



HaRav Shaul Israeli zt"l  
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# HEMDAT YAMIM

## Parashat HaShavua

Lech Lecha, 11 Cheshvan 5777

### Not a Place to Worry about Time

Harav Yosef Carmel

Our *parasha* opens with a description of Avraham's "*aliya*" – "... and Avram was 75 years-old when he left Charan" (Bereishit 12:4). Despite this *pasuk*, *Chazal* had no problem in positing that the *Brit Bein Habetarim*, which appears in the Torah three *perakim* later, took place when Avraham was 70 years-old (i.e., five years earlier). One cannot even explain that that *brit* took place when Avraham was in Charan or Ur Kasdim because the *p'sukim* hint three times that it was done in the Land that would be given to Avraham and his descendants as an inheritance (see Bereishit 15: 7,16,18).

The *Brit Bein Habetarim* itself contains historical information, as Hashem declared to Avraham that his descendants would be in a foreign land and would be enslaved for 400 years (ibid. 13). This is one of the several instances in which Seder Olam Rabba questions whether this historical presentation can be taken literally and concludes that it cannot. (The listing of the generations who went down and those that came out make it clear that they could not have been slaves in Egypt for 400 years.)

Thus, we must conclude that as a fundamental, clear rule, the Torah is willing to write dates that require deeper consideration as to their significance because they cannot be accepted according to the simple reading. We will now try to explain the idea behind this phenomenon.

Many try to learn history from *Tanach*, which was given to us as a divine present, whether it be the history of the universe or of mankind. They believe that its simple reading can be used to date matters according to the order and numbers that are found in it. However, this is based on a misconception. The "dominion of time" relates only to the physical world, which exists according to the laws of physics. Where there is no matter (or energy), there is no time. The realm of Torah is the world of prophecy, which leads a person on a spiritual quest, relating to the unseen and imperceptible soul. Prophecy does not tell a person how to care for his body, but how to elevate himself spiritually and live a significant life with spiritual content. Such a life should be built on fear of Heaven and cause one to act based on the principles of kindness, justice, and ethics. It is therefore not surprising that "there is no early and late in the Torah," as we find in event after event in the Torah (the Ramban says that usually there is, but Rashi argues). That is the reason that so many introductory addresses throughout *Tanach* are obviously not meant to be taken literally.

This lack of chronological reliability teaches a lesson. *Tanach* is focused on the spiritual and not on the timing of the physical. Let us internalize this rule and look together for a better life on the basis of truth and peace. We will find spiritual significance even for physical things. We will then live above time and sanctify life, and time, to which it is so closely dependent.

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# Ask the Rabbi

by Rav Daniel Mann

## Using an Hourglass on Shabbat

**Question:** This past Yom Kippur, I was a few days after birth, and so a rabbi said that I could eat small amounts of food. He lent me an hourglass set to give the correct amount of time for “eating in intervals.” Is it always permitted to use an hourglass on Shabbat, or was it a special leniency because of my medical status?

**Answer:** Mazal tov! *Chazal* forbade measuring things on Shabbat. This comes up in the *gemara* in Beitza (29a) in the context of using utensils with measure markings in transferring produce from one person to another. It also comes up in Shabbat (157a-b) in the context of measuring a *mikveh* and other pools of water.

There seem to be two approaches to the underlying reason behind the prohibition, and they are likely to be complementary rather than alternative. The Rambam (Shabbat 23:13) connected measuring to Rabbinic prohibitions related to commerce, which itself is forbidden lest one come to write (Rambam *ibid.* 12). However, the Rambam (*ibid.* 24:5) also brings it among things that are forbidden as weekday activities (*uvdin d'chol*). The need for a second element of the prohibition makes sense because many of the applications discussed are totally unrelated to commerce. Likewise, the Mishna Berura in some contexts invokes the reason of commerce (e.g., 323:3, 324:4), whereas elsewhere (306:34) relates measuring to *uvdin d'chol*.

The Beit Yosef (OC 308) cites the Maharil, who was uncertain whether an hourglass is *muktzeh* because it is used for measuring. Indeed, it is not classical measuring, which is when one uses an instrument to measure an object. In contrast, here one uses an instrument to determine the passage of the non-physical entity of time. While the Shulchan Aruch (OC 308:51) leaves the matter as a doubt, the Rama (*ad loc.*), like the Maharil, says that the *minhag* is to prohibit an hourglass. This is the ruling of contemporary *poskim* as well (see *Shemirat Shabbat K'hilchata* 28:35). (*Poskim* agree that a wrist watch is permitted – see Mishna Berura 308:168; *Shemirat Shabbat K'hilchata* 28:20. The distinction between this and an hourglass that makes most sense to me is that a watch tells you what time it is, whereas an hourglass measures the “distance” between point A and point B in time).

So indeed, the ruling you received was due to your special need. The idea that measuring is permitted for cases of special need is explicit in the *gemara* (Shabbat 157b) regarding measuring a *mikveh* to see if it is still valid, because this is a *mitzva*. *Rishonim* extend the leniency from *mitzva* use to the needs of a sick person. The Tur (OC 306) brings discussion of an ancient “alternative medicine” procedure for one with a headache that included measuring a certain distance and then saying an incantation. One authority forbade it, one permitted because the measuring is not done in a serious manner (see Shabbat 157b), and the Maharam MiRutenberg permitted it because healing the sick person is a *mitzva*. The Shulchan Aruch (OC 306:7) accepts the latter opinion. It is clear from the context of the above discussions that the needs of a sick person in this regard include one who is not dangerously sick (see also *Shemirat Shabbat K'hilchata* 28:35). *Tosafot* (Shabbat 126b) explains that we are more lenient regarding measuring for a *mitzva* than for most Rabbinic prohibitions in which a *mitzva* is not sufficient (see Shulchan Aruch, OC 328:17). Measuring, which is forbidden only because of *uvdin d'chol*, is more lenient than most Rabbinical prohibitions.

In your case, there are actually two ways of looking at how it was a *mitzva*. One is that it was necessary to allow you to eat according to the ruling you received, so it was the needs of a “sick” person. The other way is that given that you were allowed to eat, the hourglass helped you fulfill the *mitzva* of lessening the necessary violation of eating on Yom Kippur. Either way, it was permitted for you, even though without a special reason it would have been forbidden to mark the passage of time with an hourglass on Yom Kippur.



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# Ein Ayah

(from the writings of Harav Avraham Yitzchak Hakohen Kook, z.t.l.)

## Getting Beyond the Needs of a Fleeting Life

(condensed from Ein Ayah, Shabbat 2:271)

**Gemara:** [Rabbi Shimon and his son] left [the cave]. They saw people who were plowing and sowing. They said: "They are neglecting eternal life and occupying themselves with fleeting life."

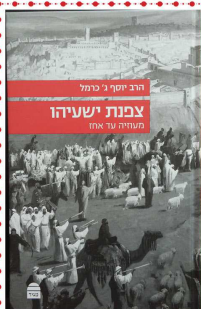
**Ein Ayah:** The greatest individuals protest the evil they see in the world, as it oppresses people and deprives them of the light of their lives. However, as much as these wise and lofty people may oppose evil and try to remedy problems, they will not be able to rid the path of life of the obstacles that evil plants along the way. This is because evil comes from the situation that one leaves an ideal situation and lowers himself to be a slave to his physical needs, which confuses his mind and pollutes his heart. Thereby, life becomes one continuum of bad things that result from a person's deterioration.

Actually, this deterioration is something about which he has a choice. After all, man can elevate himself enough to realize that he can reach contentment by completing his divine image with the light of wisdom and uprightness, which emanate from the "river that flows from Eden." When this light shines in the midst of one's heart, he can live without toil. This is because the elevated light of the pleasantness of knowledge and justice gives pleasure to one's life and elevates his spirit. Then, he would not need the burden decreed upon society to bring their bread through the sweat of their brow and be slaves to the lower elements of the life of the body and the country. Rather, one's body can grow strong and his spirit can soar to the point that simple fruit satiates him, and he could live happily in any climate.

Only then, when one reaches the level to appreciate closeness to Hashem by grasping truth and justice, does he have true peace in his heart in a manner that allows him to draw close to a life of health through nature. Then he does not have a need to occupy himself with mundane activities, for he has enough to make him happy. Mundane life will not bring disease and hardship, and he will have a long life full of light and happiness.

Since the average man fails to reach his potential, it is no surprise that life is flawed, and no one can solve society's problems. That is why most good people ceased criticizing the evil kingdom, as they realized that it is only one element of the evil that besets mankind's system. One side of the problem is that man has to work the land through so much toil and, in general, exert himself to provide his material needs. Hashem does this to distract the person from the lowliness of his desires, which he would pursue if he had extra time and energy on his hand instead of pursuing a life of spiritual light. That is why he needs to be busy with basic physical attainments because without toil, many people will lead wild lives and look for all sorts of things to fulfill their imagination.

But why should one get to this point, when he can throw off the burden and fill his mind with contemplation of holy things that he holds in his soul and enjoy his connection with Hashem? Then nature will be blessed and apparently miraculous bounty can become normal, allowing a person to not need to occupy himself with significant toil on daily material life. Therefore, [someone on the level of Rabbi Shimon felt the need] to make a general protest about over-dependence on standard material needs, which is the source of many bad things, in order to raise the banner of mankind. The phenomenon of neglecting eternal life in favor of fleeting life lowers the spirit and pollutes the heart, and lowers one's spiritual aspirations until the only way to contain him is by making him a slave to a ploughshare. By returning to the higher level, everything can be remedied instantly, and only higher-level *teshuvah* is necessary.



### Tzofnat Yeshayahu - Rabbi Yosef Carmel

The Prophet Yeshayahu performed in one of the most stormy and dramatic periods of the Israeli nation's life, a period of anticipation for the Messiah that was broken by a terrible earthquake, and also caused a spiritual and political upheaval. The light at the end of the tunnel shone again only in the days of Chizkiyah.

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# P'ninat Mishpat

## Fixing Status of a Non-Standard Apartment – part III

(based on ruling 74031 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiffs (=p) bought from the defendant (def), for 910,000 shekels, an apartment in an old building that does not have a building permit or a Tofes 4 (certificate of fitness for occupancy). It is also not connected directly to meters of the electric and water companies (they pay through a neighbor). After p/ complained to the municipality, the latter issued an order to destroy the building (it may never be acted upon). Def did not inform p/ of these deficiencies but argues that p/ could have easily found out themselves. P/ demand that def take action to fully legalize the apartment/building, the feasibility of which is under dispute between the sides. Alternatively, p/ demand 400,000 shekels compensation. Def claims that the building's legal status does not affect the apartments' value. He offered p/ to try to sell the apartment, and if they cannot get a price that is fit for normal apartments, def will buy it from them at full price. Def made several other offers involving buying back the apartment with certain conditions, but p/ want to stay in the apartment.

**Ruling:** [We have seen that def did not obligate himself by agreement to make the apartment fully legal and while its status is grounds for bitul mekach (nullifying the sale), p/ is not interested in carrying that out. The present question is whether the laws of sales require the seller to fix blemishes in the sales object instead of bitul mekach.]

The Shulchan Aruch (Choshen Mishpat 232:5) says that if a sold property has a significant blemish and the buyer wants to invoke *bitul mekach*, the seller can demand to reduce the price enough for the buyer to have it fixed rather than do *bitul mekach*. The Rama (ad loc.) says that the seller can make that suggestion only when the blemish is somewhat external but if the essential sales item is significantly lacking, the buyer's right to *bitul mekach* is total.

The classical *poskim* do not discuss the opposite case, where the seller is willing to do *bitul mekach* and the buyer demands to reduce the price or enable the flaw to be fixed. Among later authorities, the Ulam Mishpat (ad loc.) says that when the sale is not void, the seller has to fix what he can. The Lev Meivin (Shut, CM 144) implies that there is no such obligation on the seller, even when he has the opportunity. However, all seem to agree (see also Netivot Hamishpat 60:10) that the seller's obligation to see a sale through is only when it is within his ability to do so. When he does not have a sure chance, he is not obligated to try. In our case, there is no guarantee that the building's other occupants and/or the municipality would enable def to push through the necessary changes, and therefore he is not obligated to try.

We urge p/ to consider, after studying this ruling, accepting def's offers to buy back the apartment under various conditions.

Since def violated selling a flawed apartment at above its proper market price, some say that he has a moral obligation to return the difference (see Pitchei Choshen, Onaah 10:(6)). His actions also caused p/ anguish and legal expenses. Therefore, *beit din* exercises its right to obligate a side in payment beyond the letter of the law, and rules that def must pay 10,000 shekels.

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