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# HEMDAT YAMIM

## Parashat HaShavua

Vaetchanan, 11 Av 5780

### Backward and Forward

Harav Yosef Carmel

The Torah recommends, in our *parasha*, to inquire “to the first years that were *lefanecha* (in front of you) whether something as miraculous as the giving of the Torah occurred” (Devarim 4:32). What are the first years? The classical commentators do not explain, and Rashi points out that you do not “ask years” but you “ask about years.” In order to understand, we need to look at the terms *l'fanim* (in front) and *l'achor* (to the back), as used in *Tanach*.

We find in many places that *l'fanim* means in the past. Devarim 2:10 uses that term to refer to the period in which the *Eimim* once lived in the land of the Moavites. Yehoshua (11:10) talks about how Chatzor was *l'fanim* the head city of the nations of the area. Shmuel (1:9:9) relates how *l'fanim*, what we now call a *navi* was once called a *ro'eh*. In all of these cases, the word which literally could be translated as in the direction of the face (as opposed to the back) talks about “back” in history, not the times that are in front of us in the future. The simple explanation in our vernacular is that *lifnei* does not only mean in the direction of the face, but before.

In the opposite direction, the word *l'achor*, which can be translated as in the direction of the back, refers to later on. In describing the magnitude of the locust in Egypt, the *pasuk* says: “...*l'fanav* there was not such a thing and *acharav* there will not be” (Shemot 10:14). Here too, even though the back would seem to point back to the past, the idea is that *acharav* means afterward, which actually is in the future. Thus, Kohelet (3:22) can say: “... it is his portion, for who will bring him to see that which is *acharav*.” He repeats that usage in Kohelet 6:12.

But we can give the following philosophical perspective on this interesting etymological phenomenon of two ways of looking at the past and the future. The proper way to know how to look into and prepare for the future is by looking behind us into history. Only if we can learn from the experiences of the forefathers, will we internalize their path and be able to march along the trail that they blazed for us. We can then plan our future, even though it is shrouded in fog and secrecy. The attempt to march forward and look to the future, with the assumption that the new is better than the old, is like walking with one's eyes shut, for one will never know what will be after him.

Specifically in a generation of technological advancement, which can bring great blessing, the best way to advance is by using new scientific ideas in light of what we have seen in our past. Then that which is behind us (i.e., the future) will be safer. (See more on this in Tzofnat Yeshayahu from pg. 272 and on, including in the footnotes.)

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# Ask the Rabbi

by Rav Daniel Mann

## Touching Torah Scrolls

**Question:** I know that people are careful not to touch the parchment of a *sefer Torah*. Does this apply to other scrolls, like *haftara* scrolls and *Megillat Esther*?

**Answer:** The *gemara* cites R. Parnach's statement in two places: "Whoever holds a *sefer Torah* naked (i.e., with an uncovered hand (according to almost all)) will be buried ... without the *mitzva* [he was involved in]." In *Megilla* (32a) it is a free-standing statement in a *sugya* about the rules of *laining* and *gelila*. In *Shabbat* (14a-b) it comes up in the context of a Rabbinical decree to treat several objects, including "a book" as *tameh*, so that if they touch *teruma*, they make it *tameh* and disqualified. The *gemara* explains that people used to keep *teruma* and holy scrolls together because both are holy, but this attracted mice, which nibble on the scrolls, so they enacted that such scrolls disqualify the *teruma*. The *gemara* also explains that hands before *netilat yadayim* are *metameh teruma* because they are often dirty. The *gemara* also mentions such a decree on hands that touched a *sefer*, since this violated R. Parnach's idea, and *Tosafot* (ad loc.) posits that this is true even if one did *netilat yadayim* soon before touching the *sefer*. The *gemara* discusses why there was a need for two different decrees regarding hands.

There are different approaches in the *Rishonim* (see Rambam, *She'ar Avot Hatumah* 9:5 & *Sefer Torah* 10:6; Mordechai, cited by the Beit Yosef, *Orach Chayim* 147) as to whether, nowadays (when we don't eat *teruma*), the issue of touching a *sefer Torah* is still connected to *tumah*, proximity to *teruma*, or dirtiness of the hands. (The analysis is too complicated for this forum – see the Aruch Hashulchan's, OC 147:1-7 overview). If it is an independent matter, the problem is that touching directly reflects insufficient honor for the *sefer Torah* (*Levush*, OC 147:1). The different approaches can impact on the question of whether it applies only to a *sefer Torah* or to all holy scrolls, which also create *tumah* and affect *teruma*. It also can impact the question of whether *netilat yadayim* before touching the scrolls helps. If it is related to needing clean or not *tameh* hands (see *Shabbat* *ibid.*), then *netilat yadayim* should help as it does for hands that need to touch *teruma* (*Aruch Hashulchan* *ibid.* 2).

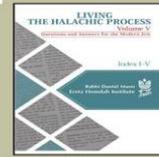
As far as *halacha* is concerned, the Shulchan Aruch (OC 147:1) mentions the prohibition to touch only in regard to a *sefer Torah*, but even if one did *netilat yadayim*. However, the Rama (ad loc.) cites and prefers the opinion that it applies to all of *Tanach*, if it is written with the basics (letter formation, parchment, ink) of a *sefer Torah* (*Mishna Berura* 147:3). The Rama compromises, in that he permits handling when the two reasons to be lenient are present, i.e., it is not a *sefer Torah* and one did *netilat yadayim*. (The Bi'ur Halacha explains this as being because there are two reasons for leniency, not that the two leniencies remove all doubt). In an interesting application, R. Akiva Eiger (I:58) forbids kissing a *mezuzah* scroll when passing by if it is not in a *mezuzah* case.

Since the standard assumption is that touching is a matter of disrespect, context plays a role. *Ashkenazim* attach *atzei chayim* to the *sefer Torah* to facilitate rolling the *klaf* without touching (see *Sha'arei Teshuva* 691:3), but *Sephardim* usually use an attached scarf to roll by hand, and many allow touching after *netilat yadayim* when a lot of rolling is needed (*Yalkut Yosef*, OC 147:1). *Sofrim* touch the *klaf* directly when writing and even when handling, for various reasons, a completed *sefer Torah klaf*. There is a *machloket* whether it is better to have or not have *atzei Chayim* for *navi* scrolls, and this is connected (likely in both directions) to whether one rolls with his hands (see *Dirshu* 147:6). The *Sha'arei Teshuva* (*ibid.*) writes that the *minhag* is not to have *atzei chayim* and not to be careful about touching a *Megillat Esther* because it is called an *iggeret* rather than a *sefer*. He says it is a nice but uncommonly followed *chumra* to do *netilat yadayim* before handling it.

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# Ein Ayah

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

## Ruining Alone, Fixing with Help

(condensed from Ein Ayah, Shabbat 12:30)

**Gemara:** [The idea that Hashem will tie a crown on one who returns from sinning] is support for that which Reish Lakish says: the *pasuk* “If for scoffers, he will scoff, and for humble people, He will give charm” (Mishlei 3:34) teaches that if one comes to defile himself, “the door” is opened for him, and if he comes to purify himself, he is assisted.

**Ein Ayah:** All of existence and all of life that flows within it comes from the source of lofty sanctity and purity. That is the reason that if one comes to defile himself, even though he has free choice to act, which raises a person to the level of absolute freedom, there is only an opening of the door, but without any assistance. After all, all of the universe, its spiritual and physical elements, and all of the rules upon which the world is based on all of its levels, are opposed to the foundation of impurity and its infiltration into the souls of people.

To the contrary, the direction of the world is to elevate purity, which is fitting for the source of life and the whole world (i.e., Hashem). For this reason, one who comes to defile himself only has the door opened and no more, because impurity is transient, as it will be stricken from the land. Therefore, all manifestations of impurity are only the work of scoffers, who do not keep any connection to the true and actual existence of the world. That is why the *pasuk* says: “If for scoffers, he (the scoffer) will scoff.” He will be awarded the opportunity so that he not be deprived of the opportunity to have free choice, which would detract from his human form in the area of freedom.

In contrast, when one comes to purify himself, he aligns his personal situation with that of the world as a whole, with all of its loftiness and depth. For that reason, he is deserving of assistance. The foundation of purity is the imprint of complete truth, which is the exact opposite of the falsehood and negation of the reality of impurity. That is why it is referred to as scoffing and falsehood.

The foundation of revealing the truth is indeed the light of humility, for what individual place does each creation have in the grand scheme of the world! Truth recognizes that everything belongs to Hashem, Who lives forever and is the source of all life and every element of existence. When one comes to purify himself, he enters within the sphere of the light of humility, which shines the glow of truth and seriousness to fit in with the existence of the world. This is the exact opposite of impurity which goes along with the scoffing and lack of seriousness of impurity. For those who are humble indeed have charm, for all of existence is there to strengthen them in their quest.

These ideas find expression in the parts of the letter *kuf*, the letter that represents the holiness of Hashem. The leg of the *kuf*, which represents the light of the base of the sanctity, is hanging, which shows that the door of the light of sanctity and all of its sources are full of life. From the midst of the depths, there is a pillar of strength that allows one to climb to the highest levels of sanctity. “Open up the gates and a righteous nation, which guards its reliability, will come” (Yeshayahu 26:2).



### 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 sought 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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## A Homeowner Paying for Building Slowly

(based on ruling 77058 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The defendant (=def) is a company that held the building rights for a neighborhood in which residents build their own houses. The plaintiffs (=pl) bought a lot from def and built a home, after signing a contract that states they must complete building by 09/2011 or pay a \$400 a month penalty. It is not stated explicitly what finishing building entails or when they reached this stage. Eventually, def provided pl with an *ishur z'chuyot* (confirmation of rights) document, but on it was written that pl owes def \$8,400 for being late in building and 60,000 NIS for breach of contract. Pl is suing def because the *ishur z'chuyot* as written prevented pl from being able to refinance their mortgage with better terms and from ending to pay the bank for being a guarantor of their loan. Def is suing pl \$8400 for the late fee.

**Ruling:** In defining what is considered a completed home, it does not seem that a *Tofes 4* (municipal permission to inhabit the house) is necessary (*ed. note* – in some areas, it is illegal and not accepted for people to move in before a *Tofes 4* has been given, while in others it is a confirmation that often comes later after occupancy.) However, the house must be nominally ready to be lived in. This can be indicated by some combination of the following factors: actually living in the house, possessing a document from the municipality with only minor requests for repair before receiving a *Tofes 4*, and pictures from within the house showing it is in its final stage.

Pl claimed to have a document from the municipality with minimal requests, but despite repeated requests by *beit din*, did not submit the document. The Rosh (accepted by the Shulchan Aruch, Choshen Mishpat 15:4) says that a litigant's concealing of evidence can be seen as an admission that the evidence is proof against him. Pl sent pictures from the house that they claim, but have not proven, are from Oct. 2011. In these pictures, one does not see everything in the house, but it is at least clear that the kitchen sinks have not been installed. This is reason enough for the house to be deemed not ready for occupancy. Additionally, the low usage of electricity is an indication that pl had not moved in. In Jan. 2012, the electricity usage fits the narrative that they had already moved in. Therefore, while it is not an absolute proof, we will only obligate pl in the penalty, which is the type of obligation that courts traditionally modify from the letter of the contract, from Sept. through Dec. (\$1,600).

Regarding the problematic and delayed *ishur z'chuyot*, the lack of refinancing is not a loss but the withholding of a gain. In such a case, def would be obligated only if the gain was clearly and readily available, which pl have not proved is the case. Also, there were apparently steps that pl could have taken to remove the problem. Regarding the need for continued payment for bank guarantees, that is a clear out-of-pocket payment which pl had to continue due to def's delay in providing the papers, and therefore def has to compensate pl 1,050 NIS.

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