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## RISK-ADJUSTED RETURN: SHOULD ONE NOT MOVE TO ERETZ YISRAEL TO AVOID DANGER?

Adapted from the writings of Dayan Yitzhak Grossman  
Yeshiva World News reports:

With the fear of an Iranian-Hezbollah attack on Israel still looming, Rosh Yeshivas Mir HaGaon HaRav Eliezer Yehudah Finkel paid a visit to HaGaon HaRav Moshe Sternbuch and asked him what to say to American *bochurim* or their parents who are afraid of the security situation in Eretz Yisrael.

HaRav Finkel asked what to say to the *bochurim* who are afraid of the *matzav*.

HaRav Sternbuch responded: "There were always difficult situations. If they come to yeshiva and learn Torah, we'll have more *zechuyos*, and then nothing will happen."

HaRav Finkel then asked what to say to the parents of the *bochurim* who are afraid of the tense security situation.

"It's a mistake," HaRav Sternbuch responded. "Because if they learn Torah, it will be the

opposite—nothing will happen. The Torah protects from all ills."

We have previously briefly discussed the halachic idea that the danger entailed in emigrating to Eretz Yisrael may exempt a person from the duty to do so;<sup>2</sup> in this article, we consider this principle in greater depth. (We will not focus here on the apparent implication of Rav Sternbuch that even if travel to Eretz Yisrael in a particular context involves danger, if the travel is for the purpose of *talmud* Torah, one need not be concerned.)

### TOSFOS AND THE RASHBASH

As we noted in that earlier article:

The Gemara cites a *breisa*:

If the husband says that he wishes to ascend

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<sup>1</sup> Rav Moshe Sternbuch To American Bochurim: Don't Be Afraid To Return To Eretz Yisrael. Yeshiva World News. <https://www.yeshivaworld.com/news/israel-news/2309706/rav-moshe-sternbuch-to-american-bochurim-dont-be-afraid-to-return-to-eretz-yisrael-video.html>.  
<sup>2</sup> Living off the Land: May One Reside outside Eretz Yisrael? Part II. The Bais HaVaad Halacha Journal. Aug. 11, 2022.

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PARSHAS KI SEITZEI

STRIKE PRICE

Excerpted and adapted from a *shiur*  
by Dayan Dovid Englander

*Forty shall he strike him, he shall not add; lest  
he continue to strike him many blows beyond  
these...*

Dvarim 25:3

The Gemara infers from this *pasuk* that it is forbidden to hit a person. The Rambam says this is derived from a *kal vachomer*: If even *bais din*, which is authorized to perform *malkus*, may not administer an extra lash, then unnecessary violence is certainly prohibited to an individual.

The Gemara says that even a person who raises his hand against another is called a *rasha*. This certainly pertains to raising a hand in preparation to strike, and the Rambam (*Sefer Hamitzvos*) implies that it also includes raising a hand as a threat.

Violence is permitted in some cases:

- Some *poskim* infer from the Rambam that one who asks to be struck may be indulged, because he writes (*Choveil Umazik* 5:1) that the *issur* is only violated by hitting "*derech nitzayon* (in the manner of fighting)." But the Chazon Ish maintains that no one has the authority to allow someone to strike his body, which is created *betzelem* Elokim.
- R' Moshe Feinstein says that a woman

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## Light Duty

Q What is the deadline for *Kiddush Levanah*?

A *Kiddush Levanah* is a *bracha* on the renewal of the moon, as it concludes, "*Baruch... mechadeish chadashim*." As long as the moon is waxing, it is considered new (O.C. 426:3 and Mishnah Brurah). When it begins to wane after the full moon, it is no longer new, so the *bracha* cannot be recited.

The lunar month (or lunar cycle) represents a complete orbit of the moon around Earth. It

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(move to Eretz Yisrael), and his wife says that she does not wish to ascend, she is forced to ascend.<sup>3</sup> Tosfos comments that this does not apply in Tosfos's time, because the roads are dangerous. R' Shlomo ben Shimon Duran (the Rashbash) cites this position of Tosfos in three of his *teshuvos*. In one of these he declares that this is completely self-evident, because "there is nothing that stands in the way of danger."<sup>4</sup> This might be thought to imply that in circumstances of danger there is no mitzvah to travel to Eretz Yisrael, and on the contrary, it is wrong to do so, but in another *teshuvah* he concludes that "each individual should evaluate for himself: If he wishes to endanger himself, let him ascend, and if not, let him refrain."<sup>5</sup> The Shulchan Aruch cites the position of Tosfos (as "some say"),<sup>6</sup> but it seems clear that modern air travel does not entail a level of danger that is halachically relevant.

While the Rashbash writes that "if he wishes to endanger himself, let him ascend," the Levush (R' Mordechai Yoffe), in his codification of the ruling of Tosfos (which he, too, cites as "some say"), writes that "it is prohibited to endanger oneself." R' Yonah Landsofer (the Me'il Tzedakah) comments that he does not know the Levush's basis for this.<sup>8</sup>

## THE TRUMAS HADESHEN

The Trumas Hadeshen (R' Yisrael Isserlin), a contemporary of the Rashbash, also accepts that danger justifies not emigrating to Eretz Yisrael:

It is certainly very praiseworthy and an excellent thing to live in Eretz Yisrael, and a fortiori in the Holy City, which will benefit him in *Olam Haba* and in this world.

But we have heard many times that there are Musta'arabi Jews (*bnei bris Ma'arvi'im*) there, who are considered absolute evildoers, well-known informers, and they harass and disturb the Ashkenazim who heed the Torah. Additionally, food is very difficult and tight there, and profits are hard to achieve. Who can tolerate all this, aside from the great wickedness of the Yishme'eilim that are there.

Therefore, every man should evaluate his own physical and financial ability, to determine in what way he will be able to uphold "fear Hashem and keep His mitzvos, for that is man's whole duty."<sup>9,10</sup>

A century later, the Mabit (R' Moshe ben Yosef di Trani) accepts the basic principle that spouses cannot compel each other to emigrate to Eretz Yisrael if the journey is dangerous. Nevertheless, he rules that despite the fact that "all roads are presumptively dangerous"<sup>11</sup>—which is why those

who traverse deserts must thank Hashem for saving them<sup>12</sup>—the rule that spouses cannot compel each other to undertake a dangerous journey applies only to unusually dangerous journeys, not to ordinary dangerous travel. He repeatedly prescribes a test to distinguish between ordinary and unusual danger: If merchants do not generally avoid a particular route due to its perils, spouses may compel each other to emigrate to Eretz Yisrael via such a route.<sup>13</sup>

A similar approach is taken by R' Yonah Landsofer, in one of the most famous and interesting *teshuvos* on our topic. He addressed a controversy that had arisen regarding three idealistic friends who had decided to immigrate together to Eretz Yisrael, with their wives and children, including several children two to three years old. Their contemporaries generally disapproved of their plans, saying:

It is utterly unheard of for a person to embark on such a great and long voyage, to nations whose language he does not know,<sup>14</sup> through seas and perils, with small children. And even if a person is permitted to injure himself,<sup>15</sup> who gave him permission to obligate his young children, if his strength is the strength of rocks,<sup>16</sup> to tolerate the distress of the move and stress of the journey? Perhaps the young children do not have the strength to tolerate it, especially the change of the air and the motion of the ships.<sup>17</sup>

Based on these considerations, the local *bais din* wanted to enjoin the men from making the trip.

Rav Landsofer cites and adopts the basic framework of the Mabit: While spouses certainly cannot compel each other to undertake dangerous journeys, this refers only to journeys involving unusual danger; not to ordinary travel, the attendant danger notwithstanding:

In our times, when ships travel to and fro every year in the summer, evidently the journey is not considered especially dangerous. There is the danger of piracy at sea, but certainly "all roads are presumptively dangerous," as seafarers are required to give thanks, and this is not something novel, and still Chazal said: "All may compel [their families] to ascend..." It must be that as long as there is no novel and emergent danger, they may compel their families to ascend...

Rav Landsofer proceeds to argue that there is no difference between adults and children in this regard, as the dangers of sinking and of capture by pirates apply equally to both, and the rigors of the journey affect children less than adults, because they have a natural affinity for motion "and they are in motion for most of their growth." He reports that island-dwelling rabanim have written that every day they observe people traveling by sea to the ends of the earth with small children, only days old. He says that one such traveler told him personally that the younger a child is, the easier it is for him to tolerate the motion of the ship, "and he was pleased that he had arrived

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takes 29 days, 12 hours, and 793 *chalakim* (one *cheilek*=3½ seconds). The moon waxes until the midpoint of the cycle—14 days, 18 hours, and 396.5 *chalakim* from the *molad* ("birth" of the new moon)—so that is the deadline (Rama *ibid.*).



RAV ARYEH  
FINKEL

The Shulchan Aruch appears to extend the deadline until 15 full days from the *molad*. Later *Acharonim* debate this interpretation, but the Biur Halacha (*ibid.*) accepts it.

Some *poskim* (see sources in Piskei Teshuvos *ibid.* note 213) allow the *bracha* even beyond 15 days from the *molad*, provided it is still the 15th day of the month. (This is possible because Rosh Chodesh must be a full day, so it can begin many hours after the *molad*.) Consult a *rav* in such circumstances.

There is a yet more lenient view (cited by Biur Halacha *ibid.*) that allows *Kiddush Levanah* on the 16th, because the waning is not noticeable until 18 hours after the full moon (Shu"t Chasam Sofer O.C. 103). This view is not accepted as halacha, but some suggest that one who has delayed until the 16th should say the *bracha* without Hashem's name (Biur Halacha *ibid.*). The Chasam Sofer ruled that this opinion may be relied upon *bish'as hadchak* (if the delay was unavoidable).

on his own at the true halacha in this matter." He accordingly concludes:

And it appears to me that if the *bais din* of their city decrees that they should not travel due to these reasons, they are permitted to rely on those whose eyes have seen the opposite (of the *bais din*'s assertion that such travel is dangerous for children), because "'we did not see' is no proof."<sup>18</sup> This is like a *bais din* ruling that the sun has set while the sun is present before us, which is not an authoritative ruling.<sup>19</sup>

<sup>3</sup> Ksubos 110b.

<sup>4</sup> Shu"t Rashbash end of *siman* 1.

<sup>5</sup> *Ibid.* *siman* 3, and cf. *siman* 2.

<sup>6</sup> Shulchan Aruch E.H. 75:5.

<sup>7</sup> Regarding the question of whether this ruling is universally accepted or the subject of dispute, see Otzar Haposkim *ibid.* pp. 266-67.

<sup>8</sup> Shu"t Me'il Tzedakah *siman* 26 s.v. Vehalevush (this *teshuvah* is cited in Pis'chei Teshuvah E.H. *siman* 75 s.k. 6).

<sup>9</sup> For a survey of *Rishonim* who articulate the principle that danger excuses a person from the duty of emigrating to Eretz Yisrael, see Otzar Haposkim Vol. 19 pp. 265-66. Regarding the question of whether this principle is universally accepted or the subject of dispute, see *ibid.* pp. 266-67.

<sup>10</sup> Based on Kohellus 12:13.

<sup>11</sup> Trumas Hadeshen *cheilek* 1 *siman* 88.

<sup>12</sup> Yerushalmi Brachos 4:4.

<sup>13</sup> Bavi Brachos 54b. See this author's Value Judgment: What's a Life Worth? Bais HaVaad Halacha Journal, Sep. 17, 2020 (see the section "Four are required to give thanks," and n. 8 there) and here.

<sup>14</sup> Shu"t Mabit *cheilek* 2 *siman* 216. Cf. Otzar Haposkim *ibid.* pp. 267-69.

<sup>15</sup> See Dvarim 28:49.

<sup>16</sup> See Bava Kama 91b.

<sup>17</sup> See Yov 6:12.

<sup>18</sup> Shu"t Me'il Tzedakah *siman* 26.

<sup>18</sup> Mishnah Zvachim 12:4. Cf. Micropedia Talmudis: Lo Ra'nu Einah Rayah.

<sup>19</sup> Rav Landsofer does add one important final caveat to his permissive ruling, which we cited in Living off the Land, Part II.

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having a cosmetic surgeon improve her appearance via *chavalah* to the body is permitted, because it's

not *derech nitzayon*.

- The Shulchan Aruch (C.M. 420) says that violence may be used in self-defense if three conditions are met: The other party initiated,

one's intent is self-protection rather than revenge, and no alternative is available.

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