibration-sense is not experientially, scientifically, or halakhically recognized as a form of hearing, but establishing that the Mitzvah of Shofar can be fulfilled through sensations beyond hearing.

That is, are there halakhic sources which conceive of the Mitzvah of Shofar as requiring not *hearing,* per se, but some broader kind of experience, which vibration-sensing satisfies? Quite possibly. As we will see, there is some precedent for "trans-sensory" fulfillment of mitzvot, in which a Mitzvah that is typically understood to require one kind of sensory activity can, as it turns out,be fulfilled just as well through another.

Illustrating this possibility requires exploring three halakhic topics: 1) Is there actually a

mitzvah to *hear s*hofar? 2) The principle of *shomeah k'oneh* 3) *Shomeah k'oneh* as it relates to shofar. It is to that exploration that this paper now turns.

Is There Actually a Mitzvah to *Hear* Shofar?

This is a well known debate in the Rishonim, often cast as between Rambam and Rabbeinu Tam, as to whether the Mitzvah is to *hear* Shofar or to *blow* Shofar.

The ambiguity on this point can be traced back to the Torah itself, which relates that there is a Mitzvah related to Shofar on Rosh Hashana, but provides no verb for how to perform said Mitzvah. The holiday is described as a זכרון תרועה, "memorial of the [shofar] blast" (Vayikra 23:24) and as a יום תרועה, "day of the [shofar] blast" (Bamidbar 29:1), but it is never made explicit whether the obligation is to produce or to listen to said blast.

Much of the Rishonic debate revolves around the proper formulation of the *bracha* before blowing Shofar. The Rosh cites the following views:

> ור"ת כתב, שיש לברך על תקיעת שופר, משום דעשיתה היא גמר מצותה . וראבי"ה הביא ירושלמי, תוקע צריך לברך אקב"ו לשמוע בקול שופר ... וכן כתב בה"ג, הא דמברכים לשמוע בקול שופר ולא מברכים לתקוע בשופר, או על תקיעת שופר ... משום דבשמיעת קול הוא יוצא ולא בתקיעת שופר.

> Rabbeinu Tam wrote that one should recite the *bracha* as "[Blessed are you Lord, our God, King of the universe, who has sanctified us with His Mitzvot and commanded us] *about blowing Shofar*," for it is the action itself [of blowing] that completes the Mitzvah.

> But the Raavya cites a passage from the Yerushalmi that the one blowing needs to recite, "... who has sanctified us with His mitzvot and commanded us *to hear the sound of Shofar"* … And so does the Behag write. Namely, that we should recite the blessing as, "...*to hear the sound of Shofar"* and not to recite, "*to blow Shofar"* or "*about blowing Shofar"* … because it is with the hearing of the sound that we fulfill the Mitzvah and not with the blowing of the Shofar!

Rabbeinu Tam emphasizes that the Mitzvah is to blow Shofar, whereas the Raavya (basing himself on a Yerushalmi passage that we do not have) and the Behag believe that the Mitzvah is to hear the Shofar. Rabbeinu Tam's view is shared by the Sheiltot (171), the Smag (Aseh 42), and the Yeraim (419), whereas the Raavya and Behag's cause is forcefully championed by the Rambam (*Shofar Sukkah v'Lulav* 1:3, 2:1).

The Rambam's position, that *hearing* is the Mitzvah, is the most natural. The Mishna and Gemara take for granted that one can fulfill the Mitzvah by listening to Shofar (e.g. Mishna Rosh Hashana 3:5, וכן מי שהיה עובר; and 3:6 חרש שוטה וקטן) and never suggests that every single obligated person would have to themself blow Shofar. Hearing is the primary way that we fulfill this obligation, making it seem like the Mitzvah is, well, to hear the sound of Shofar.

That said, the Rambam's position has its difficulties. The Mishna (*ibid.*) declares that you cannot fulfill the Mitzvah by listening to a Shofar blown by an exempt individual (*e.g.* a child). If the Mitzvah is to *hear* Shofar, why should the identity of the Shofar *blower* matter? Similarly, the Rambam rules that

you cannot fulfill the Mitzvah by listening to a Shofar blown for practice or otherwise blown by someone not intending to perform the Mitzvah (Shofar 2:4). But if the Mitzvah is to *hear* Shofar, why should the intention of the Shofar *blower* matter?

This is not the place to spell out the Rambam's defense. Suffice it to say that his opinion today remains the dominant one, with the Shulchan Aruch ruling that the correct Beracha is "... *to hear the sound of shofar"* (OH 585:2) because "the matter is not dependent on the blowing" (Beit Yosef *ibid*.)

That said, the Rabbeinu Tam view maintains its weight (cf. MB 4) and is worthy of further exploration. If in fact the Mitzvah is to *blow* Shofar -- as made possible through the Torah's own ambiguity, and implied through various restrictions on the intent and identity of the blower -- how is it possible that one can fulfill this obligation by listening? Rabbeinu Tam almost certainly relies on the Talmudic principal of שומע כעונה (*shomea k'oneh* -- "hearing is akin to reciting"). That is, someone who hears the Shofar is akin to someone who blew it. It is to this principle, and how the Rabbeinu Tam school would attempt to apply it here, that we now turn.

Shomea k'Oneh **in General & in Minimalist/Cognitive Form**

The principle of *shomea k'oneh* first appears in Sukkah 38b, in a discussion of various call and response customs that were once part of reciting Hallel. One such practice was for the *chazan* and the congregation to alternate saying phrases of Hallel (e.g. the chazan says ברוך הבא and the congregation then says בשם ה'), such that everyone involved recited some words of Hallel but merely heard the rest. Despite each person only reciting part of the liturgy, everyone is considered to have properly fulfilled the Mitzvah of reciting Hallel. Rava notes that, apparently, the words that a participant only heard are treated as if they were spoken by that participant himself. Or to put it briefly, *shomea k'oneh.* Indeed, R. Shimon b. Pazi provides a Scriptural source for the principle. When a Torah scroll was discovered in the Beis HaMikdash (2 Melachim 22), the scribe Shafan reads it before Yoshiyahu, king of Judah, who listens as it is read. Later, the prophetess Chuldah, speaking on behalf of God, describes the Torah scroll as having been "read by the king of Judah", despite the fact that he merely listened to the reading. Apparently, simply listening is akin to audibly reciting. That is, *shomea k'oneh*.

In the Talmud, the principle is explicitly mentioned only in regard to Hallel, but it is a powerful concept and later authorities apply it to additional situations. To name a few: Rashi (ibid. ד"ה הוא אומר, see also תוס' ד"ה שמע who agree in principle), following the Behag, applies it to listening in on Kaddish and Kedusha; the Rosh (Pesach 10) understands that this is how most people fulfill their obligation to read the Megillah; the Mishneh Berura (61:40) states that one can perform the Mitzvah of reciting Shema by listening to someone else recite it.

A classic debate about *shomeah k'oneh* is whether the principle states that hearing is a form of speech or whether it maintains that hearing, though not a form of speech, is nonetheless sufficient to fulfill speech-based Mitzvot. In other words, does *shomeah k'oneh* offer us a more inclusive view of speech ("your hearing counts as speech!") or a more inclusive view of the Mitzvot associated with speech ("hearing isn't

speech, but don't worry, these Mitzvot can actually be fulfilled through hearing, if you prefer").

There are practical differences between these two theories. Consider the case of a person who is in the middle of their silent Amidah, hears the *chazan* begin Kaddish, and wishes to somehow engage in the Mitzvah of answering to the Kaddish. They cannot recite the words of the Kaddish response ("*yehei shmei….*") as such speech constitutes an obvious interruption in their silent Amidah. The principle of *shomeah k'oneh* suggests that quietly listening to the Kaddish responses would itself be a meaningful form of participating in the Kaddish. That said, would this act of listening constitute an interruption in their silent Amidah? If *shomeah k'oneh* means that hearing is itself a form of speech, this would be an interruption in their Amidah and the person should therefore not pause to intently listen to Kaddish. If *shomeah k'oneh* never claims that hearing is itself a form of speech, then pausing to listen into Kaddish would be a meritorious use of his prayer time. (See Rashi and Tosafot ibid. for this debate, and Kehillot Yaakov [Pesachim 40] and Birkat Avraham [Sukkah 38b] amongst others for the conceptual analysis.)

The two approaches have slightly different understandings of the mechanics of *shomeah k'oneh*, but they agree that the principle asserts that hearing something is in some sense similar to uttering something. But why should that be true? On a physical level, speaking and hearing are obviously different activities. What then is the rationale behind the *shomeah k'oneh* similarity? What allows for this "trans-sensory" fulfillment of a Mitzvah?

It is tempting to explain the principle by highlighting that the Mitzvot involved (Hallel, Kaddish, Shema, etc.) are ones in which certain texts are meant to be invoked and their meaning internalized, and that such internalization happens basically just as well through speech as through listening. Whether giving a speech or listening to one, a person dwells on and cognizes the ideas contained in that speech. Whether saying the words of Hallel or listening to them, the Hallel idea has been invoked and comprehended. (See R. Dovid Dov Levanon's הגדרת מצות שופר who explains like this, in the name of R. Zalman Nechemia Goldberg.)

Indeed, such a rationale fits the narrative arc of the 2 Melachim 22 scriptural source. When Yoshiyahu hears Shafan read, he is inspired to initiate a mass Teshuva movement. He personally initiates the destruction of various sites of Avodah Zara and gathers the people for a massive Korban Pesach celebration. Yoshiyahu internalized the words of Torah that he heard. Sure he was merely listening, but the words were just as much his as they were Shafan's.

This cognitive rationale for *shomeah k'oneh* strips the principle of any claims about physical, bodily action. It agrees that physically, listening is not at all like speaking, but that cognitively -- in the realm of communication, comprehension, and internalization -- the listening and speaking are in fact similar. If true, *shomeah k'oneh* would only apply to Mitzvot involving words and where the only apparent requirement is for a person to meaningfully invoke those words. I call this the *Minimalist/Cognitive Theory* of *shomeah k'oneh*, as it applies to relatively limited cases and is rooted in a sense that both hearing and speaking achieve a similar cognitive experience.

A classic question that highlights the limits of the Minimalist/Cognitive Understanding is whether a Cohen can fulfill his Mitzvah of reciting Birkat Cohanim by listening silently as another Cohen blesses the people. (In some Italian communities, this was indeed the practice. See Shut Reshit Bikkurim 4.) There is a unique requirement that Birkat Cohanim not just be spoken, but spoken בקול רם, in a loud voice (Sota 39a; SA OH 128:14). Saying it quietly, audible only to yourself, is insufficient. It is one thing to employ *shomeah k'oneh*to state that a silent Cohen who listens to Birkat Cohanim is considered to have cognized, invoked, or internalized the words. But it is another thing for *shomeah k'oneh* to state that a silent Cohen is considered to have just said something in a loud voice. For this reason, the Beit HaLevi (on Sefer Bereishit, near the end, Inyanei Channukah) -- an advocate of the Minimalist/Cognitive Theory -- rules that a Cohen cannot fulfill this Mitzvah by listening.

A number of other uses of *shomeah k'oneh* are susceptible to the same critique. For example, one must recite Megillat Esther from a physical, kosher scroll -- reciting it off by heart does not satisfy the Mitzvah (OH 590:3). It is one thing to employ *shomeah k'oneh* to state that by listening to Megilla someone has invoked or recited the words. But it is another to say that a person sitting without any scroll in his hand, and perhaps not even with a scroll in direct view, is somehow considered to be reading from a kosher klaf. Similarly, Kiddush must be more than invoked -- it must be recited over a cup of wine. Listening can put the words into your mind, but can it put a cup in your hand? How can we justify the accepted practice to satisfy mitzvot like these simply by listening?

***Shomeah k'Oneh* in Maximalist/Agency Form**

As such, the Chazon Ish (OH 29:3) offers a far broader understanding of *shomeah k'oneh*, one not limited to the cognitive experience of listening to words. In the Chazon Ish's view, *shomeah k'oneh* states that a kind of unity occurs between listener and reciter, such that the hearer's Mitzvah can be fulfilled through the actions of the reciter. (In this form, *shomeah k'oneh* is best translated not as "hearing is like reciting" but as, "hearer is like reciter".) While the Chazon Ish employs terms like *hitachdut* (unity) and *shutafut* (partnership) to describe this mechanism, later readers have illustrated it with reference to the concept of *shlichut* (agency, performing an action on behalf of someone else; see Rav Asher Weiss, ל"ו חכמו ישכילו זאת, 2014). Just as a principal party may appoint an agent to nullify their Chametz, or betroth a spouse, or deliver Tzedaka on their behalf, so too can a reciter (the agent) perform the Mitzvah on behalf of the listener (the principal). The listener can stand there silently, with no cup in his hand, and no scroll before him, because the listener is not performing the Mitzvah -- the reciter is performing it, on his behalf. I call this the Maximalist/Agency Theory of *shomeah k'oneh*.

To be clear this should not be confused for classic *shlichut,* in which the agent performs the task (e.g. traveling 1000 miles to betroth a woman) while the principal need not be present. In regard to *shomeah k'oneh*, the listener must stay there and listen, for it is the listening itself that constructs the legal bridge between listener and reciter, allowing the latter to perform the ritual on the former's behalf. Likewise, classic *shlichut* is understood to work only for select Mitzvot.

When a Mitzvah requires direct bodily involvement, *shlichut* cannot be used. (See Tosfot Rid, Ketzotz HaChoshen 182:2 for this distinction.) Thus, for example, one cannot appoint an agent to eat Matzah for them on Seder night or lay Tefillin for them each morning. Or to put it differently, when a mitzvah mandates not the creation of some end result (e.g. Challah must get separated from this dough) but the performance of a process (e.g. take Lulav and Esrog) the former can be fulfilled through *shlichut* but the latter requires direct involvement (See Maharach Or Zarua 128, Koveitz Shiurim - Ketubot 153 for this distinction). Broadly speaking, classic *shlichut* would not be effective in contexts like Hallel or reading Megillah. Much like I cannot ask a friend to lay Tefillin on their arms for me, I generally cannot ask someone to recite Hallel with their mouth to fulfill my obligation. But via the *shomeah k'oneh* mechanism, by sitting there and listening, some kind of partnership or unity is nonetheless created, where the person reciting a text is now fully able to fulfill the obligations of those listening.

This model can also be neatly rooted narrative context of 2 Melachim 22. Shafan read from the discovered Torah not in his individual capacity but as a functionary of the royal court. Indeed, he is not described as reading to the king but rather ויקרא לפני המלך, as reading *before* the king. A reading in the king's court, within the king's presence, is rightly understood to be undertaken on behalf of the king. Though Yoshiyahu was merely listening, his presence and position in that space make clear that the reading occurs on his behalf.

The Chazon Ish does not himself offer a *rationale* for why a listener is able to unload his halakhic obligations through the actions of a reciter. Yes, the mechanism is that listening creates a kind of agency relationship -- but why should it? What about listening creates that? And if listening can, what other kinds of activities have that ability? But perhaps the Biblical precedent provides the seeds of a rationale. A recitation at the royal court, before the king, is clearly undertaken on behalf of the king; a recitation before a Jew, *shomeah k'oneh* posits, should likewise be seen as being undertaken on behalf of that Jew. Presence can itself be a form of designating agency.

Either way, the Maximalist/Agency Theory allows for *shomeah k'oneh* to fulfill mitzvot (e.g. Kiddush) that require both speech (words of Kiddush) and some kind of physical behavior (over a cup of wine). But it also paves a path for using hearing to fulfill mitzvot that have nothing to do with verbal cognition at all. Indeed, if *shomeah k'oneh* is not about the power of hearing to internalize words, but is about the power of hearing/presence to create agency between two people, *shomeah k'oneh* should be able to work when what's heard has no words at all. With this point in mind, we return to the topic of Shofar.

Can One Fulfill Shofar through *Shomea k'Oneh?*

Within the Rabbeinu Tam school, the Mitzvah is to *blow* Shofar, yet the vast majority of people in his day and ours fulfill the obligation by listening as one person blows. *shomeah k'oneh* in a Minimalist/Cognitive Understanding provides a shaky justification. Shofar is wordless; Shofar does not communicate a clear, discrete message for all parties to internalize; blowing Shofar is a profoundly physical and embodied action,

requiring a tool that is held in one hands as well as bodily training. The Minimalist/ Cognitive Theory works well in regard to, say, reciting Hallel, because it makes a convincing claim: the Mitzvah of Hillel isn't an obligation to move your lips to produce a brute sound, but is about cognizing a certain set of words and sentences. But when it comes to Shofar, the Mitzvah is in fact about moving your lips to produce a particular brute sound! (Indeed, when the Rambam considers the Rabbeinu Tam position that the Mitzvah is to blow Shofar, he compares blowing to the physical act of shaking Lulav and does not countenance the possibility that *shomeah k'oneh* could operate. See Pe'er HaDor 142)

However, the Maximalist/Agency Theory works well to explain how a listener satisfies the Mitzvah to blow. By listening in, the listener appoints the blower as his agent. When the blower performs all the necessary bodily actions -- grasping the Shofar, holding it in the correct position, producing the necessary sound -- he does it on behalf of the listener, whose Mitzvah is thereby fulfilled.

Fulfilling Shofar as a Deaf Person

In the Rambam's *hearing*-oriented version of the Shofar Mitzvah, only an act defined as hearing is sufficient to satisfy the Mitzvah. Only if there is evidence that vibration-sensing somehow itself constitutes hearing, would a deaf person be able to fulfill the Mitzvah. But in Rabbeinu Tam's *blowing*-oriented version of the Mitzvah, other possibilities are available.

For one, presumably a deaf person can themself *blow* the Shofar, thus directly fulfilling the Mitzvah. Mishna Rosh Hoshana 3:6 declares that a *cheresh*, a minor, and a mentally incapacitated person cannot blow on behalf of others, as they are fully exempt from the Mitzvah themselves. Though *cheresh* is a broad term referring to several kinds of people with difficulty hearing, in Rabbinic writing *cheresh* typically refers to a deaf-mute (Chagiga 2b, Nidda 13b, Rambam Ishut 2:26), especially when *cheresh* appears in a triplet alongside the minor and mentally incapacitated person (cf. Tevuot Shor, Gitting 59b explaining the Rambam). What's relevant about a deaf-mute is not their lack of hearing per se, but their lack of linguistic capacity, their lack of access to education, and thus their inability to function as a responsible adult in most ancient societies. As such, though the Mishna treats a deaf-mute as fully exempt from Shofar, a deaf but speaking person should in theory be fully obligated in the Mitzvah so long as there is some mode by which they can physically perform it. In Rabbeinu Tam's understanding of Shofar, there is such a mechanism: they can blow it. Indeed, the Tosafist R. Yehonatan of Lunil writes "a deaf but speaking person … even after they fulfill their Mitzvah by blowing, they can fulfill the obligation of others [by blowing for them]" (Rosh Hashana 7b in Rif pagination, Mishna). Of course, this option is not available within the Rambam's understanding of the Mitzvah. The Meiri (RH 29a) treats R. Yehonatan of Lunil's position as the default view, but notes that if "the Mitzvah hinges on hearing and the text of the Bracha is 'to hear the Shofar sound', then he is not an obligated person" and thus cannot fulfill the Mitzvah for himself or for others.

But perhaps a deaf person can also fulfill the Mitzvah through vibration-sensing. In the Rabbeinu Tam school, the vast majority of

Jews already fulfill their obligation through a trans-sensory mechanism: *shomeah k'oneh.* The key obligation is blowing, yet mere hearing somehow serves to satisfy that obligation. As discussed above, the Maximal/Agency understanding of *shomeah k'oneh* provides the most convincing model for how, in Rabbeinu Tam's view, that would operate. The blower acts not in his personal capacity, but as a functionary of the court of listeners. By blowing in their direct presence, a presence they establish by listening intently, he effectively acts on their behalf.

Within this understanding, we need not claim that vibration-sensing constitutes hearing, but only that vibration-sensing constitutes presence. When a deaf person sits near a Shofar blower, focusing on and experiencing the sounds which emerge from a Shofar in the form of vibrations, are they any less in the court of audience members, on whose behalf the Shofar blows? Why should sensing Shofar vibrations be any less capable of creating *shutafut* than listening to the sound of the Shofar?

I offer the above as a reasonable possibility, within the school of Rabbeinu Tam, to adopt l*'chumra*. If a vibration-sensing person can fulfill the Shofar Mitzvah in this manner, many important implications emerge.

Implications of Vibration-Sensing as a Means of Fulfilling the Mitzvah of Shofar

1. Obligation in the Mitzvah

A deaf person should act, *l'chumra*, as if they are as obligated in Shofar as a hearing person. If capable of blowing Shofar, they should do so themselves, thus fulfilling the Mitzvah in accord with R. Yonatan of Lunil and the general Rabbeinu Tam school. If unable to blow, but capable of vibration-sensing, they should make sure to experience Shofar in this manner, from a kosher Shofar, sounded properly, by a fully obligated blower. They would thus fulfill the Mitzvah in accord with this paper's suggested understanding of the Rabbeinu Tam school.

2. Blowing for other People

The Shulchan Aruch (OH 589:2) is explicit that a deaf person, even if capable of speaking, cannot blow for other people to hear, such that they fulfill the Mitzvah through his blasts. But if there is no other option, one should use such a person (so long as they are not a true deaf-mute)* becuase within the Rabbeinu Tam school, they are fully capable of fulfilling other people's obligation.

*(A true deaf-mute person, unable to communicate or access education, is unquestionably exempt and unable to fulfill the Mitzvah for others. It is worth noting that the status of a deaf-mute person today is not clearly established. Deaf-mute individuals today can typically communicate through sign language, such that they do in fact experience life as responsible adult members of society. Even in cases when the person is unable to learn sign language, educational advances often make some form of communication accessible to a deaf-mute person.

3. Saying a *Bracha* when Blowing or Experiencing Shofar

As they are acting *l'chumra*, a full *bracha* should not be recited by a deaf person blowing or experiencing Shofar. That said, perhaps a deaf person should recite a *bracha* without *shem u'malchut*, and if so, the *bracha* should be in line with Rabbeinu Tam's suggested text: *al tekiyat shofar.*

4. Saying a Full Bracha and Deaf People are Present

In a setting where a hearing person will be blowing Shofar and will definitely be doing so with a *bracha* (e.g. the blower is also fulfilling their own obligation; or there are hearing people in the audience who will be fulfilling their obligation) and there are vibration-sensing deaf people present, there is ground that, *l'chumra*, the Rabbeinu Tam's version of the Bracha should be recited instead of the standard Rambam/Shulchan Aruch version (*lishmoa kol shofar*). Hearing-people can fulfill their obligation, *b'dieved*, through such a *bracha*(MB 585:4, Kaf HaChayim 16) whereas vibration-sensing people are not included in any manner through the regular *bracha*.

5. People with Hearing Aids

It is questionable whether someone who relies on hearing aids can properly fulfill the Mitzvah of Shofar. R. Shlomo Zalman Auerbach (Minchat Shlomo 1:9) writes at length about how sound that is broadcast through a microphone system is an entirely new creation of the amplifiers and is no longer considered the original sound. Shofar amplified via a microphone would not be the sound of a Shofar at all, but would be akin to listening to a recording of a Shofar. Since hearing aids employ a miniature microphone system, he adds, "it pains me that now deaf people, who can only hear by using a microphone-like device, would not be able to fulfill the Mitzvah of Shofar or Megilla." Similar conclusions are reached by the Tzitz Eliezer (8:11) and R. Ovadia Yosef (Yabia Omer 1:91, Yechava Daat 4:54), though lenient rationales are offered by R. Moshe Feinstein (IM 2:108, 4:91.4) and the Chazon Ish (cited in Minchat Shlomo ibid.)

The above considerations suggest that if such a person can also sense vibrations they should, l'chumra, also focus on those sensations. Within the mainstream Psak (Rambam's understanding of Shofar and R. Auerbach's understanding of hearing aids) they are incapable of fulfilling the Mitzvah. However, via sensations, they are at least able to fulfill the Mitzvah according to one reasonable read of the Rabbeinu Tam school.

In fact, even if they cannot sense such vibrations, the above considerations suggest that listening with a hearing aid would itself satisfy the Mitzvah according to Rabbeinu Tam. Even if listening via hearing cannot count as an act of *hearing* Shofar, perhaps it still constitutes *presence with the Shofar blower* and thus create a bond of agency between blower and listener.

Summary & Closing Considerations

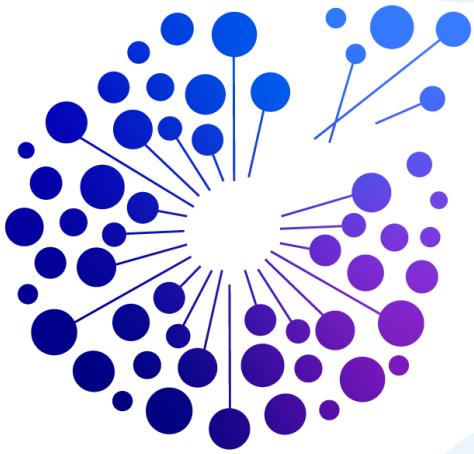
The precise nature of the Mitzvah of Shofar is subject to much debate in the Rishonim and Acharonim. The mainstream approach, championed by Rambam and generally echoed in the Shulchan Aruch, emphasizes listening. In this school, a person who is physically unable to hear Shofar would be excluded from performing the Mitzvah. However, a rich Rishonic tradition exists in which the Mitzvah is blowing Shofar with an option to participate in the blowing through the trans-sensory mechanism of Shomea k'Oneh. While there are multiple ways of understanding the Shomea k'Oneh mechanism, the Maximalist/Agency Theory put forth by the Chazon Ish fits best for explaining how listening to Shofar can satisfy an obligation that centers on blowing Shofar. In that Theory, something about blowing Shofar in the presence of engaged listeners

renders the blower a kind of agent of the listeners. Indeed, there is nothing in that theory which requires listening *per se* to be the only sense that creates such presence. It is reasonable to suggest -- within this latter Rishonic tradition -- that sensing vibrations produced by the Shofar is a just as compelling trans-sensory method for creating agency between Shofar blower and Shofar audience member. Treating this reasonable suggestion as a *l'chumra* possibility leads to a number of Halakhic ramifications for deaf individuals seeking to fulfill the Mitzvah of experiencing Shofar.

As noted earlier, the Torah contains an ambiguity which allows the Rishonic debate to thrive. It is hard to know if the Mitzvah is to *hear* Shofar or *blow* Shofar, since the Torah tells us only that Shofar is to be experienced as a זכרון תרועה, "memorial of the [shofar] blast" (Vayikra 23:24) and as a יום תרועה, "day of the [shofar] blast" (Bamidbar 29:1).

But perhaps those verses themselves provide an inclusive model of the Mitzvah. Perhaps there is no obligation to *hear* Shofar *per se*, nor any obligation to *blow* Shofar *per se*, but rather a Mitzvah from the Torah to transform Rosh Hashana into a 'Shofar day.' Successfully doing so may require elements of hearing and blowing, but if 'Shofar day' is the goal, it can be achieved through more than one of the senses. While people who hear may get there by listening to Shofar sound waves, deaf people could fulfill this same mandate by sensing Shofar sound vibrations. Both will experience and celebrate Rosh Hashana as 'Shofar day'. (See R. Yehonatan of Lunil, Rosh Hashana 10a in Rif pagination [Gemara] for an invocation of these verses as the true basis of the Mitzvah.)

Indeed, the Torah itself already recognizes the power of a vibratory encounter with sound — and it recognizes that power specifically in the context of Shofar. At Har Sinai, the Torah reports that וְקוֹל שֹׁפָר חָזָק מְאֹד וַיֶּחֱרַד כָּל־הָעָם אֲשֶׁר בַּמַּחֲנֶה, "there was the very loud sound of a Shofar and all the people in the camp trembled", with Ibn Ezra explaining that the sound itself caused them to shake. Most readers assume into the verse an interior step, in which the sound first triggers an emotional response, and it is that emotional response that then causes the body to shake. But read narrowly, it is the loud sound of the Shofar which itself causes vibrations in the people. Perhaps it is those amongst us who can detect such vibrations, who are *zocheh* to fulfill exactly what the Torah asks of us each Rosh Hashana: to feel in our bodies a memorial of that initial Shofar blast.



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