

SIMAN 67: WHEN IN DOUBT WHETHER ONE HAS READ THE SHEMA

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67:1. If one is in doubt whether he has read (1) the Shema (2) he must read it again (3) and recite the blessings before it (4) and after it; (5) but if one knows that he has read it but he is in doubt whether he has said the blessings before and after, then he does not make the blessings again.

MB 1: *The Shema - With regard to other Torah ordained Mitzvos, when he is required to fulfill them because of a doubt, [the author] ruled in Siman 17:3 in connection with a person whose sex is unknown (Tumtum - a person with no sexual characteristics) who is obligated to wear Tzitzis, and in Yoreh De'ah Siman 265:3 in connection with the circumcision of a hermaphrodite (Androginus - a person with both male and female characteristics) and any similar situation, that he should not recite the blessings over the Mitzvah because the blessings are a Rabbinical institution and when in doubt the rule is to be lenient. However, there are authorities who differentiate between a situation where the doubt is whether one has any obligation to fulfill the Mitzvah at all, e.g in the examples above, and a situation where one is definitely obligated to do the Mitzvah but the doubt is whether he has already done so - in which case they obligate him to make the blessing as well. According to them, if one is in doubt as to whether he has fulfilled the Mitzvah of Lulav [on Succos] or Shofar [on Rosh Hashono] on the first day [the Mitzvah on the first day of Succos or Rosh Hashono is Torah ordained], then one must do it with a blessing. The Pri Megadim writes that from the Kesef Mishneh in the name of the Rashba and from the Magen Avrohom in the name of the Rivosh later in Siman 585:3 it is clear that they do not make this differentiation and you should always do the Mitzvah without a blessing. From [the comments] of the Gr'a in this Siman it is also clear that he does not agree with this differentiation.*

If they brought him a Shofar or Lulav on the first day during Bein Hasmoshos*, then according to all opinions he should do the Mitzvah without a blessing - because now the doubt is with regard to his very obligation to fulfill the Mitzvah.

[*Bein hasmoshos is a period between day and night before it gets completely dark. We are uncertain whether legal nightfall is at the beginning, end, or sometime during this period. The Mitzvos of Shofar and Lulav can only be done during the day. -- JC]

MB 2: *He must read it again - The reason is because reading the Shema is a Torah ordained Mitzvah, i.e. the phrase [in the first paragraph of the Shema] 'You shall speak about them when you sit at home..and*

when you lie down and when you get up' [is interpreted] to refer to this very paragraph itself - meaning that one is obliged to say it at the time when people go to sleep, and when they get up. Therefore, if one doubts whether he has said it or not, he must read it again like any other Torah ordained Mitzvah.

MB 3: *And say the blessings - It would seem that this is only as long as it is within the appropriate time [for fulfilling the Mitzvah], but if the first quarter of the day has elapsed then one would not say the blessings neither before nor after the Shema, because [once this time has elapsed it is no longer a Torah ordained Mitzvah to say the Shema and] the doubt concerns only fulfillment of a Rabbinical precept [about which we are lenient - see MB 1 above].*

However this is not so, because the timing of the [Mitzvah] of Remembering the Exodus from Egypt [mentioned in the third paragraph of the Shema] extends further, as stated by the Magen Avrohom later in Siman 70, so he is still duty bound to say at least the blessing of 'It is true and certain' [the blessing after the Shema, which refers to the Exodus] until a third of the day as mentioned in Siman 58. After this time [when one can no longer say this blessing,] they did not institute a blessing for this Mitzvah, but out of doubt one should still say a verse mentioning the Exodus from Egypt - Shaagas Aryeh Siman 10.

It says in Tractate Brachos 13b that if one said a law in which the Exodus of Egypt is mentioned you have fulfilled this Mitzvah. The Magen Avrohom writes: It appears to me that all the more so if one said the 'Song at the Sea' that he has fulfilled the Mitzvah. The Chasam Sofer disagrees because of the verse "in order that you shall remember the day of the Exodus etc" i.e it is inadequate just to mention that they crossed the sea [without stating that they left Egypt]; and the Gaon R' Akiva Eiger agreed with him.

The idea of fulfilling the Mitzvah of remembering [the Exodus] by thinking about it [as opposed to actually saying the words] is discussed in the Be'er Heitev in the name of the Beis Yaakov. The Pri Megadim is doubtful about this, and the Shaagas Aryeh in Siman 13 goes to great length to find a proof in the Talmud, and concludes that one has not fulfilled his duty.

It is obvious in the Talmud that at night one must also make mention of the Exodus from Egypt. The Pri Megadim discusses whether this is a Torah ordained duty or a Rabbinical enactment - the difference would be if one is in doubt. The Shaagas Aryeh in Siman 8 writes explicitly that this is a Torah law. One is obligated to mention the Exodus at a time that is definitely night and not earlier; therefore, if one mentioned it during Bein Hashmoshos, e.g if he prayed the Evening Service before nightfall, he has not fulfilled his duty because Bein Hashmoshos is a doubtful period (see above) and with regard to a doubt in a Torah law one must be stringent. And the Rambam in Chap. 1 of The Laws of the Shema also implies that it is a Torah law as the Pri Megadim himself wrote.

MB 4: *And after it - Even though many authorities take the view that [recital] of the first paragraph is a Torah law and the second one a Rabbinical enactment, and there are those who hold that only the very*

first verse [of the first paragraph] is a Torah law, and most certainly according to all views the Blessings are Rabbinical so when in doubt there ought to be no need to repeat them, we can explain that this is the way our Rabbis instituted [the blessings for the Shema], that whenever one reads the Shema he should read it with the Blessings, unless they specifically permitted their omission e.g. see the Rama in Siman 106:3.

It would seem that if he knew that he said the first verse or the first paragraph, ie he said that which is Torah Law according to each of the different views [above] and he is only in doubt about the rest, that he need not repeat it. However, in Siman 64:3-4 it appears that one should repeat it - this must have been the original institution, to repeat it. Where one is in doubt if he said the third paragraph and "Emes V'Yatziv" [the following blessing, 'It is true and correct'], then he must repeat it because all agree that mentioning the Exodus is a Torah law. [The third paragraph of the Shema incorporates the Mitzvah of Wearing Tzitzis on a four cornered garment as well as the Mitzvah of Remembering the Exodus of Egypt. -- JC] However there are various opinions about this as well. Some say that one should say the third paragraph and also 'It is true and correct', because it is all one item. Others say that he should just say the third paragraph and thereby fulfill his Torah obligation, and he need not say 'It is true and correct' - and so agreed the Shaagas Aryeh.

The Shaagas Aryeh also wrote that if this doubt occurred in the evening, when one does not know if he said the third paragraph and "Emes V'Emunah" [the first blessing following the Evening Shema, 'It is true and faithful'], then he should repeat 'It is true and faithful' and he need not repeat the third paragraph of the Shema. [There is no obligation to wear Tzitzis at night - JC]. If he is certain that he said all three paragraphs and is only in doubt about 'It is true and correct' in the morning or 'It is true and faithful' in the evening, then the rule is the same in both cases: that he need not repeat it. This is because since he said the third paragraph and thus made mention of the Exodus, according to all views the blessing is merely Rabbinical.

MB 5: *But - because it is only Rabbinical, even the blessing of 'It is true and correct' [because he mentioned the Exodus from Egypt during the third paragraph of the Shema], and when in doubt concerning a Rabbinic enactment we are lenient. If one knew he had said 'It is true and correct', but didn't remember if he had said the Shema, the Elya Rabbah holds that he need not repeat it. There is also proof to this from Siman 64:4 [where we say that one must have said the previous words if one is now at a certain point], and look in the Pri Megadim.*

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In view of the terrorist bombing in Tel Aviv and the deaths of the Israeli soldiers, I feel compelled to dedicate my contribution to today's Halacha Yomi to the memory of the victims, who died sanctifying the Name of G-d (Al Kiddush HaShem), since they were killed merely because they were Jews. Lawton Cooper