



HEMDAT YAMIM

חֶמְדַּת יָמִים

Parashat Hashavua Bamidbar 29 Iyar 5783

Harav Shaul Israeli zt"l
Founder and President

The Significance of a Flag and a Tallit

Harav Yosef Carmel

The Zionist Movement chose its flag in 1897 at the 1st Zionist Congress in Basil, and the State of Israel adopted it in 1948. It contains two stripes around a star of David in light blue (*techelet*) over a white background. The flag was chosen due to its connection to Jewish tradition.

Let us contemplate the flag's significance, especially its color and its two stripes. *Techelet* has a very special place in Jewish tradition. The *midrash* tells us that *techelet* (from *tzitzit*) is reminiscent of the sea, which is reminiscent of the sky, which is reminiscent of the Divine Throne (Bamidbar Rabba 4:13).

The sky actually has no color; it and the sea are clear. Judaism believes in one invisible G-d. Therefore, it is no surprise that *techelet* resembles the Divine Throne and the existence of the Divine Presence, which is not palpable or visible, in our specific lives and throughout the world. *Techelet* is also the most appropriate color for the period between the splitting of the sea and the revelation at Sinai. The two *techelet* stripes on the flag represent that all Jews make up one nation, which consists of people with different shades and opinions. When they all come together as they should, the color that normally looks like *techelet* is actually clear.

Techelet is also the color of an important *mitzva* object – the *tallit* garment with *tzitzit* on its corners. Most *tallitot* have stripes on them, which is the true reason behind the flag's similar image. Even if the founders of the Zionist movement did not intend it, I believe it was in their subconscious thoughts. The entire Nation of Israel gather under the "wings of the Divine Presence" like children who gather under their father's *tallit* during *Birkat Kohanim*.

[We will now greatly condense, due to this forum's space limitations, Rav Carmel's retelling of a story he took part in during the Yom Kippur War. We can call the story, "The Tallit that Saved." We recommended seeing the full story, in Hebrew or English – please contact our office at info@eretzhemdah.org.]

On Yom Kippur of 1973, we were among the first tanks in our reserve battalion to counterattack Egyptian forces near the Suez Canal. We were undermanned and missing important equipment and were shocked along the way by signs of the destruction of Israeli forces. As we got closer to the canal, we saw, at a distance, infantry forces, about which we had been warned, running toward us. We shot at them but missed. The forces ran out of sight. A little later, two soldiers came out from behind a sand dune with what appeared to be a white flag. We saw no reason for Egyptian forces to surrender at this juncture and, considering it an apparent ploy, prepared to possibly shoot. Looking through my equipment, I noticed that it was not a simple white flag but it had stripes on it and realized it was a *tallit*. I told our commander, who warned the forces not to shoot. It turns out that there was a group of more than 20 survivors of an evacuated post on the canal who were trying to reunite with Israeli forces. The idea of the *tallit* to signal their identity was that of a high school classmate of mine. We saved the group. Although many (including my tank commander) did not survive the war, the owner of the "tallit that saved" brings it to *shul* every Yom Kippur to recall the miracle.

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Ask the Rabbi

by Rav Daniel Mann

Planting a Fruit Tree he may Uproot

Question: We want to plant a fruit tree in our yard, but if we can work it out, we will expand our house and will need to uproot the tree. Is it alright to plant it in these circumstances?

Answer: The Torah forbids cutting down fruit trees (Devarim 20:19). This is the strictest application of the concept not to be destructive (see Rambam, Melachim 6:8). The *gemara* and *poskim* identify “non-destructive” cases where it is permitted to cut them down.

The *gemara* grants permission in the following cases: 1. The tree no longer produces a *kav* (a relatively small amount) of fruit (Bava Kama 91b-92a). 2. It is worth more for wood than for fruit (see Rashi, ad loc.). 3. It is significantly damaging a more valuable tree (see Tosafot ad loc.). 4. It is damaging another’s property (Bava Batra 26a).

The Rosh (Bava Kama 8:15) learns from the above that one may cut down a tree if needed to use its location, which the Taz (Yoreh Deah 116:6) applies to building a home. Most *poskim* say this includes expanding a home, assuming the addition is more valuable than the tree (see Yabia Omer V, YD 12).

Your case might seem to be clearly fine. If it will be permitted to cut down the tree, but you want to plant it because of the good chance you will not build, why shouldn’t you? One possible issue is that not all agree how far to extend the Talmudic leniencies (see discussion, *ibid.*). Therefore, there is reason to avoid a situation that might be forbidden. However, leniency regarding house expansion is accepted enough for this not to be a major impediment.

The more intriguing hesitation is based on the possibility that the prohibition of cutting down fruit trees extends beyond halachic norms. Regarding the need-based leniencies (#2-#4 above), one can ask whether in cases of net gain, the cutting down is permitted because it is not considered a destructive act at all (see Rambam Melachim 6:8), as is correct regarding other cases of *bal tashchit*. The alternative is that cutting down a fruit tree is always regrettable, just that the Torah allowed it when “necessary.” If so, there is reason to avoid the situation wherein justified leniency is necessary. (Parallel concepts include *bitul issur l’chatchila* and *mechaven melachto b’moed* – further analysis is beyond our scope.)

The latter approach is strengthened by the opinions (see discussion in Etz Hasadeh 10:1) that even when one is halachically permitted to cut down a tree, it can cause bad fortune (see Pesachim 50b) or even danger (see Bava Kama 91b). This prompted some *poskim* to say that even when there is a serious need to cut down the tree, one would be wise to have a non-Jew, to whom the prohibition does not apply, do it (see Shut Chatam Sofer, YD 102). Therefore, even if, as seems to be the case, we do not have the basis to prohibit setting up a situation where one might have valid cause to cut down the tree, we cannot say confidently that it is wise to do so.

It will not help to cut down the tree before it has the “minimum amount” of fruit for the prohibition, because that amount is a sign of lack of long-time feasibility for old trees (see Rambam, *ibid.* 9), not for young trees that are expected to be fruitful. However, there are further grounds for leniency based on the opinions that the prohibition does not apply to a tree planted with intention to cut it down (see Etz Hasadeh 8:7).

An idea to mitigate the situation is to plant the tree in a way that it can be effectively transplanted, as many permit or consider it an added reason for leniency (She’eilat Yaavetz I:78). If you do so in a non-permeable encasing, it might be considered not planted, so that **perhaps** moving it will be easier and even without halachic consequence (Chazon Ish, Dinei Orla 32) Consider, though, that transferring it to the ground may restart the years of *orla* (*ibid.*).

In summary, assuming the lack of serious need to plant the tree right away, there is logic to wait for more clarity whether you will build. However, we would not say it is forbidden to plant the tree; we also suggested mitigating steps.

“Behind the Scenes” Zoom shiur

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

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

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Igrot HaRe'aya - Letters of Rav Kook

Not Copying Western Seminaries – #149 – part III

Date and Place: 4 Menachem Av 5668 (1908), Rechovot


Recipient: Rabbi Yitzchak Isaac Halevi. As mentioned, we have featured many letters between the two. The ideological negotiations between them, around the question of Rav Halevi's help with Rav Kook's proposed yeshiva, focus this time on the importance that new styles of Torah learning not negatively impact Torah tradition.

Body: It would be degrading to us to compare the lofty house (i.e. the planned *yeshiva*), which is based on a sacred, pure spirit, to Western seminaries. Even the best of these seminaries made their secular studies and Western culture the main element and their Torah and fear of Hashem secondary. Not that all seminaries' founders were guilty in the matter; some were righteous and great experts in Torah. The problem was that German/Western Jewry was already ruined by the wayward Jews who preceded us by a couple of generations. Due to this, even the well-intentioned did not find the ability to build their most basic studies of Torah and general Judaism on firm foundations. We remember favorably that they saved their communities from total destruction. Even though their work was far from "returning the crown to its old position," the way the Men of the Great Assembly did when they blessed Hashem's Great Name (see Yoma 69b), they did what they could.

In our case, if we will take the existing opportunity to diligently do our work in the Holy Land, and use the good human resources, we will act successfully. There are tens of thousands of people, possessing healthy, fresh Judaism, who love Torah and are dedicated with all their hearts to Judaism and to Hashem's covenant with His nation. We do not need to adorn the Torah scholars who will stand at the forefront of Judaism with all the adornments that existed in the German model (broad secular studies). These generally caused those involved to lose their Torah and fear of Hashem. Rather, we strive to train the highest-level Torah scholars, for whom the main part of their Judaism is greatness in Torah and fear of Heaven. Along with that, we want them to be part of what transpires in the communities, men who are full of life and vigor, capable of speaking fluently, with a basic awareness of culture and manners. We do not want to produce overly formalistic people who try to sanctify meaningless details, but rather those who act with a dignity that befits Torah scholars. This was always a hallmark of the Jewish People, until darkness covered the land, in events like the horrible latest decrees that befell the nation and the tremendous spiritual confusion, such as the periods of the Khmelnytsky uprising and the cursed Shabtai Tzvi, and the afflictions that followed them.

The main thing in the *yeshiva* should be a complete spirit, full of sanctity and vigor. Some subjects cannot be taught in the *yeshiva* building, because for some people they are inappropriate, and those people may copy those for whom it is appropriate. This is up to the headmaster who understands the hearts of "the flock." However, as long as the goal is to strengthen Jewish adherence to trustworthy Judaism, creating complete individuals who are full of the light of Torah and life, such carefulness is critically necessary.

The correct study of the Torah's spiritual side should be instituted even if it had not been studied in previous generations because the spiritual malady was not severe then. In truth, though, such study was done regularly from way back in history. This is the case regarding all of the homiletic passages and *midrashim*, which contain the Torah's storehouses of life, including incredible spiritual wisdom that is "hidden in envelopes" for various reasons. These were studied by those who were fit for them, with all their internal grandeur. In recent generations, some of the greatest rabbis learned these spiritual matters regularly, whether it be in the style of Kabbala, investigation, or ethics. They were certainly studied in a manner that gives off fruit, and fruit of fruit. In the past, it was not necessary to broaden the matter fully, just as it was not necessary to remove the pitfalls in the field of history, because matters were not as contentious as they now are, since those who defile our belief system came and polluted matters.



Tzofnat Yeshayahu - Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who sought God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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P'ninat Mishpat

Agent who Did Not Set Agent's Fee

(based on ruling 82141 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl), a real estate agent who specializes in apartments in the Chassidish sector, put an ad in the paper for an apartment (=apt) at 2.4 mil. NIS, being sold by the developer (=sel). The defendant (=def) responded to the ad and had pl speed up the sales process to buy before other potential buyers. Def ended up buying apt for 2.485 NIS. Pl demands a 2% agent's fee. Def refuses to pay any fee with various claims. 1. Def's brother heard about apt from a different agent (at a higher price), so that def could have bought it without pl. 2. Pl attracted him to apt with an inaccurate price. (Pl responds that she thought she could convince sel to lower the price, but quickly told def that she was wrong). 3. Pl might have been a marketer for sel rather than an agent. 4. Pl is not a licensed agent and did not sign def on an agent's contract, as required by law. 5. Pl pressured him to agree to make a down payment before it was legally safe, so that she helped sel at his expense. (Pl responds that def was in danger of losing the opportunity to get apt, and her intervention helped prevent it).

Ruling: An agent who introduces the property to the buyer is usually considered the purchase's "effective factor," who deserves the agent's fee. The claim that even without the agent, the buyer would have learned of the property from someone else is not a reason to preclude payment from the one who introduced it. This is certainly so here, where, by def's admission, pl and def had 20-30 phone conversations and exchanged many emails. The job of an agent includes bringing the parties to agreement, which sometimes includes trying to convince one side more than the other. Thus even if pl's belief that she saved def from losing apt is untrue, pl did enough to facilitate the sale to deserve a fee. The fact that pl initially presented an inaccurate price did not end up being a problem, as def determined that apt was well worth his while even at the higher price.

At different times during his presentation and answering questions, def said things that contradict his contention that it was unclear that pl was an agent (who always receives a fee from buyers). The ad he saw referred to pl's business as an agency. Def said that he did not ask pl whether/how much she would take as a fee because he was afraid to do so, as agents like to take 2%. Also, when the renter allowed buyers to see apt, def was there with several agents and buyers, which would not happen if pl was sel's marketer.

We usually uphold the Israeli law that an agent must be licensed and sign clients to a contract, as this is a proper practice that limits disagreements. However, pl is an experienced agent whose rebbe is against her holding a government license, and many in that segment of society (to which def belongs) do not sign people on an agent's contract, seeing it as a lack of trust. We are unwilling to facilitate def coming in bad faith and using technicalities and patently false claims to avoid paying for a valuable service he received.

Next week we will see a disagreement between the dayanim on how much def should pay.

Comments or questions regarding articles can be sent to: info@erezhemdah.org

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Arye Yitzchak ben Geula Miriam
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