



HEMDAT YAMIM

Parashat Hashavua

Sukkot, 15 Tishrei 5784

Harav Shaul Israeli zt"l
Founder and President

All Citizens in Israel

Harav Shaul Yisraeli – from V'samachta B'chagecha, p. 6

“Every citizen (*ezech*) in Israel shall dwell in *sukkot*” (Vayikra 23:42) – the Zohar comments that the commandment is for those who are connected to Hashem’s secret and those who are from the offspring or root of Israel.

There are countries that grant citizenship to those who live in the land on a permanent basis for two years, and some have stricter qualifications. To qualify for Israelite citizenship, one does not need to live on a permanent basis; we prefer those who live on a temporary basis! The true *ezech* is one who leaves his permanent dwelling and goes to live in a temporary dwelling – the *sukka* (see Sukka 2a).

The Torah describes Sukkot as the holiday of the time of the harvest (see Chagiga 18a). At this time, farmers stop working in the fields and go to enjoy their homes with some permanence. The *mitzva* of *sukka* comes to ensure that they do not get caught up in their successes, as their house becomes a temporary one through which one can still see the stars and feel the presence of the heavens. When the holiday is over and people return to their homes, they give less credence to reliance on their own abilities. This is when we can say that one is happy with the holiday along with his children, servants and the area’s *levi'im*, converts, orphans and widows (see Devarim 16:14). That is because one who thinks he alone is responsible for his success has more trouble sharing with others. When he gives, it is without the proper feeling of brotherhood. True Jewish citizenship is when one gives with happiness to his counterpart; this is what is accomplished by sitting in the *sukka*.

Foreigners did not receive this secret. Other nations believe in building and attributing it to their abilities. They live in permanent houses, which they built for themselves, and they build metal fences around their properties. They call out with boastfulness that everything is theirs; they protect their own and try to obtain that which is not theirs.

A *sukka* is a synonym of peace. The *sukka*’s inhabitant knows how to celebrate Hashem’s blessing, whether it is impressive or not, and shares the small amount of bread he has. This is not the lot of one who lives in a spacious house and does not know how to share with others but desires more and more. He does not know of peace but of inspiring jealousy. Knowing how to live in the *sukka* in times of peace teaches Israel to appreciate peace in times of war. While the big houses and fortresses are destroyed despite their defenses, the flimsy *sukkot* survive.

These lessons are true in relation to actual *sukkot* and also *sukkot* of the divine clouds (see Sukka 11b). *Chazal* teach that one who sits in a *sukka* in this world will merit to sit in the *sukka* of the leviathan in the world to come (Bava Batra 75a). Frequently, frightening beasts attack nations, and think they will vanquish forever. We are promised that by living in the *sukka*, we will ultimately see the downfall of the powerful and receive reward for our trust in Hashem.

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Those who fell in wars for our homeland. May Hashem avenge their blood!



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Ask the Rabbi

by Rav Daniel Mann

Building a Sukka on Public Property

Question: May one build a *sukka* in front of his house but on public property?

Answer: Most of our discussion will focus on the ability to fulfill the *mitzva*, but civic considerations are crucial regarding the *mitzva* as well as on their own.

Rabbanan rule that one does not need to own the *sukka* he uses, but that it must not be stolen (Sukka 27b). The *gemara* (ibid. 31a) says that Rabbanan hold that not every *sukka* connected to an element of theft is disqualified. For example, a *sukka* on another's property, including public property, is not disqualified as stolen because "land cannot be stolen," meaning that land is seen as remaining in possession of its owner even if someone else is occupying it.

However, the Rama (Orach Chayim 637:3 and citing a Yerushalmi in Darchei Moshe, OC 637:1) forbids building a *sukka* in the public domain or on a counterpart's property without consent, saying that only *b'di'eved* one fulfills the *mitzva* in those circumstances. The Magen Avraham (637:3) posits that although land is not "stolen enough" for the *aveira* to disqualify the *mitzva* (*mitzva haba'ah ba'aveira*), that concept does preclude making a *beracha* on such an unauthorized *sukka* (see Machatzit Hashekel ad loc.). We find a precedent regarding *arba minim* that were stolen and acquired by the thief – the *mitzva* can be fulfilled, but it is disgraceful to make a *beracha* in such a case (Shulchan Aruch, OC 649:1) The Eliya Rabba (637:4) distinguishes between the cases – theft caused switched ownership for the *arba minim*, whereas here the *sukka*'s ownership is unchanged. He also claims that even if one should not make the *beracha*, it would not be *l'vatula* since the *mitzva* is valid. The Mishna Berura (637:10; Be'ur Halacha ad loc.) prefers the Eliya Rabba's ruling when there are no good alternative places for a *sukka*.

There are grounds to distinguish between public ground and a neighbor's property. There is greater chance the public implicitly agrees to such use of their land, as it belongs to and is used some ways by all residents. This logic explains why *poskim* do not usually require permission from neighbors to use part of the joint property for a *sukka* (Chut Shani, Sukkot, p. 223). While a neighbor may be happy for someone to use his *sukka* while he is away (Mishna Berura 637:9), this is not true of building a *sukka* on his property without permission (Pri Megadim, EA 637:7). *Poskim* are unhappy about using a *sukka* (see Dirshu 637:12) on an illegally built a *mirpeset* (balcony), although seemingly after years of quiet on the matter, we can probably assume permission to use the *mirpeset* as one wants, at least in the meantime. In a Jewish community or even many friendly non-Jewish ones, it can often be assumed that people understand the use of the area near one's house for his *sukka* (Chut Shani ibid). Eshel Avraham (Butchach, *siman* 637) says that even in non-Jewish countries, lack of opposition is equivalent to permission. Rav S.Z. Auerbach is cited (Halichot Shlomo, Sukkot 7:11) as being more provisional in allowing such a *sukka* – there should be general permission from the locale and it should be done in a way that it does not impinge on use of the street/sidewalk. It is worthwhile for a rabbi to ascertain if (and perhaps influence that) the appropriate powers-that-be generally allow people to use the relevant public property.

When to assume permission depends on different things. Regarding place, attitude to religious Jews is a factor, as is socio-economics. Fancier neighborhoods are often more particular about nuisances and eyesores; how much space people have on their own property is also a factor. The size and positioning of the *sukka* are also important, as one should not take advantage even when there is general permission. Choosing between a smaller *sukka* on one's own property and a bigger one on a public area can be difficult, and both the *kashrut* of the *sukka* and *mentchlachkeit* are important factors. An important rule is – you can be *machmir* on yourself but must judge others (i.e., those who are using public land) favorably.

“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@eretzhemdah.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

The Importance of Torah Education – #170

Date and Place: 14 Cheshvan 5689, Yafo

Recipient: The editor of *Chavatzelet*, at that time, Eliezer Ben Yehuda, requesting that he put this letter in the paper.

Body: The goal of education is to prepare man for his proper form, especially his being good and straight. Since Avraham Avinu began to call out in Hashem's Name, it has been our legacy that the more a man has engraved in his soul the desire to call out in Hashem's Name, the greater his goodness and rectitude, making him more beneficial for himself and society.

The Jewish Nation is unique among the nations in proudly raising the flag of the approach that man's goodness and rectitude is the loftiest goal. Calling out in Hashem's Name and entrenching this belief is the best preparation to reach this goal until the goal and the means of reaching it are inseparable. In order to engrain calling out in Hashem's Name in the heart and soul of the individual and the nation, it is required to learn on a regular basis from a young age. For that reason, Torah study holds the highest priority in a Jew's education. Other areas of knowledge prepare a person for the "battle of life," as opposed to making him good and straight in the eyes of Hashem and of man.

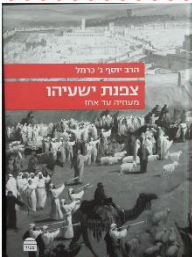
Focus on Torah study is the ancient path, traveled by our forefathers from all generations, enabling Israel to survive, succeed, and "give fruit." It has produced the greatest leaders and distinguished luminaries of each generation, who have enriched the nation and the whole world.

Preparing people for the battle of life has always been considered a secondary concern of education, not its goal itself. Over history, the "waves of the time" have hit us. We have lived among foreign nations, for whom education's main focus is only to prepare people for the battle of life; the ideas of being good and straight, and certainly calling out in Hashem's Name, have been minor pursuits even after they somewhat absorbed these ideas, through our influence. The influence of our host countries has infiltrated our spirit. To our great disappointment, a great many in our nation have forgotten our essential form of education and have purged from their schools the elements of goodness and rectitude and calling out in the Name of Hashem. They have stamped their education with the seal of preparation for temporary life, with its battles and lusts alone. Our nation and leaders sense the danger expected from this forgery of the seal of education.

In order to raise a banner for battle against [these perversions of education], we submit in the most forceful way, against the waves of the time, that the proper approach to education is the traditional one, focusing only on the Jewish spirit and its goals. The secondary matters of the battle of life can be achieved on the side, making the difference between sacred and mundane clear. We have clear knowledge that the Eternal King of Israel will not deceive, and that despite the changing needs of the time, the greatest value remains: The Kingdom of Hashem and His dominion, and preparing man and the Nation to follow His paths. This can occur when basic education, done in a unique way of Torah study alone, is employed. This has eternal value, as it says: "Your Kingdom is an eternal kingdom, and Your dominion is in every generation." These old-type schools still exist in the Jewish diaspora; they are led by the shepherds of Israel, the most scholarly and righteous Jews. We are proud that we have them in the Holy Land, the eternal fortress of the nation's spirit.

Even those whose lives make them feel the pressure of the load and are concerned about their family's livelihood and receive permission to study secular subjects in addition to holy ones, should be aware of the need to be very careful, so that this joining together of educational systems not create a "counterfeit coin." This must be done clearly, especially in the Holy Land, where it is especially important to maintain our unique form, which differs from all nations. Foreign languages and subjects that aid in obtaining a good livelihood are not what emerges from Zion, but Torah is (see Yeshayahu 2:3).

When those who need to integrate internalize these matters, we can be sure that they will not stray far. Their children will be "planted in the courtyards of Hashem" and will attribute sanctity to Hashem.



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

Unpaid Worker's Compensation

(based on ruling 81123 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) was, for four years, a part-time teacher, who also lived in and supervised the dormitory of the defendant (=def, refers also to its representative), a high school. Pl claims that he was underpaid in certain elements of his compensation package for a total of 37,450 NIS. Different members of def's administration (including some who no longer work for them) discussed salary matters with pl. The present director is unsure about the merit of some of pl's claims. Def claims that since they paid pl at a high pay scale considering pl's credentials and seniority, that should be returned if def has to make up some payment deficiencies. [We will present specific claim elements in the ruling.]

Ruling: Payment for hosting: Pl claims that he was asked one summer to oversee vacationers staying in the dormitory and was promised 3,000 NIS. He received 3,000 NIS soon thereafter, but the paystub called it a studies stipend. (Def's rosh yeshiva (=ry) promised to help pl study towards an MA, because pl had planned to get one quickly, and def asked him to delay it in order to dedicate himself to def.) Def said that the stipend was only if pl would stay a year longer than he did. One administrator (adm1) confirms pl helped with vacationers, and ry admits he promised a stipend but does not know if def's director approved it, as necessary. Since the paystub mentions the stipend, we can assume that the stipend was approved by def, and since adm1 admits that pl worked with vacationers, pl deserves both. Since the 3,000 NIS was only paid once, pl deserves another 3,000 NIS.

15% salary supplement for running dormitory: Pl says that he deserves this based on the collective bargaining agreement. Def says that the paystubs mention a 5% payment for "supervising the dormitory" and a 10.4% payment for "being on call" (which is the reason there is a supplement for dormitory supervisors). Beit din's research shows that there are two different incentives – one for general "on-call" duty in counseling roles (12%) and another specifically for supervising a dormitory (15%). Def claimed that the fact that pl was given pay-level 16 should compensate. However, when def agreed to include pl in the collective agreement, that obligates in its elements, whereas level 16 impacts on a wider variety of elements. The two should not be seen as mutually exclusive. Therefore, pl deserves a 27% supplement and has received only 15.4%. Beit din's expert calculated that this comes to 19,107 NIS.

Def's claim that pl was overpaid 40,338 NIS – There is no demonstrated connection between pl's rights to his claim and the claim that he was overpaid. Because the money was given by def without clear conditions, they cannot demand it back even if it were true that they would not have given so much if they knew about pl's claims (see Pitchei Choshen, Kinyanim 17:(56)). Def admits that he was not involved when the early agreements were made, and therefore there is no way to know what def had considered that pl was deserving.

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Ori Leah bat Chaya Temima

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Neta bat Malka
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