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HURRICANE HOUSING

When a Storm is the Norm

Halachic considerations of residences in risk prone areas

By Rav Yitzhak Grossman

In the wake of the recent Hurricane Florence, and reports of residents who remained at home and did not follow orders to evacuate, we explore in this article the halachic considerations of lifestyle choices and activities that carry an elevated risk of death.

THE 2016 CENTRAL ITALY EARTHQUAKE

Italians held a state funeral to mourn 37 of the 292 known deaths of the earthquake that occurred on Wednesday, August 24th, 2016. The quake could not have been a total surprise, since the region in which it occurred, the Apennine Mountains, is one of the most seismically active in Italy, and possibly all of Europe. Moreover, it is alleged that poor construction techniques, not compliant with local anti-seismic codes, may have been a factor in some of the deaths. What is the halachic perspective?

LIVING IN THE SHARON

We know that in Talmudic times, Jews did live in disaster prone areas, with exacerbated risk due to problematic housing construction. On *Yom Kippur*, the *Kohen Gadol* would pray on behalf of "the men of the Sharon [plane]" that "their houses should not become their graves".¹ The risk was due to the valley location, high rainfall, and/or the unstable nature of regional construction.²

1 Yerushalmi Yoma 5:2 [27a] and various midrashim (cited by the sources in the following note as well as here).

2 R. Yehudah Zoldan, Ta'anit U'Tefilah Al Ribui Ge-

"FOUR ARE REQUIRED TO GIVE THANKS"

More generally, *Hachamim* characterize four situations as sufficiently dangerous to warrant "the giving of thanks" - a *Korban Todah*, or the recitation of *Birkat HaGomel* in contemporary times - and two of the four seem to include activity commonly engaged in on an elective basis: seafaring and desert voyaging. The *poskim* articulate various doctrines in explanation of why such activity is not forbidden under the prohibition of self-endangerment (*v'nishmartem me'od l'nafshotechem*).³

The *Binyan Tzion* asserts that the overriding and paramount concern for *Pikuah Nefesh*, even for a slight possibility of danger, applies only where there is **present and certain** danger. For example, we are permitted to desecrate the *Shabbat* by digging through rubble even for the minuscule probability that doing so will save a Jewish life, and we do not assume the most probable outcome (that our *Shabbat* desecration will turn out to be pointless), since *ein holchin be'pikuah nefesh ahar harov* - we don't follow the majority [probability] when trying to preserve a life. Where there is **currently** no danger, however, but merely a concern for **future** danger, we apply the normal *halachic* rule of following the *rov* ("majority" - in our context, the likeliest outcome).⁴

The *Divrei Malkiel* maintains that where there is only a *hashash* (remote possibility) of danger, although the Torah still **allows** the violation of its laws for the preservation of life, it does not **require** it, and stringent conduct in

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shamim Be'Eretz Yisrael U'Ve'Hutz La'Aretz, Shanah B'Shanah (5753), pp. 236-248. See also here

3 Devarim 4:15.

4 Shut. Binyan Tzion siman 137. Cf. Shut. Ahiezer, helek 1 siman 23:2.



Highlights of a shiur by Dayan Yehoshua Grunwald

BIRKOT HATORAH: A SCRIPTURAL BENEDICTION OR ORAL TRADITION?

כִּי שָׁם ה' אִקְרָא הַבּו גְדֹל לְאַלְקֵינוּ

When I call the name of Hashem, ascribe greatness to our G-d. (Devarim 32:3)

According to the Ramban, this *passuk* is the source of the mitzva of *birkat haTorah*, reciting a blessing before studying Torah.

The Rambam, though, doesn't reckon *birkat haTorah* among the *taryag mitzvos*. Why not?

One approach is that of the Aruch HaShulhan, that the Rambam's view is that *birkat haTorah* is a component of the mitzva of *talmud Torah*.

The Ramban, for his part, specifically rejects this possibility. He argues that just as bringing *bikkurim* and reading *mikra bikkurim* are separately counted among the *taryag* (613) mitzvot, so are *talmud Torah* and *birkat haTorah*.

Moshe Rabbenu has been teaching Torah to *K'lal Yisrael* for forty years. Why is *birkat haTorah* mentioned now for the first time?

The Netziv of-

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spotlight

Known as the 'Bury the Hatchet' Campaign, Bet HaVaad Dayanim were available daily during the recent *Asseret Yeme Teshuva* to settle unresolved disputes and financial matters - at no charge - in keeping with the well-known dictum: "Im yesh din l'matah, ein din l'malah" - if there is judgement down below (in this earth), there is no [harsh] judgement up above (in the Heavens)...

GENERAL HALACHA

An Etrog or a Lemon? The Halachic Method for Identifying a Real Etrog

By Rav Mordechai Lebhav, Posek for the SHC, Rosh Kollel LINK Los Angeles, and author of Magen Avot



If you haven't done so yet, chances are that you are searching for a proper set of Arba Minim for the upcoming holiday of Sukkot. Surely, you seek out a beautiful Etrog with which to fulfill this precious Mitzvah. You look at the various Etrogim for sale at your local Arba Minim market, when you notice a significant difference in price between two very similar Etrogim.

"What is the difference between these two?" you ask. The seasoned seller replies without blinking: "This one is a Moroccan, the other one, a Braverman". You are too embarrassed to admit that you have no clue what those terms mean. Would one be less kosher than the other? The fact that many of the expensive Etrogim don't have a Pittam just adds to the confusion... In this article, we will attempt to clarify some of the details that pertain to sourcing and authenticating an acceptable Etrog.

P'RI 'ETZ HADAR

The Passuk states [1]: "U'Lkahtem lachem bayom harishon p'ri 'etz hadar" – "And thou shall take for yourselves, on this first day [the fifteenth of Tishri] a fruit of a tree of 'Hadar'". The Gemara in Sukkah [2] explains that the Torah is implying that we must use a species in which the taste of its bark and its fruit are the same – one of the characteristics of the Etrog (citron, or *citrus medica*). Another identifying feature the Gemara derives from this Passuk is that it "lives on the water year-round", which the Hazon Ish [3] explains to mean that it requires additional

irrigation in order to grow, and cannot solely rely on rainwater. This condition is also met with the Etrog species.

Although we have a basic tradition as to which fruit the Talmud is referring to, defining the boundaries of this species is shrouded in ambiguity. The Talmud does not indicate which variations or subspecies of the Etrog are still considered to be of the same species. Furthermore, citrus fruits are almost always grafted with one another to achieve certain benefits (sweetness, sourness, color, durability etc.). The Talmud does not discuss whether a mixed-breed Etrog (i.e. one that is grafted with a lemon) is considered a viable Etrog or not.

A PURE BREED

The Levush [4] writes that one may not use a grafted Etrog to fulfill his obligation, as it was created through an Averah (grafting fruit trees is forbidden as a form of Kil'ayim), and is therefore unacceptable before Hashem. This logic implies that there is no intrinsic problem with a grafted Etrog, only that it was achieved through an Averah. Accordingly, if we maintain that there is no prohibition to graft similar citrus fruits – a possibility that the Hazon Ish entertains [5] – an Etrog grafted with a lemon would pose no issue.

However, the Aharonim do not follow the opinion of the Levush. The Hazon Ish writes that in order for a fruit to be considered an authentic Etrog we must have a tradition that that specific variety is an Etrog – something which a grafted Etrog lacks. The Mishna Berura [6] and Hacham Ben-Tziyon Abba Shaul [7] also write that a grafted Etrog is not considered an Etrog whatsoever, since it is mixed with other species.

It is important to note that grafting Etrog trees with lemon or bitter orange (*chushchash*) trees is a very lucrative proposition. The Etrog tree is extremely delicate and generally only produces proper fruit for around six years. Combining it with stronger breeds can triple the Etrog tree's lifespan. [Some have claimed that grafting Etrogim with *chushchash* would be acceptable; that would only be possible if we were to classify the *chushchash* as a bona-fide Etrog.]

KEEPING IT REAL

The question now becomes how to verify that an Etrog was not grafted somewhere along

its lineage. This question was posed to the Rama in his Teshuvot [8], and in his response, he cites the Maharam Padua who writes that there are three identifying features that can help us tell apart a grafted Etrog from the real thing: 1. A grafted Etrog is smooth, whereas a real Etrog has bumps. 2. The stem of the grafted Etrog sticks out while a real Etrog's stem is sunken in. 3. A grafted Etrog is very juicy and has a thin rind, whereas the real Etrog does not have much juice and has a thick rind.

Additionally, the Olat Shabbat writes that one can check the position of the seeds. The seeds of a real Etrog will be in a vertical position, whereas the seeds of a grafted Etrog will be in a horizontal position. Regarding this identifying feature, the Bikkure Ya'akov, cited in the Mishna Berura, writes that he has personally checked many Etrogim and can attest that the position of the seed should not be a definite indicator.

Let us now examine the various types of Etrogim that are commonly used and the source of their tradition.

THE MOROCCAN

Moroccan Etrogim have a very strong Mesorah and have been used for generations. The Yishre Lev (the Rishon L'Tziyon, Rabbi Hayim David Hazan from Izmir, 1790-1869) cites three of the greatest Hachamim of Morocco who testified that the tradition of the Moroccan Etrogim is undisputable and that they were the type that everyone used throughout their lands. Many more Aharonim tout the authenticity of the Moroccan Etrogim [10]. Rav Moshe Shternbuch שליט"א writes [11] that the Brisker Rav, Rav Yitchak Ze'ev Soloveitchik זצ"ל, would use a Moroccan Etrog.

In the year 1981, Rav Yisroel Harpenes, a Posek and author from Brooklyn, wrote a sefer named "P'ri 'Etz Hadar". Citing the fact that the Moroccan Etrog's seeds are not vertical but horizontal, in addition to the fact that it has far less juice than the other Etrogim (although Etrogim do not have a lot of juice, as previously mentioned, these Etrogim are exceptionally dry), Rav Harpenes claimed that the Moroccan Etrogim do not meet the conditions that the Poskim set to be classified as an Etrog.

However, the contemporary Poskim reject this claim. Besides the Bikkure Ya'akov's assertion that the seed position test is not as indicative, the Poskim understood that the identifying factors mentioned in the Rama should only be applied when one is in doubt whether a specific fruit is an Etrog or not. One who has a

Mesorah – a tradition – that clearly identifies a fruit as an *Etrog*, should not be concerned about these indicators and may safely rely on his tradition.

The *Hattam Sofer* [12] writes that a *Mesorah* for an *Etrog* is like the *Mesorah* for the kosher status of a bird species. Just like one need not be concerned with the identifying factors of a kosher species if he has a reliable *Mesorah* on that species, so too, one may rely on a *Mesorah* identifying a species of fruit as an *Etrog*. [One must still ensure that the *Etrogim* weren't grafted. An upright merchant, with *Yir'at Shamayim*, will seek out *Etrogim* from places in which they are carefully maintained and kept pure.]

THE YEMENITE

Yemenite *Etrogim* also boast a very strong *Mesorah*, and were the *Etrog* of choice of Hacham Ben-Tziyon Abba Shaul. Still, over the years, they have been the subject of a lot of grafting by private growers, as the *Ohr L'Tziyon* warns. The *Sefer "Arba'at HaMinim LaMehadrin"* [13] writes that he once interviewed a Yemenite Jew who prided himself on grafting *Etrogim* to receive the most durable and beautiful fruit. Again, as with the Moroccan *Etrogim*, one should buy from a reliable merchant to ensure that they are sourced from a proper grower.

ESROG "HAZON ISH"

Another very popular species of *Etrogim* are

known as *Etrogei "Hazon Ish"*. The species was identified by the *Hazon Ish* himself when he arrived in *Eretz Yisrael* and saw an *Etrog* tree growing in the wild, near *Tzefat*. The *Hazon Ish* proclaimed to his students that these were indeed true *Etrogim*. One of his students, Rav Halperin, took from those *Etrogim* and charged great *Talmide Hachamim* such as Rav Michel Yehuda Lefkovitch זצ"ל, Rav Chaim Greineman זצ"ל, and Rav Gedalia Nadel זצ"ל with growing them with the utmost care. Due to their relatively short *Mesorah* and high level of proper supervision they pose no concerns of grafting.

YANOVER, BRAVERMAN

The *Chassidim* (especially Chabad and Satmar) seek out the *Yanover Esrogim*, which were originally grown in Genoa, a city in Northern Italy. The *Hattam Sofer* [14] writes that they have a strong *Mesorah* dating back to *Rab-benu Tam* and the Sages of *Ashkenaz*, if indeed they can be traced back to that same region. Today, many of these *Etrogim* are grown in Calabria, a region in Southern Italy. Another brand of *Etrogim* known as the "Braverman" *Esrogim*, also have a *Mesorah* and were allegedly used by the *Maharil Diskin* (Rav of Brisk and Yerushalaim, 1818-1898).

WITH A PITTAM OR WITHOUT?

Many are confused by the fact that some *Etrogim* do not have a *Pittam* (*carpel*). ["*Hazon Ish*" and Yemenite *Esrogim* do not have

a *Pittam*, while Moroccan *Esrogim* have a *Pittam*.] The *Rama* [15] cites the *Rosh* who writes that if an *Etrog's Pittam* falls off then it is not valid – unless it never had one to begin with. The *Poskim* grapple with the meaning of this *Rosh*, since every *Etrog* starts off with a *Pittam*.

Rav Chaim P. Sheinberg זצ"ל and Rav Meir Brandsdorfer זצ"ל are of the opinion that since we do not know the true meaning of the *Rosh*, one should only use an *Etrog* with a *Pittam*. Others say that the *Rosh* means that as long as the *Pittam* fell off while the *Etrog* was still connected to the tree, or, according to some, before the *Etrog* reached a third of its growth (an important milestone for many *Halachot*, such as *Ma'aser*, etc.), then the *Etrog* is acceptable.

It is important to remember that despite the fact that many of the brands of *Etrogim* have a strong *Mesorah* throughout *Am Yisrael*, one must always ensure he is buying from a G-d fearing merchant who will ensure to source his *Etrogim* properly.

Sources:

- [1] ויקרא כו, מ [2] ל"ה ע"א [3] כלאים סי' ג' אות ז' [4] סי' תרמט ס"ד [5] שם, ומעלה שיש להתיר ע"י עבר"ם [6] סי' תרמח ס"ק סה [7] אול"צ ח"ד פל"ה ס"ז [8] סי' קכ [9] שם [10] כ"ב בבכורי יעקב, והגד מרדכי סי' ה', זכר יהוסף ח"ג רל"ב בית שמחה סי' א' ועוד [11] תשובות והנהגות ח"א סי' שפא [12] שו"ת חא"ר ח סי' ר"ז [13] עמ' רעד [14] שם [15] סי' תרמט ס"ז

MATTERS OF INTEREST

Different Forms of Ribbit



There are various types of *ribbit*. It is important to be able to identify exactly which form of *ribbit* is involved in each specific transaction, as the laws - as well as the recourse - may vary accordingly.

The various forms of *ribbit* include:

RIBBIT KETZUTZA: fixed interest, forbidden mid'Oraita (from the Torah)

RIBBIT SHE'ENA KETZUTZA: unstipulated interest. for-bidden mid'Rabbannan (rabbinical)

TZAD EHAD B'RIBBIT: one-sided interest, cases where the existence of *ribbit* is subject to a specific occurrence

RIBBIT MUKDEMET: interest paid in advance

of a loan

RIBBIT ME'UHERET: interest paid after the loan was made, but not required under its terms

AVAK RIBBIT: "dust" of interest; cases prohibited mid'Rabbannan

RIBBIT DEVARIM: a verbal gift like effusive thanks, a blessing, or an honor

RIBBIT DERECH MEKAH UMEMKAR: "interest" derived from a sale

HA'ARAMAT RIBBIT: roundabout interest

MEHZE K'RIBBIT: acts forbidden because they appear to be interest, though they aren't

this case is not considered (sinfully) suicidal.⁵ The *Shem Aryeh* explains that anything that is “the custom of the world” and “in a manner of necessity” does not fall under the prohibition of self-endangerment. This formulation also explains why waging even elective war (*milhemet reshut*) is permitted, despite the clear danger it entails, and even why a woman is allowed to bear children, despite the danger of childbirth! He concludes, however, that this is only a dispensation for necessary travel, such as for business purposes, but not for recreational touring and sightseeing, which are problematic.⁶

VOLUNTEERING FOR THE MILITARY

The basic legitimacy of elective war noted by the *Shem Aryeh* is invoked in a remarkable ruling of the *Imrei Esh*. The well-established custom in nineteenth century Hungary and Poland was that Jews who were drafted to the army would pay substitutes to serve in their stead.⁷ Responding to an objection to the practice, the *Imrei Esh* insists that this is permissible and even a *mitzvah*, “because otherwise it is impossible to act in a manner that will be good in the eyes of Hashem and

men”.⁸ His basic argument is that volunteering for military service is obviously not considered suicide, for if it were, elective war would violate the prohibition of self-endangerment and could not possibly be permitted.⁹ Interestingly, the *Imrei Esh's* own teacher, the *Hattam Sofer*, utterly condemns volunteering as a military substitute – but due to spiritual rather than material concerns. He does not even mention the elective assumption of danger to life (perhaps because he agrees with the basic position of his student the *Imrei Esh*),¹⁰ but is instead opposed to the deliberate decision to place oneself in a situation where *Shabbat* desecration and the consumption of non-kosher food are inevitable.¹¹ He nevertheless ultimately does allow the hiring of those who are offering themselves as substitutes, despite the sinfulness of their conduct, since if we do not hire them, someone else will.¹²

8 The meaning of this is not entirely clear. Perhaps it is an allusion to the fact that if we do not allow the wealthy and powerful legitimate means of avoiding military service, they will resort to illegitimate means, such as chapping (“seizing”, i.e., kidnapping), a practice the Imrei Esh condemns later in his discussion as a “severe prohibition”, or perhaps it is a reference to another concern mentioned by the Imrei Esh, that we cannot allow the non-Jews to decide who will serve in the military since they will draft Torah students, in contravention of Torah law.

9 Shut. Imrei Esh siman 52.

10 See Shut. Hattam Sofer, Hoshen Mishpat siman 44 s.v. ve'hine ha d'Shmuel.

11 For a different, somewhat more permissive perspective toward military service despite the inevitable Shabbat and Yom Tov violation it will entail, see Shut. Melamed L'Ho'il, Helek 1 simanim 42-43.

12 Shut Hattam Sofer, Helek 6 end of siman 29 s.v. v'al devar am Bene Yisrael.

5 Shut. Divrei Malkiel, helek 5 siman 35.

6 Shut. Shem Aryeh, Yoreh Deah end of siman 27 p. 39b. Igrot Ha'Raayah Vol. 3 siman 852 also asserts that dangerous recreational activity is problematic (and possibly even prohibited) even where the danger is only a “hashash rahok” and “be'derech mi'ut v'rahok me'od”.

7 This was a common – and controversial – practice during the American Civil War of the same period, when even such eminent men as the future President Grover Cleveland hired substitutes to serve in their stead.



fers a fascinating answer: Hachamim tell us that Moshe's prophecy was delivered in real time: “*Shechina medaberet mitoch g'rono shel Moshe*” – the *Shechina* would speak out of Moshe's throat... While other *Nevi'im* first received their proph-

ecy and later, asynchronously, delivered it to the people. But in the unique case of Moshe's prophecy, receipt and delivery were simultaneous, because Hashem spoke directly to the people through Moshe's throat.

Moshe's Torah teaching, says the Netziv, was never subject to *birkat haTorah*, because it was miraculous, and no *beracha* is recited

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