YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Israeli History**

**Rav Aviad Tabory**

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Dedicated in memory of Rabbi Jack Sable z”l and

Ambassador Yehuda Avner z”l

By Debbie and David Sable

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**Shiur #01: 14 May 1948**

**Declaring a State: To Dare to Declare**

On Friday, 14 May 1948, David Ben-Gurion declared Israel’s independence. The Hebrew date was 5 [Iyar](https://he.wikipedia.org/wiki/%D7%94%27_%D7%91%D7%90%D7%99%D7%99%D7%A8) 5708.

The declaration, which took place in [Tel Aviv](https://he.wikipedia.org/wiki/%D7%AA%D7%9C_%D7%90%D7%91%D7%99%D7%91), was scheduled about eight hours before the end of[the British mandate](https://he.wikipedia.org/wiki/%D7%94%D7%9E%D7%A0%D7%93%D7%98_%D7%94%D7%91%D7%A8%D7%99%D7%98%D7%99) at midnight on Shabbat. The leaders of the Jewish community in Palestine at the time were aware that the result of such a move would be an immediate invasion by the surrounding Arab nations.

The decision was not an easy one. The opposition, both external and internal, was strong and fierce. Many of Ben-Gurion’s advisers urged him to postpone the declaration. According to some historians, the final vote for the declaration was passed by one vote!

Even though the White House supported the move, the State Department was vehemently opposed. The following description of events by Clark Clifford, a close adviser of President Truman, is a good insight into the opposition faced by Israel:

The President regarded his Secretary of State, General of the Army George C. Marshall, as “the greatest living American.” Yet the two men were on a collision course over Mideast policy, which, if not resolved, threatened to split and wreck the Administration. British control of Palestine would run out in two days, and when it did, the Jewish Agency intended to announce the creation of a new state, still unnamed, in part of Palestine.

Marshall firmly opposed American recognition of the new Jewish state… Marshall’s opposition was shared by almost every member of the brilliant and now-legendary group of men, later referred to as “the Wise Men,” who were then in the process of creating a postwar foreign policy that would endure for more than forty years…

Some months earlier, during one of our weekly breakfasts at his ele­gant Georgetown home, Forrestal had spoken emotionally and frankly to me concerning his opposition to helping the Zionists, as advocates of the creation of a Jewish state were called. “You fellows over at the White House are just not facing up to the realities in the Middle East. There are thirty million Arabs on one side and about six hundred thousand Jews on the other. It is clear that in any contest, the Arabs are going to overwhelm the Jews. Why don’t you face up to the realities? Just look at the numbers!”[[1]](#footnote-1)

As mentioned before, within Ben-Gurion’s own cabinet, there was fierce opposition to declaring the state. On the day the cabinet had to vote on the proposal, discouraging news arrived both from the King of Jordan, who replied negatively to Israel’s request for a truce; and from Moshe Sharett, who informed Ben-Gurion that not only would America not recognize the new Jewish state, but in the inevitable war which would follow any kind of declaration, the United States would not come to Israel’s aid.

Nobel Prize laureate S.Y. Agnon describes the courage it took for Ben-Gurion to make the decision:

We all wanted a Jewish State. Of course we did. But we were afraid of saying so out loud. And when the test came, we thought perhaps we should not risk it, perhaps we should postpone it for a generation, but Ben-Gurion had the courage to proclaim the end of Jewish statelessness in our time.[[2]](#footnote-2)

Rav Tzvi Yehuda Kook[[3]](#footnote-3) explores the unique *kedushat ha-yom* (sanctity of the day) of Yom HaAtzma’ut in a passionate address. He explains that the greatest miracle of the establishment of the State of Israel was not the military victory of a fledgling state over the armies of enemy countries, but the remarkable courage to make that fateful decision and announce the establishment of an independent state.

He explains this idea by quoting the Talmud in *Bava* *Metzia* (106a) which states that a shepherd’s rescue of his flock from a lion or a bear may be considered a miracle. Where exactly is the miracle in this act? The Tosafists (s.v. *Mativ*) explain that the miracle is to be found in the shepherd’s “spirit of courage and willingness to fight.” This spirit of valor is a miracle from above, an inspired inner greatness spurring one to rise to the needs of the hour.

Similarly, Sephardic Chief Rabbi Ben-Zion Uziel writes about the ramifications of the declaration itself:

“This day you became a people to the Lord your God" (*Devarim* 27:9), because on this day we were released from the enslavement by a foreign kingdom in the Land of Israel that wanted to choke us to death.

This daring declaration has made the Jewish people into an independent nation. It has given courage to the soldiers of Israel and it has opened up the gates of the Land of Israel to all Jews scattered around the world. This declaration has enabled the Jewish people to take their rightful place as a nation amongst the nations of the world. "This is the day that God has made, let us celebrate and rejoice in it” (*Tehillim* 118:24)…[[4]](#footnote-4)

Both rabbis emphasize, each in his own way, the significance that the declaration itself plays within the miraculous events of 1948. Do these opinions have halakhic ramifications?

Since 1949, the religious world has celebrated Yom HaAtzma’ut as a religious day as well as a national holiday. The questions since then have been about reciting *Hallel, Birkat She-hecheyanu* (“Who has kept us alive”) and *Birkat She-asa Nissim* (“Who has performed miracles”). Many articles and books deal with these questions.

In one of the many discussions about reciting *She*-*hecheyanu*, Rav Yehoshua Menachem Ehrenberg[[5]](#footnote-5) argues against reciting this *berakha*. He explains the difference between Yom HaAtzma’ut and Chanuka in the following way: while the miraculous events of Chanuka actually took place beginning on 25 Kislev, the miracles which we celebrate on our Independence Day occurred either on the last day of the 1948 war, when the ceasefire was signed, or on 29 November 1947, the day the UN voted for the Partition Plan. Thus, no miracle actually occurred on the fifth of Iyar. Therefore, he concludes that the blessing should not be recited. Obviously, based on the views of Rabbis Kook and Uziel, one could argue the opposite.

The fifth of Iyar was designated by the Israeli government as the official day to celebrate Israel’s independence, and a law was passed to this effect. Israel’s remembrance day for fallen soldiers, Yom HaZikaron, was set on the previous day, the fourth of Iyar.

However, concerns about the desecration of Shabbat over the years have necessitated moving these days. Thus, if the fifth of Iyar falls on Friday or Shabbat, Yom HaAtzma’ut is moved back to Thursday and Yom HaZikaron to Wednesday; if the fourth of Iyar falls on Sunday, Yom HaZikaron is pushed off until Monday and Yom HaAtzma’ut to Tuesday. (This was codified by the Knesset in 1950 as an amendment to the Yom HaAtzma’ut law.) The result is that in most cases Yom HaAtzma’ut is not celebrated on its original date of the fifth of Iyar. The rabbis discuss the proper halakhic response to this situation.

Chief Rabbi Shlomo Goren argues[[6]](#footnote-6) that even if the national day has been changed to a different date, *Hallel* must be recited on the original date, the fifth of Iyar. His reasoning is that the sources that require us to recite *Hallel* on miraculous days seem to indicate that the prayer can only be recited on the actual day of the historical miraculous event. He quotes Rav MenachemMeiri (*Pesachim* 117a), who argues that any person who has been saved miraculously from danger may celebrate on that date every year a *yom tov* with the recital of *Hallel*. He then cites Chatam Sofer (*YD* 133), who believes that celebrating a *yom tov* and reciting *Hallel* for miracles may be based on a biblical source.

Both sources, argues Rav Goren, limit the celebrations to the actual date itself. Rav Goren maintains, as a matter of fact, that all salvation and victories in the 1948 war are connected to the fifth of Iyar, the day we declared our independence.

Another reason for his ruling has to do with the original decision to make Yom HaAtzma’ut every year on the fifth of Iyar. Rav Goren argues that the original decision did not take into account the possibilities of changing the date, and therefore we today cannot make these changes.

The custom today is to celebrate Yom HaAtzma’ut with *Hallel* on the day decided upon by the state. Rav Yaakov Ariel in an article[[7]](#footnote-7) on this topic explains that there is a precedent for this in Jewish law. When Purim falls on Shabbat (in our calendar, this would be when Shushan Purim is observed on Shabbat in Jerusalem and other walled cities), the reading of the *Megilla* is pushed back to Friday while the other *mitzvot* of the day are celebrated either on Sunday or on Shabbat. The reading of the *Megilla*, claims the Talmud (Rav Nachman, *Megilla* 14a), is parallel to *Hallel*, proving that *Hallel* can be recited on an alternative date.

Nevertheless, some might argue that we divide the *mitzvot* of the day differently. On the alternative date, we should celebrate the national side of Yom HaAtzma’ut together as an entire state. However, we should maintain the religious side of Yom HaAtzma’ut on Shabbat (as Rav Goren suggests). Rav Ariel strongly disagrees. In this case, he argues, we would be committing a terrible “sin” of creating a separation between religion and state. The message would be that the national side of Yom HaAtzma’ut is separate from the religious aspect.

Rav Yaakov Medan[[8]](#footnote-8) addresses this question and concurs with Rav Ariel. He brings to our attention that, as mentioned in the beginning, Ben-Gurion himself declared independence on Friday 14 May, even though the official date for the expiration of the mandate was 15 May. This was due to his consideration of not desecrating the Shabbat. We see, therefore, that even from the very beginning, the date of Yom HaAtzma’ut was based upon the consideration of not violating Shabbat.

1. Clark M. Clifford and Richard C. Holbrooke, *Counsel to the President: A Memoir* (New York: Random House, 1991); available at: http://jcpa.org/article/president-truman%E2%80%99s-decision-to-recognize-israel/. [↑](#footnote-ref-1)
2. S. Y. Agnon, *From Myself to Myself*, p. 422 [↑](#footnote-ref-2)
3. *Li-ntivot Yisrael*; this also appears in the introduction to Nachum Rakover’s *Hilkhot Yom HaAtzma’ut Ve-Yom Yerushalayim.* [↑](#footnote-ref-3)
4. Rav Moshe Tzvi Neria, *Ha-Torah Ve-hamelukha,* p. 169. [↑](#footnote-ref-4)
5. Nachum Rakover*, Hilkhot Yom HaAtzma’ut Ve-Yom Yerushalayim*, p. 240. Rav Ehrenberg (1904-1976) was a Hasidic scholar who served as the rabbi of the British detention camps in Cyprus and later as an *av beit din* in Tel Aviv. [↑](#footnote-ref-5)
6. *Torat Ha-Shabbat Ve-hamo’ed*, p. 432. [↑](#footnote-ref-6)
7. *Techumin*, Vol. 8, p. 59 [↑](#footnote-ref-7)
8. In the *Be’er Miriam* series, *Yom* *HaAtzma’ut Ve-Yom Shichrur Yerushalayim*, p. 268. [↑](#footnote-ref-8)