



HEMDAT YAMIM

Parashat Hashavua

Beshalach, 17 Shevat 5784

Harav Shaul Israeli zt"l
Founder and President

Just Out of Egypt and Already *Chok* and *Mishpat*
Harav Yosef Carmel

Soon after Bnei Yisrael experienced the great miracles at the splitting of the sea and appropriately sang their praises to Hashem, they arrived at Mara. There they complained of thirst and screamed out to Hashem. Part of Hashem's response to them is described by the Torah (Shemot 15:25) as: "There He placed for [the nation] *chok* and *mishpat* (usually synonyms for laws or statutes)." But what do they mean, specifically, in context?

Rashi, based on the *gemara* (Sanhedrin 56b) explained: "At Mara, Hashem gave them some of the commandment sections of the Torah, with which to occupy themselves – Shabbat, the red heifer, and monetary laws."

Many *Rishonim*, among them, the Ramban, asked questions on this opinion. If the commandments were given then, why are they not introduced in the normal Torah format, as the *mitzvot* given in Egypt were? The Ramban reconciled Rashi, explaining that they were not commanded these *mitzvot*, as they were the previous and certainly the subsequent *mitzvot*. Rather, they were told that certain *mitzvot* **would soon be** given to them. Knowing about *mitzvot* before they were binding is something that the patriarchs experienced. In the case of post-Exodus, pre-Sinai Bnei Yisrael, it was to get them used to the *mitzvot* and to know how positively they would accept them when the time came. This is what the Torah means with the next words: "... and there He tested them."

Some *Rishonim* raise a specific question about one of the *mitzvot* that Rashi mentions. *Chazal* saw in the laws of the red heifer a response to the sin of the Golden Calf. This is difficult according to Rashi, as it was actually given before the sin took place.

The Ramban suggests a totally different approach. *Chok* does not mean statute here but practices, and *mishpat* means that the practices were good, balanced, and measured. This became necessary because the people entered a difficult desert, without water and supplies. Hashem taught them how to make due in this situation. Another of the Ramban's suggestions is that Moshe taught the nation *musar* (ethics). This included, under *chok*, being prepared to be hungry and thirsty and additionally, on the one hand, calling out to Hashem, but, on the other hand, not doing so as a complaint. Regarding *mishpat*, this meant to love one's neighbor, to follow the counsel of the elders, and to act modestly within the family setting. It also included acting properly with foreigners who entered the encampment and not to act like barbaric groups. In other words, the people were taught that they could pray to Hashem in their situation of austerity but to do so respectfully. Also, they had to guard their human rectitude in the settings of family and among other nations.

Rabbeinu Bachyei presents an interesting, very different approach. Hashem taught Moshe some of the basics of botany, as some of the plants they would encounter would have great health benefits, whereas others could be dangerous and poisonous. This knowledge would be very important during the nation's stay in the desert.

Thus, we see approaches that soon after leaving Egypt on the way to full peoplehood in their homeland, even before the Torah was given, the people needed an approach to acting as an independent and respectable nation and needed scientific knowledge to back it up.

Hemdat Yamim is dedicated to the memory of:

Eretz Hemdah's beloved friends and Members of Eretz Hemdah's Amutah

Rav **Shlomo Merzel** z"l
Iyar 10, 5771

Rav **Reuven & Chaya Leah Aberman**
z"l
Tishrei 9, 5776 / Tishrei 20, 5782

Mr. **Shmuel & Esther**
Shemesh z"l
Sivan 17 / Av 20

Mr. **Moshe**
Wasserzug z"l
Tishrei 20, 5781

Prof. **Yisrael**
Aharoni z"l
Kislev 14, 5773

Hemdat Yamim is endowed by
Les z"l & Ethel Sutker of Chicago,
Illinois, in loving memory of
Max and Mary Sutker
& **Louis and Lillian Klein** z"l

R' **Yaakov** ben
Abraham & Aisha and
Chana bat Yaish &
Simcha Sebbag z"l

R' **Eliyahu Carmel** z"l
Rav Carmel's father
Iyar 8, 5776

Mr. **Zelig & Mrs. Sara**
Wengrowsky z"l
Tevet 25 5782
Tamuz 10 5774

R' **Meir** ben Yechezkel
Shraga Brachfeld z"l
& Mrs. **Sara Brachfeld** z"l
Tevet 16, 5780

Rav **Asher & Susan Wasserteil** z"l
Kislev 9 / Elul 5780

Rav **Yisrael Rozen** z"l
Cheshvan 13, 5778

R' **Abraham & Gitta Klein** z"l
Iyar 18 / Av 4

R' **Benzion Grossman** z"l
Tamuz 23, 5777

Mrs. **Julia**
Koschitzky z"l
Adar II 18, 5782

Rav **Moshe Zvi**
(Milton) Polin z"l
Tammuz 19, 5778

Rabbi Dr. **Jerry**
Hochbaum z"l
Adar II 17, 5782

Nina Moinester, z"l, Nechama Osna bat
Yitzhak Aharon & Doba z"l
Av 30, 5781

R' **Yitzchak Zev**
Tarshansky z"l
Adar 28, 5781

Mrs. **Leah Meyer** z"l Nisan 27, 5782

Mr. **Shmuel & Rivka Brandman** z"l Tevet 16 5783/ Iyar 8, 5781
HaRav Professor **Reuben M. Rudman** z"l Shevat 17

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



Eretz Hemdah
Doms: Harav Yosef Carmel, Harav Moshe Ehrenreich
2 Brurya St, corner of Rav Chaya St.
POB 8178 Jerusalem 91080
Tel: 972-2-5371485 Fax: 972-2-5379626
amutah number 788120780

American Friends
of Eretz Hemdah Institutions
c/o Olympian, 8 South Michigan Ave.,
Ste. 605, Chicago, IL 60603, USA
Our Taspayer ID #: 36-4265359

www.erezhemdah.org info@erezhemdah.org

Donations are tax deductible according to section 46 of the Israeli tax code

Ask the Rabbi

by Rav Daniel Mann

Trying on a *Beged* without *Tzitzit*

Question: I saw someone shopping for a *tzitzit beged* without *tzitzit* (so he could attach them), and he tried it on for size. I thought it was forbidden to wear a *beged* requiring *tzitzit* without them. Was he right to do so?

Answer: We will explore three possible reasons to permit this, proceeding from the possible to the definite.

The Torah presents a positive *mitzva* to attach *tzitzit* to four-cornered garments (Bamidbar 15:38; Devarim 22:12), and the *gemara* discusses at what point this must be done (Menachot 41a). One who has a *beged* that requires *tzitzit* and wears it without attaching them violates a Torah commandment. However, it might be a *bitul aseih* (failing to do an imperative positive *mitzva*) or possibly (also) an *issur aseih* (a forbidden action derived from a positive command).

This distinction is likely connected to the following *machloket*. The *gemara* (Menachot 37b), after bringing a story, seems to conclude that if one's cloak's *tzitzit* became *pasul* on Shabbat when he was in a Rabbinic-level public domain (without an *eiruv*), he can keep the cloak on until he gets to a "private place." The reason given is that the resulting Rabbinic prohibition of carrying [worthless fringes] is pushed off by the disgrace of being mainly undressed. Commentators note that the *gemara* seems to ignore the Torah-level problem of wearing a garment without valid *tzitzit*. The Ri Halavan (cited by Mordechai, Menachot 944) explains that it is not prohibited to wear the garment because *tzitzit* is a positive *mitzva* to attach (or have attached) the *tzitzit* without a negative element, and the requirement to attach does not apply on Shabbat, because tying is forbidden. R. Shmuel (cited *ibid.*) opines that it is forbidden from a *tzitzit* perspective to put on such a garment even on Shabbat.

Acharonim see in the Ri Halavan's opinion and in Tosafot (Yevamot 90b) the idea that, fundamentally, the commandment of *tzitzit* begins when the garment is on, requiring one to attach *tzitzit* if they are not yet on. Arguably, one can try on the *beged* because, similar to on Shabbat, it is inappropriate to attach *tzitzit* considering that the storeowner, who owns the *beged*, is selling it without *tzitzit*. We would be reticent to rely on this idea alone, considering that not everyone accepts the Ri Halavan and this application of the approach is not simple.

A likely reason for leniency is that trying on a garment is not classic "wearing" of a garment. There is Talmudic precedent for this distinction regarding *sha'atnez*. The *mishna* (Kilayim 9:5) says that one who sells *sha'atnez* clothing (to non-Jews) can, due to technical need, wear them as long as he does not intend to get physical benefit from them. Tosafot (Nidda 61b) applies this idea to *tzitzit*, i.e., if one "wears" a garment in an abnormal context, he is not obligated in *tzitzit*. Not all even agree that the *mitzva* of *tzitzit* applies (*nafka mina* for a *beracha* before putting it on) when one puts on his *tallit* to honor a setting (e.g., getting an *aliya*, being a *sandek*) (see *Be'ur Halacha* to 60:4). Briefly trying on a garment seems to be an example where there should be no obligation of *tzitzit* (*Be'ur Halacha* *ibid.* apparently confirms this). Nevertheless, this conclusion is not trivial (see the lack of full clarity concerning how far to apply this leniency regarding *sha'atnez* in Shulchan Aruch, Yoreh Deah 301:5,6 and Taz and Shach *ad loc.*).

The clearest reason that one can try on the *tzitzit*-less *beged* is that one is obligated in *tzitzit* only for his own *beged*, not for a borrowed one (Shulchan Aruch, OC 14:3, based on Menachot 44a). (After having it for 30 days, it requires *tzitzit* because it looks like the *beged* is his – *ibid.*). Trying on the *beged* in the store is no more than borrowed. While sometimes it is proper when using another's *tallit* to get permission to acquire it and make a *beracha* on it (see Mishna Berura 14:11), when it does not have *tzitzit* on and attaching them is impractical, there is no reason to do so.

Therefore, what the person did was fine; the question is, for how many reasons.

"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.

► [SEND NOW!](#)



Igrot HaRe'aya - Letters of Rav Kook

Work on Religious Papers – #185

Date and Place: 11 Shevat 5669 (1909), Yafo

Recipient: Rav Yonason Binyamin Horowitz. We have seen some letters between Rav Kook and this rabbinic administrator (for Agudas Yisroel) of funds for various projects in the Old and New Yishuv.

Body: May Hashem see to it that there will be agreement on the terms of the rent, so that we can start the critical work for saving the *moshava* and shining the light of Hashem in its midst. (I am unaware of what project, in which *moshava*, Rav Kook referred to.) Many great things will come out of this concerning generally raising the stature of reliable Judaism in the Holy Land, with Hashem's help.

Regarding "The *Nir*" periodical, I repeat what I have said – we should battle evil specifically from the top of the highest peak of knowledge. We must not give up on this principle, as it will produce new "warriors" from among the most outstanding Torah scholars of the Holy Land, through whom the Name of Hashem and the name of Israel and *Eretz Yisrael* can be sanctified. This in turn is the most elevated benefit of all our actions in the Holy Land.

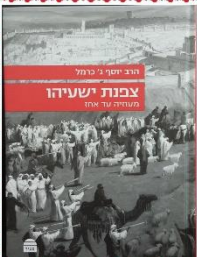
The only thing to add is that in order for the paper to have broad appeal, I think that in the future we should include popular items. However, we should not, Heaven forbid, create a publication that is primarily along the lines of "The *Peles*" (a more populist and anti-Zionist monthly magazine). That would not have any true value, but rather would just fleetingly arouse the hearts in a way that would create animosity and agitation, not light, calmness, and love of service on behalf of Hashem, His nation, and His lot.

Of course, in order to expand The *Nir*, we will need proper material support. It will be worthwhile to work on this, as it will be a "good result for the community," elevating the community from its low way in thinking and in standing. When people will realize that we care to raise their knowledge and standing, then with Hashem's grace, we will raise the number of subscribers.

I would be very happy if we could put together a daily newspaper or one that is published at least twice a week. I, of course, would be willing to work toward that, *bli neder*, to the extent that my feeble abilities would accomplish. However, about the prospect of my being the editor-in-chief, I doubt that would work out with my difficult schedule of responsibilities. Also, in order to accomplish this, the office would have to be here (in Yafo), and I do not know if our brethren could agree on that.

When I know from you, my respected friend, that the matter is ready to be put into motion, I plan to suggest a program of actions, to the best of my limited ability. I hope that you and I can together sanctify His name; may Hashem's "desire" succeed.

P.S. I also think we should work hard to found schools of the Sha'arei Torah organization [in the New Yishuv]. Although it needs to be improved, still, based on its founding goals, there is a basis to get to developments that sanctify 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.

[Buy Now](#)

P'ninat Mishpat

Problems Arising from the Sale of Stores in New Project – part III

(based on ruling 80079 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) bought two stores in a new project, developed by the defendant (=def) which was, at the time, mostly built. [We have seen various elements of the conflict. We end off with a few of pl's technical complaints about the building.]

Ruling: 1. Fire safety system: Claims: When def gave pl access to the stores, the fire system did not work, which prevented pl's renters from receiving permission to operate the stores. To save the situation, pl spent 10,675 NIS to have a new system installed. Pl claims that def is responsible because he did not fix the system promptly. Def counters that the whole problem was one faulty battery, and he should not have to pay for the unnecessary expense of pl installing a new system, separate from the whole building's system, and that part of the problem with the system was changes pl did to the stores.

Ruling: Since def did not give over the stores in a manner that they could be used, he is obligated by what pl felt compelled to do. That starts with the 1,462 NIS for an expert to recommend a plan of action. At this point, we cannot determine how much needed to be done to fix the system, but def's claim of just changing a battery seems overly simplistic. In any case, def admits that pl asked him to fix the system and that he delayed because of difficulties dealing with some of the building's owners, which left pl with few options. On the other hand, pl should have informed def what he planned to do and have documented the system's problems. He also paid for a better system than he had coming to him. As a compromise, def shall pay for the cost of the expert plus a third of the cost of the new system (total of 4,533 NIS).

2. Flaws in the ceiling and walls: Claims: Pl claims that there are many flaws, just that they are presently covered by a drop ceiling. Def counters that due to the drop ceiling, they cannot even know if there are any problems, and that if there are problems, they would be ready to fix them, which they cannot do now. Also, for the foreseeable future, any flaws would not cause problems.

Ruling: The claim is dismissed on a couple grounds. First, with a lack of proof that there are flaws, strict law does not call for payment. Second, when there is not a good reason to disallow one who is responsible to have something fixed from doing so himself, according to the Tumim and Netivot Hamishpat, the damaged side cannot force the obligated to pay money. Finally, as long as there is no plan to raise the ceiling, there is no damage to pay for.

3. Misplaced door: Claims: Pl claims that he wants to move one of the doors, which was not installed according to plans (cost estimate is 3,500 NIS). Def responds that pl saw the location on the day of transfer and accepted the situation. Pl denies agreeing. Def was asked to provide records of the day of transfer but found only one page.

Ruling: Since there is a definite deficiency and only an unproven claim of waiving of rights, def should pay. The need to move the door and its practical cost are not fully clear. Based on compromise, we obligate def 2,500 NIS for this.

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

We daven for a complete and speedy *refuah* for:

Nir Rephael ben Rachel Bracha
Ori Leah bat Chaya Temima

Arye Yitzchak ben Geula Miriam
Yerachmiel ben Zlotta Rivka

Neta bat Malka
Meira bat Esther

Together with all *cholei* Yisrael

Eretz Hemdah is the premier institution for training young rabbis to take the Israeli Rabbinates' rigorous Yadin Yadin examinations. **Eretz Hemdah**, with its distinctive blend of Religious Zionist philosophy and scholarship combined with community service, ensures that its graduates emerge with the finest training, the noblest motivations resulting in an exceptionally strong connection to Jewish communities worldwide.