



# HEMDAT YAMIM

**Parashat Hashavua** Noach, 3 Cheshvan 5782

Harav Shaul Israeli zt"l  
Founder and President

## What Are David and Shaul Doing in Sefer Bereshit – part I

Harav Yosef Carmel

*Chazal* were troubled with the contrast between two great but flawed men – King Shaul and King David. Why did the former lose his kingdom due to his sins, while the latter was forgiven and promised an eternal dynasty?

There appears to be insight into this question in the story of creation, of all places. This is hinted at by the fact that both Shaul and David were called *adam*. Let's take a closer look at the significance of this phenomenon. David said to Shaul that the heart of an *adam* (a person, but here referring to King Shaul) should not be depressed due to Goliath (Shmuel I, 17:32). Avigail referred to an *adam* who was pursuing David. There is an indirect connection between the world of Shaul and an *adam* of note as well. The people who were unable to bring the *Korban Pesach* were those referred to as impure because "of the soul of an *adam*" (Bamidbar 9:6-7). Rabbi Yossi Hagelili said that these were the people who were carrying the remains of Yosef (Sukka 25a). Yosef represented the part of Bnei Yisrael that comes from Rachel Imeinu, and Shaul, from the tribe of Yosef's only full brother and second son of Rachel, Binyamin, certainly saw in Yosef a special spiritual guide and inspiration.

David is called *adam* in Shmuel II, 7:19. He is famously called *ha'adam hama'alah* (approximately translated as, the person of a high standing) (Divrei Hayamim I, 17:17). The third place *adam* is mentioned in regard to David is in the "last words of David" (Shmuel II, 23:3).

The famous *midrash* (Yalkut Shimoni Bereishit 41) about the intertwined lives of Adam and David provides a wonderful explanation of the connection between David and *adam*. Adam was disturbed by what he saw prophetically, that there was a special soul who would have only a fleeting moment to live. In order to allow David to accomplish what he could in the world, Adam was given and accepted the opportunity to gift David 70 years of life. Kedushat Levi on the *haftara* of Vayechi develops this idea, as I do in my upcoming book, *Tzofnat Shmuel*.

Next week we continue to develop this theme of David and Shaul in *Sefer Bereishit*.

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# Ask the Rabbi

by Rav Daniel Mann

## A Renter Having a *Zecher L'churban*

**Question:** The house I am renting does not have an unpainted segment of wall as a *zecher lachurban* (a remembrance that the *Beit Hamikdash* has been destroyed). Should I make one?

**Answer:** The *gemara* (Bava Batra 60b) is the source of the *halacha* (see Shulchan Aruch, Orach Chayim 56:1) to leave an *amah X amah* of wall unpainted. The *gemara* presents this and a couple of other small limitations on enjoyment as a balanced approach between showing no *aveilut* and those who stopped consuming meat and wine (which were parts of the Temple service).

The *gemara* states that one who acquires a fully painted home can leave it as is. Why is that so? The simple reading of the Radbaz (II:640) is that only a person who improperly painted is required to peel off paint. The Magen Avraham (560:1) says that one can leave it as is only if it might have been built in a permitted manner, e.g., even if he bought the house from a Jew, perhaps it was fully painted by a previous, non-Jewish owner. He and most *poskim* (see Mishna Berura 560:4) posit that if it was painted improperly, then even a subsequent owner must peel a section of paint.

So at first glance, the ruling for a renter depends on the landlord. If it is a non-Jew, who did nothing wrong, the paint can stay. If a Jew owns it, since he should have left an unpainted area, we obligate the present resident. However, the matter is more complex.

Some say that a renter is not considered like a temporary owner, and a non-owner who happens to be staying in a home is not required to make a *zecher lachurban* (Migdal Hashein 61; Avnei Yashfei I:116 disagrees). Thus, even if the owner sinned, the renter need not rectify like a buyer would. There is even an opinion that if it is built to be immediately sold or rented, the owner is not required to leave a *zecher lachurban* (Migdal Hashein *ibid.*; Igrot Moshe, OC III:86). While this makes more sense if the owner was not planning to sell or rent to a Jew, it is possible to exempt in both cases (*ibid.*; Mishneh Halachot V:71 disagrees). If so, the renter is not obligated since the *gemara* states that living there does not create an obligation to peel paint. If the renter paints himself, then he must leave over an unpainted area (Pri Megadim, 560, EA 4; Sha'arei Teshuva 560:3).

Most agree that if the owner does not permit, the renter may not and therefore is certainly exempt from peeling off paint (see opinions in Dirshu 560:10). If he lets on condition that the renter repaint fully before he leaves, there are two further reasons for leniency – 1. If he would otherwise not have to paint at the end, it is unclear whether the *halacha* was meant to require an outlay of money; 2. The full painting at the end (at least if the next resident is Jewish) might be worse than leaving things as they were (Avnei Yashfeh *ibid.*).

This final point highlights a *chakira* about the *zecher lachurban*. Is it a requirement to have a *zecher lachurban* to remind one about the *Beit Hamikdash*, or does the act of fully beautifying one's house contradict our national *aveilut*? The term *zecher lachurban* implies the former approach (which Igrot Moshe *ibid.* posits). Actually the *gemara* does not mention it, but many *Rishonim* (including the Tur, OC 560) do. Parts of the *gemara* and several *halachot* or opinions imply that the idea is an *aveilut prohibition* (see Rashi, Bava Batra 60b). It is likely that a violation of the prohibition turns the house into a *chillul Hashem* that needs rectification. Among the cases that might depend on this *chakira* are: painting but having an alternative *zecher* (see Mishna Berura 560:3 and Sha'ar Hatziyun 8); having a palatial house with an unfinished area (see Radbaz *ibid.*); can there be a need for more than one such area (Mishna Berura *ibid.*). We cannot elaborate.

Because of some broad possibilities for leniency (including that our paint might not count (*ibid.* 2)) and the idea that we are generally lenient on this *halacha* (Radbaz *ibid.*, Igrot Moshe *ibid.*), a renter may be lenient except when he paints in the midst of the rental period.

**Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law. ► [SEND NOW!](#)**



# Igrot HaRe'aya - Letters of Rav Kook

## Starting a New Yeshiva in Yafo - #59 – part I

**Date and Place:** 17 Shevat 5667 (1907), Yafo

**Recipient:** Rabbi Yosef Rabi, Rav Kook's brother-in-law. As the letter indicates, he was living in poverty in *chutz la'aretz* and was interested in moving to *Eretz Yisrael* if he could find an appropriate position.

**Body:** It is true that for a while I have been entertaining the idea of establishing a proper yeshiva here in Yafo, which is a crucial matter. However, there are also many obstacles, the biggest obstacle being that there already is the Shaarei Torah institution (for school age children). It is already known in the world, and fundraisers travel on its behalf, as it has to deal with great expenses.

It would be very beneficial to have a yeshiva as I envision in comparison with having a *tashbar* (old-style religious elementary school), with the approach of simple Judaism, without mixing in new foreign foundations. However, sometimes preserving the sacred old style properly in our times brings along side problems as well. After all, not everyone is adept in the laws of social behavior to know how to ensure that the power of sanctity in education will be properly preserved. It is possible but difficult to maintain the old and perhaps even successfully compete with the new approaches to education, which are built upon the attempt to dry up the bright dew of the sanctity of the Torah of truth, which comes from the source of wellspring water flowing from the Hope of Israel and its Salvation. Thus, there are times when in a place of sanctity and dedication to education in the spirit of fear of Heaven, with teachers who fulfill Torah and *mitzvot*, there are still those who leave the framework, and matters do not run smoothly. This usually prevents the children from developing healthy spirituality, which is the purpose of our holy Torah.

This is something that exists in all times and places, and it is almost impossible to try to change fundamental things suddenly because of the protests that these changes bring on. This causes us to abandon ideas that are intrinsically worthwhile. But there is still a need to measure the gains and losses, and this is very difficult to do at a time when there is so much confusion and deterioration in the realm of religious life.

We still expect great gains from *yeshivot* such as Sha'arei Torah in *Eretz Yisrael*. They will provide us with a nice amount of simple Jews, who saw as children how their teachers were careful in their Torah observance, as has traditionally been the case for the longest time. This was accomplished by good Jews receiving simple education, even though it will not provide the same special characteristics that are possible with new educational systems. We can hope for a similar situation for most of the Jews being raised to loyally follow the Torah of Moshe and the principles of modesty. Such people can have a positive effect on the new arrivals to the country, who can use exposure to a warm brand of Judaism and internal sanctity, which can be found only in a place that educates in an atmosphere of great care to properly fulfill the word of Hashem.

Hopefully, they can also receive positive elements that have been imported from other places, by those who were educated in the new style, and we will be able to adorn the Jewish community with precious children, who are good and complete and who are a credit to our holy patriarchs and will be greatly respected throughout the world. They should at least be no worse on average than their top peers in countries of the Diaspora with a strong Jewish community. To bring this to fruition, we need to have a fine yeshiva so that the spiritual dignity will be a powerful one. Its products will be able to successfully go out to those who have not been exposed to spirituality. This is in the merit of the precious Torah, which is the greatest cure for every malady.

*We will continue next time.*

# P'ninat Mishpat

## Damages One's Workers Might Have Caused

(based on ruling 79062 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The defendant (=def) bought an apartment adjoining the plaintiff's (=pl) apartment and did major renovations. According to pl, during drilling in their joint wall, a drill bit pierced the wall and caused damage to pl's wall and the side of the bathtub. Pl claims that he tried many times over a few years to get def to take responsibility. At first, he asked def to have his contractor take care of what needed fixing, but they were evasive. After warnings, pl had his own workers do the repairs, which cost 3,500 NIS. Pl is suing for that, 5,000 NIS for dozens of attempts to get def to pay, and 3,000 NIS for help in preparing the claim letter. (Later on he raised the claim to 16,305 NIS.) Def claimed that he was not elusive and was always willing to come to *beit din*. As far as the claim, he claimed that his contractor checked the matter out and saw no evidence that the damage happened at the time of and due to the work done for def. He argues that if ceramics fell from the wall because of vibrations, it means that they were not installed properly.

**Ruling:** Pl provided a picture of the joint wall, which shows a clear crack in it. Def's contractor testified, but *beit din* found his testimony lacking in credibility. Def also chose not to interrogate a witness for pl who said that one of def's workers came in soon after the damage was done, admitted responsibility, and apologized. All of the factors together lead to the conclusion that the damage occurred as pl describes.

A homeowner is allowed to do work on his property but only if he can ensure that it will not cause damage to his neighbor's property (see Beit Yosef, Choshen Mishpat 155; S'ma 154:38). While there are different opinions about the level of responsibility, there is a consensus regarding a situation called "his arrows" (Bava Batra 22b). The Rambam (Shcheinim 10:5) says that when there is immediate damage to a neighbor by one working too close to the other's property, it is as if he damaged "with his own hand." Since the work was done at def's behest, def is responsible.

As far as claims of delaying and attempts to evade responsibility, pl was able to provide a great number of electronic messages sent to def with none of def's responses showing an openness to adjudicate. Based on the timing, it is clear that def agreed to come to *beit din* only as pl's suit in secular court was about to be heard. Therefore, while *beit din* does not usually make a litigant pay for the process leading to and of adjudication, that is when all acted in good faith. While we do not accept pl's raising the claim after the litigation began without a good explanation, we do obligate def to pay not only the 3,500 NIS bill for the repairs (which were never coherently disputed), but also 4,000 NIS for the extra difficulties pl had in bringing him to justice due to def's acting in bad faith.

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Rivka Reena bat Gruna Natna      Arye Yitzchak ben Geula Miriam  
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