



## Parashat Hashavua

Beshalach, Shevat 13, 5786

Harav Shaul Israeli zt"l  
Founder and President

### Rachel, Leah, and King David – What Happened? – part II

Harav Yosef Carmel

We begin with ideas from last week. Unity within *Am Yisrael* has special meaning when Rachel and Leah's descendants lead the nation jointly. This finds full expression at the wedding of Boaz and Rut, in Beit Lechem (in the Tribe of Yehuda). The people blessed them that Rut "should be like Rachel and like Leah, who together built the House of Israel" (Rut 4:11-12). This proclaimed the need for partnership, one that results from concession.

King Shaul, descending from Rachel's Tribe of Binyamin, invested enormous efforts to prevent partnership in rule with David of Yehuda (from Leah). Shaul saw David's presence as an existential threat, whereas his son Yonatan was prepared to concede primary rule to David and act as his assistant. Shaul also acted to prevent David's marriage with his daughter Michal and to kill him. The attempt failed because Michal lowered David "through the window" (Shmuel I 19:12), a term we will return to. Shaul reacted extremely harshly – giving Michal to Palti ben Layish as a wife.

David's response served as defiance toward Shaul – he married two additional women, thus declaring that he was fully alive and that his daughter now had rivals. Yet David's wound did not heal. Years later, after Avner, army chief of Shaul's son Ish-Boshet, turned away from his king, David made a covenant with Avner and promised to appoint him as his deputy, but David demanded that Avner bring Michal back to him.

Thus, hope for the creation of a partnership between Rachel and Leah was restored, with David, from Leah, as king and, from Binyamin, Michal as queen and Avner as deputy. The plan utterly failed because Yoav, David's general, had Avner killed with the claim that his intentions were impure and that Avner would try to seize the kingship. This extinguished the light of unity.

The remaining chance to achieve unity depended on rehabilitating David and Michal's relationship and producing a shared descendant with integrative lineage. While Michal returned to David's house with joy, there were thorns in their side – David's other wives: Avigail, Achinoam, Ma'acha, Chagit, and Avital. Michal claimed that she alone was David's true wife, while all the others were, at most, maidservants. The other women did not concede, and each sought to push her firstborn son to the status of heir apparent.

The ceremony of bringing the ark to Jerusalem brought the dispute to the surface with full force. Michal claimed that only she was meant to stand at David's side, and David apparently did not agree. Michal boycotted the ceremony, remained at home, and stationed herself "at the window" (Shmuel II 6:16). In this way she demonstrated her resentment and reminded him of her rights as his first wife, the loving one, the king's daughter who had saved his life. The long separation apparently exacted a heavy price; the relationship was not rehabilitated. The *navi* concludes that Michal, daughter of Shaul, had no child until the day of her death (ibid. 6:22-23).

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



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# Ask the Rabbi

Beshalach

by Rav Daniel Mann

## Cutting Nails during *Shloshim*

**Question:** May a mourner during *Shloshim* cut his/her nails? Does it depend on the circumstances?

**Answer:** The short answer is that an *avel* may not cut his nails during *Shloshim*. A *baraita* (Moed Katan 17b) cites Rabbi Yehuda, who equates cutting hair and cutting nails, in that both are forbidden on *Chol Hamoed* and during *aveilut*. Rabbi Yossi does not equate nail cutting to haircutting and permits cutting nails in both circumstances. The *gemara* (ibid. 18a) concludes with Shmuel's opinion that we follow Rabbi Yossi and permit cutting nails during *aveilut* as well as *Chol Hamoed*, except that during *aveilut* it must be done **without a nail cutting utensil**. The Shulchan Aruch (Yoreh Deah 390:7) indeed forbids cutting nails with a utensil during *aveilut*, throughout *Shloshim*.

Some leniencies are broadly accepted; some leniencies are a matter of opinion; others are dependent on need and circumstances. The philosophy of many of the *halachot* of *aveilut*, including haircutting and nail cutting, is that one should be in a state of mind where his physical and especially his aesthetic side should not be pursued in a normal manner. This can explain some leniencies.

The *Gesher Hachayim* (21:11:9) rules that if one's nails are particularly long so that it takes away from the honor of *Shabbat*, he may cut them. In other words, the prohibition was not meant to negate certain values or other needs that are not aesthetic. This is reminiscent of the *halacha* regarding haircutting that if one's mustache is impeding his eating in any way, he may trim it (Shulchan Aruch ibid. 1). In other words, these *halachot* are not meant to take away from functionality.

A leniency that includes functionality and *mitzva* is that of a *mohel* who can fix the nails he needs to perform a *brit mila* most effectively (Rama, YD 393:3). Another religiously related need is the permission for a woman who needs to go to the *mikveh* to cut her nails in preparation (Shulchan Aruch, YD 390:7).

We saw above (Mo'ed Katan 18a; see also the Rambam, *Avel* 5:2) a major distinction. It is permitted without special need to cut nails by hand or teeth, even during *shiva* (Shulchan Aruch, YD 390:7). The logic is that only the normal manner of cutting was forbidden. *Yalkut Yosef* (*Aveilut* 37:8) says that one can even use a nail cutter to merely start the cut, and then one does the main part of the cutting by hand or with teeth.

On the other hand, the fact that there are different ways to get the job done can create limitations even when other leniencies apply. For example, regarding the permissibility of cutting before going to the *mikveh*, the Shulchan Aruch (ibid.) requires that she have a non-Jew cut them for her. The Rama (ad loc.) does not see why, if it is not done by the *aveila* herself, it would make a difference whether a Jew or non-Jew would do it, considering that for even a Jewish cutter, there is no prohibition involved. Therefore, the Rama posits that even the Shulchan Aruch meant just that it be done by someone else, but it could even be a Jew. Among the commentators, some do require specifically a non-Jew to cut (Shach ad loc. 4) whereas some say that the *aveila* can do it even herself since it is for a *mitzva* (Taz ad loc. 3). As far as the bottom line, when there is a good reason to be lenient, one may be (Mei'olam V'ad Olam 33:21).

One way in which nail cutting is more lenient than haircutting, is according to most opinions, regarding what happens after *Shloshim* for parents. For haircutting, one must wait until people "criticize" his long hair after *Shloshim* (Shulchan Aruch ibid. 4). However, R. Akiva Eiger (ad loc.) says that this is not required for nails; rather, it is automatically permitted after *Shloshim*. (There are dissenters, but the lenient opinion is standard *halacha* – see *Divrei Sofrim* 390:44.) Interestingly, though, R. Akiva Eiger's source (*Shut Halachot K'tanot* I:113) seems to indicate that the distinction is technical rather than hierarchical.

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# Moreshet Shaul

(from the works of Hagaon Harav Shaul Yisraeli zt"l)

## Eretz Yisrael in Halacha and in Sanctity – part I

Based on Siach Shaul, Pirkei Machshava V'Hadracha p. 137

[The piece comes from a response to a letter of Yaakov Shtiglitz (then a student at Merkaz Harav, now Harav Yaakov Ariel, the former Chief Rabbi of Ramat Gan). The letter commented on a section from Rav Yisraeli's early work, *Perakim B'Machshevut Yisrael*. We will skip over certain intricate halachic parts of the discussion.]

In raising the matter of the connection between Halacha and philosophy, you discuss my contention that the hidden sanctity of *Eretz Yisrael* does not find direct expression in Halacha. You believe that this contradicts what Rav Kook writes in *Shabbat Ha'aretz* (ch. 15): "The *mitzva* to settle in the Land is not dependent on conquering it and sanctifying it..."

In fact, the very matter of whether there is an independent *mitzva* from the Torah to live in *Eretz Yisrael* is the subject of dispute. The Rashbash (2), Pe'at Hashulchan (1:9) and several other *Acharonim*'s understanding of the Rambam is that there is no such *mitzva* from the Torah, and this also seems to be the opinion of Rabbeinu Chaim in *Tosafot* (*Ketubot* 110b).

Actually, even if there is a *mitzva* from the Torah, it does not overlap precisely with the specific place's spiritual sanctity. This is what the Tashbetz (III:200) writes: "The sanctity in regard to the Divine Presence and the sanctity regarding *mitzvot* are two different matters. Sanctity of the Divine Presence exists specifically to the west of the Jordan River, whereas the *kedusha* [that is related to] *mitzvot* is on either [side of the Jordan]." The obligation to move to *Eretz Yisrael* is due to the sanctity regarding *mitzvot*.

In the language of the *Kaftor Vaferach*, which Rav Kook cited, different expressions are used. In one place, he writes: "... the sanctity of the entire Land, from the time of the first sanctification (at the time of Yehoshua) and on, remains as it was." This indicates that the conquest of the Land and its sanctification in relation to its inhabitation renew the *mitzva*, just that [according to his opinion, once the sanctity begins] it does not cease. In any case, this is not the spiritual sanctity of the Land that started from the time of Creation, and it applies only west of the Jordan. Thus, the spiritual sanctity does not align precisely with the practical implications of the Land.

It is clear that the foundation [of the status of the Land] is the spiritual sanctity, but that in order for this to find fruition, the fulfillment of other conditions is needed. According to some, it can also expand or contract in regard to space, as can happen when [the control that came] with conquest ceases. This aligns with what I wrote that the innate sanctity does not have a direct expression in Halacha. In other words, the *halacha* is influenced by the spiritual foundations, but the mechanism is activated only indirectly through other practical factors, whether in the positive or the negative direction.

The Ramban (Omissions, *Aseh* #4) does not relate in presenting his thesis (that there is a *mitzva* from the Torah to conquer and inhabit the Land in all eras) to the connection to the spiritual sanctity of the Land (the *Kaftor Vaferach* does). [Rav Yisraeli then goes into some more detailed halachic analysis, which he says will be discussed in his upcoming book (*Eretz Hemdah*, published in fact the next year)].

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Ori Leah bat Chaya Temima

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Arye Yitzchak ben Geula Miriam  
Neta bat Malka  
Together with all *cholei Yisrael*

Tal Shaul ben Yaffa  
Meira bat Esther

# P'ninat Mishpat

## A Contractor's Leaving the Job in the Middle – part II

(based on ruling 84013 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=*pl*) hired the defendant (=*def*) to do extensive renovations to her apartment for around 750,000 NIS. *Def* began the work and over time received around 370,000 NIS from *pl*. *Pl* claims that, at some point, she began becoming suspicious that the amount of money *def* was requesting was not in line with the work he had done and that *def* was barely on the site and was well behind schedule. She demanded that *def* justify in writing the money requested in relation to the work completed. *Def* did not do this and also demanded an increase in pay due to *pl* asking for additions and his own mistaken underpricing. *Pl* refused, and *def* stopped the work. *Pl* demands a return of money that exceeded the work done and compensation for building flaws.

**Ruling:** [Last time we explained that *def* was not justified in leaving the job, gave the formula for the amount of money *def* had deserved to get, and presented calculations with the help of an expert. We continue with additional specific claims.]

**Post construction cleanup:** The neighbors understandably complained about debris, cement stuck to surfaces, solar panels not returned to their place, etc. when *def* left. *Beit din* instructed *def* to clean up; he did not do this in the time allotted. *Beit din* agreed that *pl* can hire someone to do the work and be reimbursed. *Beit din*'s expert calculated the proper allotment (appr. 15,000 NIS).

**Def's tools:** *Pl* is holding on to some of *def*'s tools in lieu of payment from *def*. *Def* argues that even tools that were bought for the project are his property and wants to use them elsewhere. *Poskim* discuss a creditor's seizure of a debtor's possessions without *beit din*'s authorization. According to the Mordechai (Bava Kama 30), he can only seize an object to which he has a specific ownership claim. The Rivash (396) says he can seize other objects as long as the debt is not from a loan, and the Shulchan Aruch (Choshen Mishpat 97:14) permits the seizure if it is done as "collateral." This means that the seizer's intention is to follow up the seizure with a claim in *beit din* (Netivot Hamishpat 4:3). In our case, *beit din* finds that *pl* had the right at the time to withhold some tools, but now that *beit din* has jurisdiction over the case, she must return them.

**Pipe inspector:** *Def* ordered a pipe inspector to evaluate how to connect pipes in what he calls a sensitive plumbing area and requests compensation to be added to his work's base price. *Pl* denies that *def* asked permission and claims that the work was unnecessary and that she understands that *def*'s friend did it free of charge. *Beit din* sent the specifications to their expert, and his findings are that bringing the inspector was a prudent step. Therefore, even if *def* did not get explicit authorization, he should be reimbursed at the going rate (3,500 NIS according to the expert), because he provided benefit. This is so even if *def* did not pay the inspector out of hand. Professional friends often exchange favors, so that *def* may be paying with past or future work.

*We will continue next week with other elements of the dispute.*

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