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# HEMDAT YAMIM

## PARASHAT HASHAVUA

Behar, 10 Iyar 5774

### Belief and Reliance

Harav Yosef Carmel

The *Shemitta* year is approaching, and there is a need to prepare ourselves halachically and practically. *Parashat Behar* is a great time to do so, as it contains the most complete treatment within the Torah of the topic. Besides teaching the basic *halachot*, the Torah also promises that keeping the Torah's precepts will enable us to live in the Land securely and enjoy a great deal of its produce (Vayikra 25:18-19).

In order to fulfill the *mitzva* of *Shemitta*, one must have a high level of belief in Hashem. The Torah, though, allows us to ask the pertinent question: "What will we eat in the seventh year?" (ibid. 20). The answer is that Hashem will give enough produce in the sixth year to last for three years (ibid. 21). This will ensure the viability of the economy. While this appears to be asking the people to rely on a miracle, it is not so, as the tri-year growth takes place before the seventh year, and the refraining from sowing starts thereafter.

Most Rishonim posit that the promise of extra produce applies only when the obligation to keep *Shemitta* is of a Torah level, and the great majority of *poskim* posit that nowadays the obligation to keep *Shemitta* is only Rabbinic. Therefore, in our days there is no promise of extra produce.

This has caused a difficult situation. While there is a desire to keep the laws of *Shemitta* fully even when they are only Rabbinic, as we are careful to keep all Rabbinic laws, the leaders of the last generations looked for ways to ensure the survival of the people and the State of Israel while impacting the laws of *Shemitta* minimally. Unfortunately, the only way to do this on a national level is by selling the fields of *Eretz Yisrael* to non-Jews. The sale is temporary, and it helps us survive while not violating the laws of *Shemitta* at a time when there is no Divine promise. The obligation to find solutions that are responsive to the community as a whole was the approach of Rav Avraham Yitzchak Kook and his students, prominent among them was our mentor, Rav Shaul Yisraeli. This solution creates a need to study the laws of *Shemitta* and *Yovel* seriously, with the hope that we will soon be able to fulfill them in their entirety, on the Torah level and with the Divine promise.

Let us begin the study right away, as it a symbol of the *mitzvot* in general. After all, the introduction to these *halachot*, "Hashem told Moshe at Mt. Sinai," prompted the Rabbis to comment that all the *mitzvot* were given, in their general precept and their specifics details, at Sinai.

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# Ask the Rabbi

by Rav Daniel Mann

## Sunbathing on Shabbat

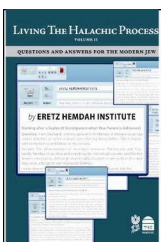
**Question:** Is it permitted to sunbathe on Shabbat? Does it depend on the purpose of the sunbathing: health benefits, tanning, enjoyment?

**Answer:** We will not relate to issues of *tzniut* that can arise from sunbathing, which are of course important. Our discussion should also not be construed as a statement on the medical advisability of the practice. We just remind you that a certain amount of exposure to the sun can be beneficial (vitamin D, etc.), whereas over-exposure can be dangerous. Relatively recent *poskim* have discussed the matter, and the main discussions relate to the *halachot* of taking medicines on Shabbat and the *melacha* of *tzoveia* (coloring).

Regarding one who wants to sunbathe due to a specific medical condition, there are too many variables to address in this forum. If it is for general health benefits, the matter is similar to the discussion about vitamins on Shabbat. The Shulchan Aruch (Orach Chayim 328:37) says that one may eat/drink medically-oriented foods that are eaten regularly by healthy people. However, the Magen Avraham (328:43) says that this is so only when he is eating the food for its food value, not when he is doing so entirely for its medicinal value. Igrot Moshe (OC III:54) says that this stringency is true only when the person, while not sick, needs strengthening, but not when he is simply trying to keep his body "well stocked" so that he will not deteriorate. Some are more stringent than this (see conditions to permit vitamins in Shemirat Shabbat K'hilchata 34:20). In any case, since sunbathing is something which people in our times do not usually associate with its health benefits, we posit that the limitations on medicines do not apply to it (see Yalkut Yosef, OC 328:78).

The question of coloring the skin is fascinating. Coloring applies to the human body, as we know from the prohibition of certain cosmetics on these grounds (Shulchan Aruch, OC 303:25). While no one would forbid going outside in a place where he could get a sunburn or a tan, perhaps it is forbidden to purposely get one, especially if he take steps to increase the extent of the coloring. Indeed some *poskim* do forbid it (Minchat Yitzchak V:32; Az Nidberu II:30). Shemirat Shabbat K'hilchata (14:44 and 18:(70)) implies that it is permitted because the person does not color through an action; rather he puts himself in a place where the sun does so. (Rav Neuwirth and his rebbe, Rav Auerbach, use this logic as part of their leniency for wearing photo gray lenses on Shabbat – see *ibid.*). Others add that the process is drawn out and has no immediate impact (see Torat Hamelachot 15:25). (Some *melachot*, such as cooking, always involve putting an object in a place where an outside force will have a gradual impact; the question is whether coloring is in this category.) Another claim is that the tanning is a natural, not artificial, color for skin (Nishmat Shabbat 215). It is hard to find conclusive proof from classical sources on these claims. However, for us, a general principle of "halachic philosophy" tips the scale. Since it is unreasonable to assume that the Torah and *Chazal* forbade walking in the sun on Shabbat, even if a person likes tanning, it is hard to imagine that the Torah/*Chazal* extended *tzoveia* to coloring the skin in the sun. Therefore, even purposeful tanning would be permitted.

Therefore, while not being particularly enthusiastic at the prospect of someone spending a good part of his Shabbat sunbathing, we would not forbid it on halachic grounds. Do realize that according to the consensus of *poskim*, it is forbidden to smear sunscreen cream over one's body or part of it, due to the *melacha* of *memachek* (see *Orchot Shabbat* 17:20). One cannot justify using sunscreen due to an acute medical need if the need arises from one's desire to sunbathe. It is permitted to spray liquid sunscreen (*ibid.*). This is not considered medicinal because its purpose is not to strengthen the body but to shield one from external injury (see Shulchan Aruch, OC 328:27, which permits covering a healing wound with a bandage).



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# Ein Ayah

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

## Work, Wealth, Light – If Done Properly

(condensed from Ein Ayah, Bikurim 29-30)

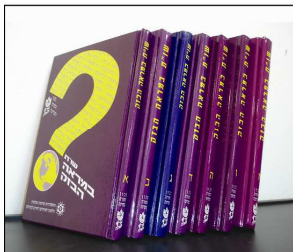
**Mishna:** [On the way to Yerushalayim with the *bikurim* (first fruit)] the bull would be walking before them, with his horns coated with gold and a wreath of olive on his head, and the *challil* was playing before them until they got close to Yerushalayim.

**Ein Ayah:** When a nation has a lofty goal, it celebrates its approach to value work because only through a strong work ethic will the nation enjoy a straight and clean life. If it had no greater aspiration than a life of physicality, there would not be a good reason to want riches and prominence, whereas if there is a grand agenda to promote in the world, the nation would desire that its work bring it riches. The riches are not important in and of themselves but as a tool to bring light to itself and the whole world through the light of its true wisdom, the light of Hashem. This is the goal of Israel.

This explains the elements of the procession. The bull represents work, as the *pasuk* says, “A multitude of grain through the strength of the bull” (Mishlei 14:4). The coating of gold shows that hard work is that which brought the riches, not plundering foreign armies. However, the purpose of it all is represented by the wreath of olives, which represents the light of the Torah, as it does in the *menora* in the *Beit Hamikdash*. (The *gemara* in Bava Batra 25b tells us that one who wants to be wise should go to the south, as the *menora* is in the south of the Beit Hamikdash.) Shir Hashirim Rabba (4:1) points out that the dove brought back an olive branch to Noah’s ark because it is something that brings light. All this shows that work brings riches, and riches are a crown to show off the wisdom, so that all will say: “Hashem will be great above the border of Israel” (Malachi 1:5). This light represented by the olives is the point of the procession.

The *challil* [a type of simple musical instrument; it is not clear what its relation to the modern instrument of that name is] has a special significance in this procession. It is unique in that it is used both at weddings and at funerals (see Bava Metzia 75b). In fact, full *simcha* is most special when it is accompanied by a feeling that one was protected from potential tragedy. We can connect this to the idea of the three elements to strive for as follows.

The bull represented the positive elements of hard work, the gold represented the riches which we deem positive, and the olives represented the light of Torah wisdom, which is the ultimate goal of all of this. However, all of these wonderful tools could be horribly destructive for the nation if used incorrectly. Hard physical work can cause a person to focus on the material side too much. Riches can cause one to focus on chasing worldly pleasures, which pollute the heart from appreciating true wisdom and G-dly ideas. Even wisdom can be used for bad (see Yeshaya 47:10). The antidote to these dangers is to follow the path of Hashem that “comes out of Yerushalayim.” We can be sure that these successes that bring fortune to the nation can raise its level. The *challil*, which can be used for mourning as well as for happiness, plays to a happy beat in the case of *bikurim* until they get close to Yerushalayim, where Hashem commands blessing upon us.



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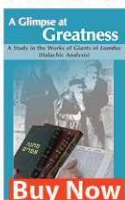
## “Present” Due to a Threat

(based around Maharit 4)

*Reuven died and Shimon threatened Reuven's inheritors that he would go to the non-Jewish courts, according to whom he could also be recognized as an inheritor. Under this pressure, Reuven's inheritors decided to appease Shimon with a monetary settlement. Subsequently, Shimon died, while some of Shimon's assets were in the hands of Reuven's inheritors, who now want to seize those assets to recover that which Shimon had taken from them. May they do so?*

It is clear that Shimon did not acquire that which Reuven's inheritors gave him out of fear, as there is no more classical case of *oness* (extenuating circumstance of unfair pressure) than this. It is true that the Maharik (185) applied in similar cases the idea that a person sometimes threatens more than he is actually planning to do, and so one can claim that Reuven's inheritors should not have felt that much pressure. However, that was talking about a case where the threat was to do something external from which the person threatening would not have gained. In this case, though, Shimon threatened to go about receiving a portion of Reuven's estate and that is exactly what he continued doing until he received it under pressure. Even if we compare this case to that of the Maharik, the Maharik does not say conclusively that that which was given under pressure was valid but that it is not clear. In his case, that was sufficient so that the one who received could hold on to what he had. However, in this case, where Reuven's inheritors are already in possession of the assets in question, it is they who can hold on to them due to doubt.

There is also ample room to disagree with the Maharik (185). The Maharik is based, to a great extent, on the fact that the giver did not make a *moda'ah* (disclaimer). However, the consensus is that when there are witnesses who are aware of the *oness*, a *moda'ah* is not necessary. While the Rosh does not seem to be in agreement, one should realize that the Rosh clearly says in a case where one side gave a present without compensation, a *moda'ah* is not necessary, if witnesses were aware of the *oness*. Again, even the Maharik only spoke about a not fully clear *oness* and treated the matter as a *safek*. While there is much to argue with on the Maharik, in this case all can agree that Reuven's inheritors can keep that which is already in their hands.



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