



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

Tzav, 10 Nisan 5780

Two Types of Shabbatot

Harav Shaul Yisraeli – from Shirat Hageula, p. 34-36

There were two stages to the liberation from Egypt: 1) The first night of Pesach. 2) The end of the interaction with what remained of Egypt, after the splitting of the sea. Why couldn't it occur at one time?

The *gemara* (Shabbat 118b) says that had Bnei Yisrael observed two Shabbatot, they would have been immediately liberated. This apparently refers to two types of Shabbatot: the standard one commemorating Creation; the holidays that Bnei Yisrael sanctified by their setting of the calendar. The Torah calls the first day of Pesach "Shabbat," so that the count of the *omer* begins the day after Shabbat (Vayikra 23:15). Why is this called a Shabbat, and why must Israel sanctify it?

Almost everything is in Hashem's hands, but man is charged with sanctifying the mundane. Man consists of contrasting elements. He is made from earth, but Hashem blew His Spirit into man's nostrils. While the individual man struggles with internal contradictions, it is much more complex for a whole nation. While an individual can separate himself from the world of physical activity, an entire nation cannot. They must sew, harvest, etc. These take time and can "swallow up" the persona the person wants to be.

When our forefathers were a family in Egypt, an individual could decide to have someone else take care of his physical needs. However, a nation needs to fulfill the goal of "I will bring you to the Land ..." (Shemot 6:8). Even if, initially, they may have inherited riches from those they conquered (see Devarim 6:11), they had to start working the Land themselves. Hashem wanted them to be like all the nations, but also very different from other nations. They needed to learn to sing, but not of struggles, harvest, or first fruit. The experience of harvest needed to revolve around the rules of the Torah; the experience of the first fruit needed to be connected to the *mitzva* done at the *Beit Hamikdash*. Actions and times needed to be sanctified.

These matters are related to the second Shabbat. Only Israel, as holy human beings, with spirits and bodies, can build this Shabbat; it cannot be divinely dictated. That is the reason that the harvest festival (Shavuot) is to be prepared for from the day after "man's Shabbat."

How do we create this Shabbat? It is by bringing a *Korban Pesach*, which is unique in that the main part of the *Korban* is eating rather than that which was put on the altar. Everyone, old and young, has to take the material meat and eat it in a manner of sanctification. This was a preparation for the full exodus, which had to be not just physical but also spiritual, so that something all new could emerge – a holy nation. Then one can start reaping the grain without it causing boastfulness; he can start preparing for the receiving of the Torah, to complete the liberation.

Before the events at the sea, slavery was over but there was not a move from subjugation to liberation. We could have built an independent nation, but it might have looked like a Jewish Egypt, with all the technological and societal developments. Only after eating the *Korban Pesach* and appreciating the beauty of a holy, physical national life, Hashem could destroy Egypt in a manner that we would never see them again. Then, the people could sing – not just about the past, but for what it did for their future (*yashir*).

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Those who fell in wars for our homeland. May Hashem avenge their blood!



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by Rav Daniel Mann

Key Accessibility for Non-Jew Who Buys Chametz

Question: *Mechirat chametz* forms ask me to identify someone with access to our key to the *chametz's* location if we are away. Is this necessary considering the non-Jew never comes to get the *chametz*?

Answer: *Mechirat chametz* has developed over the centuries. In the time of the *Rishonim*, it started to be used as an arguably fictitious sale, i.e., it was clear the sale would be reversed after Pesach (see Terumat Hadeshen I:120; Shulchan Aruch, Orach Chayim 448:3). However, it was expected that the non-Jew would physically remove the *chametz* from the Jew's house (Shulchan Aruch *ibid.*). The current situation in which *chametz* remains within our homes raises technical problems regarding the laws of *kinyan* and heightens the *ha'arama* (deception) issue.

The concern that *ha'arama* disqualifies the sale is one of the major reasons behind a requirement raised by several *Acharonim* (including the Bach, OC 448 and Shulchan Aruch Harav, OC 448:13) to give the buyer the key to the room that holds the *chametz*. The Taz (OC 448:4) rules that if the non-Jewish buyer lacks independent access to the room and certainly if the seller has kept the key to a locked room with the *chametz* within, the sale is invalid. This is likely because of concern about *ha'arama* (see Noda B'yehuda I, OC 18), but there are other explanations for some *poskim's* requirement of giving the key to the buyer: It might be a requirement of the *kinyan* process or it may remove financial responsibility for the *chametz* from the seller to avoid *bal yeiraeh* (prohibition on possession of the *chametz* he is essentially guarding in his home – see Shevet Halevi VII:55).

The consensus among contemporary *poskim* is to not require giving the key. The Noda B'yehuda (*ibid.*) posited that the Taz's concern that *ha'arama* could disqualify the sale was overblown because proper actions and words of sale are not undone by unspoken questionable intentions.

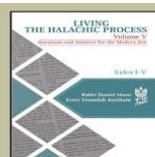
Furthermore, many say that giving over of a key is less important than it once was. The Biur Halacha (to OC 448:3) says that when a significant amount of *chametz* is sold and the non-Jew has not yet paid for it, the seller can monitor what is being taken and therefore need not provide free access. Several *poskim* (including B'tzel Hachochma VI:34) quote the Maharash Engel as saying that when the sale is done through an agent (e.g., the rabbi), not giving the key is not problematic. The Aruch Hashulchan (OC 448:23) and Divrei Malkiel (IV:22) argue that now that one non-Jew buys a whole community's *chametz*, it is no longer feasible to give him everyone's key. Therefore, not doing so is not a sign of *ha'arama*.

However, most of the *poskim* who do not require giving a key, do require close to instant access to the *chametz*. Some of them mention allowing the non-Jew to enter the house without permission. Some mention letting the buyer know where he can get to the keys promptly.

There is no requirement regarding a standard, financially based sale in which the object remains for a while at the seller's place, that the buyer must have instant access. If one buys a car from a dealer, must he make the car available 24/7?! As long as the seller does nothing artificial to delay the process there is no legal problem. So too, presumably if there were a legitimate reason that the seller could not leave access to the *chametz*, the sale would still be halachically effective. Apparently, the sensitivity which caused the requirement of quick access that we find in most contemporary sales forms stems from the general concern that the whole sale is suspect to claims of *ha'arama*. Let us review – one person buys a huge amount of random *chametz*, which remains in the buyers' homes, and the sale will be reversed right after Pesach. So it is logical that if classical *poskim* required giving the key, that nowadays we should at least give him the ability to get to the key promptly; this easy step gives the sale a more practical feel. Therefore, we should keep the *minhag* to write a contact person even if it is not fundamentally required.

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Ein Ayah

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

Two Styles of Building

(condensed from Ein Ayah, Shabbat 10:17)

Gemara: Braiding the hair and sticking down the hair are violations of the Shabbat work prohibition of building. Is that a manner of building? Yes, as Rabbi Shimon ben Menasia said: “Hashem built [Adam’s] rib [to make Chava]” (Bereishit 2:22). This teaches us that Hashem braided Chava’s hair and brought her before Adam. This is in line with that which in the cities of the sea they call braiding, *binita* (from the root of building).

Ein Ayah: There are two purposes for building. There is the utilitarian purpose, to create something that protects from cold and rain. The second purpose is to broaden man’s thought process by taking a functional building and making it one that has grandeur and glory. This is described by the *pasuk* “Like the grandeur of man to live in a house” (Yeshayahu 44:13).

The main unique strength of mankind is that his life is founded upon spirituality. Therefore, even those things that are done in order to provide necessities and bring benefits in the simple physical world can go and rise up to the level of grandeur, which uplifts the human spirit. This results in all sorts of elements of improved life. At the end of the process, when all the “impurities are burnt out of material” (i.e., man is adorned), they will be able to bring all of mankind to a lofty level, which is the goal of the foundation of grandeur that lays in the soul of man.

For this reason, this second level of building was present in the first creation of the “eternal building” (based on the reference to Chava found in *sheva berachot*) which man has (i.e., from whom all future generations will come). It was at this point that this reliable foundation was set (i.e., the functional building is not sufficient, but it is worthwhile for it to be adorned). This raises the emotions from the lower level of the natural power, which the animalistic side requires, to the higher level of grandeur, which softens and elevates matters. This is the foundation behind the world of building in all of its meanings, based on his internal value. It is for this reason that the first building was described as “Hashem built the rib,” as it represents the grandeur which was present in the process of building by the Creator, the One who made the form. This founded life that keeps the world continuing with the kindness of the G-d of the universe, Who prepared all future generations by decreeing the world into existence.

This is the background of Hashem braiding Chava’s hair and presenting her to Adam. It was in this way that the idea of beauty was imprinted upon the nature of the world. It is the emotional element that is added to the necessary part of that which was built. It is for this reason that braiding and sticking down the hair are on practical halachic grounds considered within the halachic category of the Shabbat prohibition of building.



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.

"Tzofnat Yeshayahu – from Uziya to Ahaz" introduces us to three kings who stood at this crossroad in our nation's history: Uziya, a king who seeked God but was stricken with leprosy because of his sin; Yotam, the most righteous king in the history of our people; And Ahaz, the king who knew God but did not believe in His providence.

In his commentary on the prophecies of Yeshayahu, Rabbi Yosef Carmel, Head of the Eretz Hemdah-Gazit rabbinical court and a disciple of Rabbi Shaul Israeli zt"l, clings to the words of Hazal, our sages, and to the commentaries of the Rishonim, the great Jewish scholars of the middle ages, and offers a fascinating way to study Tanach. This reading attempts to explain the Divine Plan in this difficult period and to clarify fundamental issues in faith. Tzofnat Yeshayahu reveals to the reader the meaning of the prophecies in the context of the prophet's generation and their relevance to our generation.

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P'ninat Mishpat

Leaving an Apartment with Electrical Problems

(based on ruling 71041 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The defendants (=def) rented an apartment adjoining their landlords, the plaintiffs (=pl), starting from September, and they signed, only in November, a six-month contract for 3,000 shekel a month. At the end of January, def left the apartment and canceled the checks for the last three months. Pl demand that they pay until the end of the rental contract. Def counter that they were allowed to end the rental because of the apartment's electrical problems, which proved problematic when winter began. Also, the fact that the apartment is an extension of pl's house causes problems, including that their shared electric grid causes short circuits and that the yishuv does not give def residents' rights. Pl say that def's problems were largely due to misuse of the appliances and that an electrician came to explain how to use them. Pl claim that def is leaving because they do not want to live in the yishuv. Pl has been unable to rent out the apartment, claiming that it is because def spoke negatively about it. Def also returned it in disrepair. The full claim is 9,000 shekels for three months of rent and another 3,049 shekels for various expenses related to the apartment and the adjudication.

Ruling: The electrician testified that the rental apartment has use of 60 amperes (more than pl has), which should be enough. If pl uses too much electricity, the electricity in both apartments blows. Beit din reasons that the sharing of an electric box with pl and the inability to remedy a circuit breaker stoppage when pl is not at home are serious flaws. The fact that def lived in the apartment for a few months before leaving it, and even before signing the contract, does not preclude making such a claim. Although usage after discovering a blemish precludes backing out (Rambam, Mechira 15:3; Shulchan Aruch, Choshen Mishpat 232:3), beit din accepts def's claim that they did not know because pl did not tell them of the joint electric box, and this became clear only when guests tripped the circuit breaker on Shabbat. The fact that pl has not been able to rent out the apartment months after def's leaving supports the contention that the apartment is more fit for short-term, vacationers' rentals, for which it used to serve.

Regarding the small claims, def admits they were supposed to pay for utilities, and since they did not respond to the details of pl's claims, we accept pl's numbers based on beit din's right to use its discretion. Regarding pl's claim that the air-conditioner is no longer working properly, by contract this is def's obligation. We do not accept def's claim that they received it that way because they used it for several months. Regarding painting the apartment, although def had a right to leave early, they were there long enough for there to be logic for them to paint, and as a compromise they will pay 1,500 shekels toward it. In all, def owes pl 2,682 shekels.

We daven for a complete and speedy *refuah* for:

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