The responsa *Tzitz Eliezer* (Vol. XIII, #11) suggested that all the leniencies listed by the *Poskim* are correct and may be followed. The *Yalkut Yosef* (*Siman* 49, footnote 7) cited this suggestion, and noted that the *Sifte Shoshanim* (page 30) rejected it, arguing that it is clear from the words of the *Poskim* that this is not the case. Harav Meir Mazuz and Harav Yehoshua Maman agreed with this argument, and the *Halakha Berura* likewise ruled that one ought to follow the ruling of the *Shulhan Arukh* only. The *Yalkut Yosef* concluded that he mentioned the opinion of the *Tzitz Eliezer* only in order to justify the common custom of reciting *Tehillim* by heart, but not to suggest that it may be followed.

Day 104

Writing the Oral Torah

Harav HIDA (*En Zokher*, *ma'arekhet mem* #40) related, based on Ramba''m, Rav Sherira Ga'on, and Rabbenu Shemuel Hanaggid, that near the end of Ribbi Yehuda Hanasi's life, he and his colleagues decided to commit the Mishna to writing. This decision was based on the verse (*Tehillim* 119:126): ''עֵת לַעֲשׂוֹת לַה' הֵפֵרוּ תוֹרָתֶךָ – There is a time to take action for God's sake; they have annulled Your Torah.'' Although they permitted the Mishna to be written and studied using a written text, at that time they did not permit any other part of the Oral Torah to be written. This is likewise the opinion of Rabbenu Yeshua Halevi (*Halikhot Olam* Unit 1, chapter 1). According to Rashi, Ribbi Yehuda Hanasi did not permit the Mishna to be studied using a written text; he only edited and finalized the authoritative version of the Mishna, but it continued to be studied without written texts. It was not written until the entire Talmud was committed to writing.

סימן מט

דברים שבכתב אין אתה רשאי לאומרם בעל פה

א. אף על גב דקיימא לן "דברים שבכתב אי אתה רשאי לאומרם על פה", מכל מקום כל דבר שרגיל ושגור בפי הכל, כגון קריאת שמע וברכת כהנים (במדבר ו, כב-כז) ופרשת התמיד (במדבר כח, א-ח) וכיוצא בהן, מותר. [ש"ע סי' מט ס"א]

ב. הקורא קריאת שמע, ורוצה להוציא ידי חובה את חבירו בקריאתו, רשאי מעיקר הדין לקרות הקריאת שמע בעל פה, הואיל וקריאת שמע היא דבר הרגיל ושגור בפי כל. ומכל מקום לכתחילה נכון להחמיר שיקרא מתוך הספר. [ראה כה"ח סק"ח ועוד].

Siman 49

Reciting Passages of the Written Torah by Heart

Passages that are known fluently

1) The general rule is that it is forbidden to recite passages of the Written Torah (the 24 books of the Bible) by heart. Nevertheless, it is permissible to recite by heart those passages that everyone knows fluently, such as the *Shema*, the verses of *birkat kohanim* (*Bemidbar* 6:22-27), and the passage of the *korban tamid* (ibid. 28:1-8).[107]

Reciting a passage for others

2) If someone wishes to fulfill his obligation of reciting the *Shema* by listening to another person reciting it [using the principle of *shome'a ka'one*], the person reciting the *Shema* can still do so by heart since this is a passage that everyone knows fluently. Nevertheless, in such a case it is best that the person reciting it read it from a written or printed text.[108]

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107. This is the opinion of Rabbenu Tam as cited in the preface to this *Siman*, and it follows the ruling of the *Shulhan Arukh*. As explained in the preface, in practice we can rely on the lenient aspect of this opinion, and we certainly must abide by any strict aspect resulting from it.

108. According to the third opinion cited in the preface, when someone recites a passage of the Written Torah for his own sake, he may recite it by heart, but when he is reciting it for the sake of others he must read it from a written text. The question is whether this restriction applies even when he is reciting a passage that everyone knows fluently. In other words, do we need both lenient factors expressed by the first opinion and the third opinion in order to permit reading a passage by heart?

In the conclusion of the preface to this *Siman*, it was explained that, according to most *Poskim*, in practice each leniency is exclusive of the others. Accordingly, we may rely on the first opinion and recite by heart any passage with which everyone is fluent, even if one person recites it on behalf of others. This is the ruling of the *Olat Tamid* and the *Peri Hadash*, but others (*Bayit Hadash*, *Sheyare Kenesset Hagedola*, *Magen Avraham*, *Eliya Rabba*, *Birke Yosef*) ruled stringently that it is forbidden to recite a passage by heart on behalf of others even if everyone knows that passage fluently. The *Kaf Hahayim* Sofer (49:8) concluded that

ג. פסוקים השגורים בפי האומרם, אבל אינם שגורים בפי כל אדם, יש שכתבו להחמיר שלא לאומרם בעל פה. אולם להלכה נראה שיש למקילים בזה על מה שיסמוכו [ראה יביע"א ח"ט סו"ס יג], ובפרט במקום שאי אפשר, ואם לא יאמרם יתבטל מלימודו. [כה"ח סופר ס"ק א]

ד. ולכן תלמיד חכם הדורש לצבור ומזכיר בדרשתו פסוקי תורה, יכול לסמוך על המקילים לומר את הפסוקים בעל פה, דמסתמא הפסוקים שמזכיר שגורים בפיו, וגם אין זו קריאה שבאה להוציא ידי

Passage that only some know fluently

3) According to some authorities, if someone knows a certain passage quite fluently, but not so many other people know it fluently, then even the person who is fluent should avoid reciting it by heart. Despite this, there is a strong basis to be lenient and to permit that person to recite it by heart, especially when no written text is available and he needs to recite the passage for his learning or teaching.[109]

Citing verses during a speech

4) In light of this, when a Torah scholar is delivering a lecture in public and he needs to cite verses from the Torah, he may rely on the lenient opinion and recite those verses by heart. Probably, since he has prepared his lecture, he

whenever possible we should be stringent in such a case, and the *Yalkut Yosef* (49:3) concurred. The *Halakha Berura* (page 415) ruled that technically it is permitted as long as everyone knows the passage fluently, but that it is best to refrain from relying on the lenient opinion if possible.

Practical application

Technically, it is permissible for one person to recite the *Shema* on behalf of others so that they can fulfill their obligation by listening to him. Of course, this is very unusual; no one actually does this. Nevertheless, every day the cantor recites the words ה' אֱלֹהֵיכֶם אֱמֶת at the end of the *Shema* on behalf of the entire congregation. Since the first two words are repeated from the previous verse, it is best that the cantor make sure to read them from his prayer book and not by heart. As mentioned in the preface to this *Siman*, the *Hikre Lev* ruled that it is forbidden to recite even one word of the Written Torah by heart.

Another common example where this halakha applies is the Friday night kiddush. Usually, the head of the household recites the passage of *Vaykhulu* on behalf of his family and guests. Again, it is best that he read it from a written text, but those who recite it by heart have a sound basis for being lenient. See the *Sifte Shoshanim* (chapter 8, gloss 11). In some communities originating in North Africa, the custom is for everyone at the table to recite this passage in unison, thus avoiding the issue altogether.

109. The language used by the *Shulhan Arukh* implies that unless everyone is fluent with the passage, those individuals who are fluent with the passage still may not recite it by heart. This is the ruling of the *Or Zaruwa* (*Hilkhot Tefillin* #545, cited in *Darkhe Moshe* 49:2). The *Bayit Hadash*, on the other hand, ruled based on his interpretation of the *Arba'a Turim* that as long as the person who wishes to recite the passage is quite fluent in it, he may recite it by heart. The *Magen Avraham* (49:1) rejected this interpretation, insisting that according to the *Arba'a Turim* it is permissible only for passages that everyone knows fluently.

Nevertheless, several *Aharonim* (including *Birke Yosef*, *Ma'amar Mordekhai*, *Petah Hadevir*) concurred with the ruling of the *Bayit Hadash*. They stood in opposition to the *Hesed La'alafim*, the *Kitzur Shulhan Arukh* Ganzfried, and the *Mishna Berura*, who concurred with the stringent ruling of the *Magen Avraham*. Moreover, the *Bene Tziyon* Lichtman (49:1) forcefully refuted the ruling of the *Bayit Hadash*. In light of this debate, the *Kaf Hahayim* Sofer (49:1) and the *Halakha Berura* (page 415) ruled that it is best to follow the stringent opinion, but if necessary for the sake of one's Torah study one may be lenient.

Maran the Rishon Letziyon (responsa *Yabia Omer* Vol. IX, #13) pointed out that Harav HIDA demonstrated that the *Orhot Hayim* actually ruled in practice exactly as the *Bayit Hadash* had ruled. Besides, he added, there are *Poskim* who ruled that this entire prohibition applies only when one person is reciting a passage on behalf of others, but when reciting a passage for yourself there is no restriction on reciting it by heart. (This is the third opinion cited in the preface to this *Siman*.) Moreover, according to the simple reading of the *Tosafot Yeshanim* (cited in the preface to this

חובה, וגם אין כוונתו לשם קריאה. וגם הואיל וקשה לו לחפש בכל שעה בחומש, מפני כבוד הצבור יש להקל. [ראה משנ"ב ס"ק ג]

וכן ראינו מעשה רב אצל מרן הראשון לציון זצ"ל, שהזכיר בדרשותיו פסוקים בעל פה. [ילקו"י סי' מט הלכה ז, ובהערה שם]

ה. פרשת "קדש" ופרשת "והיה כי יביאך" שנוהגים לאומרם בכל יום בעוד התפילין עליהם, אם הוא במקום שפרשיות אלו שגורות בפי כל, מותר לאומרם בעל פה. אולם אם הוא במקום שאין רגילים לאומרם, ולכן אינן שגורות בפי כל אלא רק שגורות בפי האומרם, טוב להחמיר לקוראם מתוך הסידור, ואם אי אפשר, המקיל לקוראם בעל פה יש לו על מה שיסמוך. [ראה פתח הדביר אות ב ובהשמטות. ועי' בכה"ח סופר ס"ק ז, וביבי"א ח"ט סו"ס יג]

knows the verses that he wishes to cite fluently. Moreover, he is not citing those verses in order to fulfill any particular mitzvah or obligation, not even the mitzvah of reciting Torah passages.[110] It would be quite awkward for him and for his audience if he had to interrupt his speech time and again to search in his *sefer* or his notes for the verses he wishes to cite. That in itself is sufficient cause to rely on the lenient opinion. Indeed, we also saw that Maran the Rishon Letzion mentioned in his *Shi'urim Pesukim* by heart.

Kadesh li **5)** The common custom in many communities is to recite the passages of *Kadesh li* and of *Vehaya ki yevi'akha* every day while wearing tefillin. In those communities, everyone knows those passages fluently and therefore it is permissible to recite them by heart. If someone happens to be in a community where people do not practice this custom and they therefore do not know those passages fluently, it is best to read them from a prayer book. If that is not possible, there is still a sound basis to be lenient and to recite them by heart.[111]

Siman) it is never forbidden to recite passages of the Written Torah by heart; it is simply more meritorious to use a written text. In light of all this, Maran the Rishon Letziyon ruled leniently in this matter, in contrast to the *Halakha Berura*.

Although the wording used by the *Shulhan Arukh* indicates that it is permissible only for passages that everyone knows fluently, the *Arba'a Turim* used the same wording and still the *Bayit Hadash* interpreted it to mean that the person reciting it knows it fluently. That interpretation can be applied to the *Shulhan Arukh* as well.

110. There are several reasons to rule leniently in this case. First, the speaker is fluent in those verses although most other people are not. Second, he is not reciting these verses in order to fulfill anyone's mitzvah, and therefore according to the third opinion cited in the preface he may recite them by heart. Moreover, the Ritb"a (opinion #5) ruled that it is always permissible to recite verses by heart if one's purpose is to practice reading them or as an expression of prayer or praise to God. The *Sede Hemed* (*ma'arekhet hatan vekhalla* #17) remarked that this opinion is valid as an added factor for leniency.

The *Mishna Berura* (49:3) added that a lecturer may rely on these lenient opinions in deference to the respect due to his audience. See the *Piske Teshuvot* (*Siman* 49, footnote 17). The author of *Yalkut Yosef* (49:7) testified that his father, Maran the Rishon Letziyon, always cited verses by heart when speaking in public, based on this consideration.

111. The *Petah Hadevir* (49:2) listed the passage of *Kadesh li* in the category of passages that only some people know fluently. Assuming that this is true, the *Darkhe Moshe's* opinion is that it is forbidden to recite it by heart, while the opinion of the *Bayit Hadash*, the *Ma'amar Mordekhai*, and the *Birke Yosef* is that it is permissible. The *Petah Hadevir* added that although it should be permissible according to opinion #3, the *Havot*