

An Aliyah in Sign Language

A certain deaf man who has mastered sign language and can express his every thought and request in this manner has asked his rabbi whether he may receive an aliyah to the Torah and recite the blessings in sign language. The rabbi has referred this question to the Panel of Halakhic Inquiry.

In recent times, more and more physically disabled persons have appeared in synagogues. Access ramps for the wheelchair bound, large type prayerbooks for the visually impaired, and the signing of religious services, in whole or in part, for the hearing impaired are all developments that should be welcomed. That the disabled—in groups or as individuals—feel comfortable enough to participate in synagogue activities is a phenomenon that ought to be encouraged. Nonetheless, there are halakhic considerations that must be respected when it comes to ritual participation. Such is the case with honoring a deaf person with an *aliyah* to the Torah.

The Mishnah (*Terumot* 1:2) states that the deaf person to whom the rabbis refer is one who neither hears nor speaks. RaSHI (*Hagigah* 2a, s.v. *hutz miheresh*) comments that the person who neither hears nor speaks is compared to the mentally incompetent who are exempted from positive commandments for the absence of speech and the absence of hearing suggested to the rabbis an absence of legal competence.

Later halakhic authorities are divided. Advanced techniques in educating the deaf since the beginning of this century at special schools have enabled many of the deaf to communicate through sign language and, more recently, to even speak comprehensibly. Therefore, some authorities believe that the rabbis never intended the exemption of the deaf from the *mitzvot* when they clearly are competent. The able deaf in our day could never have been contemplated by the sages of the Mishnah and Talmud. They could only judge on the basis of what they observed of the deaf in their day. (Regarding the effect of new perceptions of reality on deciding Halakhah, see

Shulhan Arukh, *Even Ha'Ezer* 156:4, Rabbi Moses Isserles *ad locum*; Tosafot to *Avodah Zarah* 24b, s.v. *parah*; Tosafot to *Hullin* 107b, s.v. *hatam*.) Rabbi Jacob Emden, therefore, permitted the speaking deaf whose words were comprehensible to receive an *aliyah* (*Siddur Rabbi Jacob Emden, Laws of Torah Reading*). Yet other authorities make no distinction between the deaf of the Talmud and the deaf of today and rule that the deaf are still under the same exemption (see *Encyclopedia Talmudit*, vol. 17, p. 498 for a full discussion).

Sign language, already known to the rabbis as *remizah*, was not considered actual speech that is required for matters such as prayer. The rabbis allowed the use of sign language in matters of marriage and divorce (*Mishnah Yevamot* 14:1) so that the marital relations of the deaf would fall under the constraints of the law (*Yevamot* 112b). The rabbis also allowed the use of sign language in business transactions (*Mishnah Gittin* 5:7) to enable the deaf to earn a livelihood (*Gittin* 59a; RaSHI *ad locum*, s.v. *ka mashma lan*; Maimonides, *Laws of Sale* 29:1). However, the rabbis did not rely on sign language for prayer and Torah reading since these were matters of actual speech and actual hearing.

In the case of the non-speaking deaf, we cannot rely on the opinion of Rabbi Jacob Emden who permitted only the speaking deaf to go up for an *aliyah* because one called to the Torah, even if just to recite the blessings, is like the Torah reader himself (Tur; *Orah Hayyim* 139; Rabbi Joseph Karo, *Bet Yosef ad locum* in the name of Abudraham and Rabbi Sa'adia Gaon). The congregation fulfills its obligation only through the hearing of actual words and sign language is not actual words.

Therefore, the non-speaking deaf cannot be called to the Torah for any of the mandated seven *aliyot* on Shabbat. However, if the congregation wishes to honor this man and encourage him to join regularly in the synagogue for prayer, they may call him up for a supplementary *aliyah* (even though he is exempt from any act he may voluntarily perform, *Kiddushin* 31a) to "recite" the appropriate blessings in sign language after the mandatory seven *olim* had already been called to the Torah and the congregation has fulfilled its obligation of hearing the Torah read. (Other details regarding who may be called to the Torah are included in *Tomeikh kaHalakhah*, vol. 1, pp. 25–31.)

While we are generally concerned that most congregants will not appreciate the distinction between the first seven *aliyot* and this supplementary *aliyah*, (see *Tomeikh kaHalakhah*, vol. 1, p. 46), since *aliyot* in sign language are not a common occurrence (*milta dela shekhiha*), this concern does not warrant refraining from permitting him the supplementary *aliyah* (see *Eruvin* 63b and parallels). The rabbi, however, should do whatever is possible to educate the congregation regarding this distinction in order to prevent misconceptions.

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