



HaRav Shaul Israeli zt"l
Founder and President

HEMDAT YAMIM

Parashat HaShavua

Chayei Sara, 27 Cheshvan 5781

On Clouds and Mist

Harav Yosef Carmel

The cloud that hovered over the tent of Sarah appears in the *midrash* in our *parasha* as well. On the *pasuk* telling that Yitzchak brought Rivka into the tent of his mother, Sarah, the *midrash* says: "All of the days that Sarah was alive, there was a cloud hovering by the opening of her tent. Once she died, the cloud ceased, and once Rivka came, the cloud returned" (Bereishit Rabba 60:16).

This is also the same cloud that the *midrash* discusses in the previous *parasha*, when Avraham and Yitzchak were on their way to Mt. Moriah for *Akeidat Yitzchak*. The *pasuk* says that on the third day they saw the place from afar. The *midrash* (Midrash Rabba 56:22) says that they identified the mountain by the cloud hovering above it. The *midrash* continues that Avraham made sure that Yitzchak saw the same thing that he had seen. The two already recognized this cloud from Sarah's tent, the place where Sarah found out about the upcoming birth of Yitzchak. Whoever was able to see the cloud understood that there was a special Divine Presence.

We find a different view on the matter in "David's Song" (Shmuel II, 22:10), referring to Hashem: "He made the heaven lean down and He went down, and mist was under His legs." Targum Yonatan refers to this as a darkening performed by a special cloud – compare to Targum to Bereishit 15:17. Thus, the cloud was described as the "mist under Hashem's legs."

Considering that mist and clouds darken and hold back the impact of the sun, what is the philosophical significance in relation to the Divine Presence they represent? According to the Targum, in order to be able to come in contact with the Divine Presence, there is a need for the revelation to be in a hidden manner, in a cloud, mist, and/or darkness.

The Ralbag has a different approach. When there is a need for the Divine Presence, which appears when Hashem wants to help someone, like David Hamelech, the Divine Presence descends to a low, material place, as indicated by the cloud. This "lowering of the heaven" is seen to man as a darkening and is described by the presence of mist.

Radak (on the parallel appearance of mist in David's Song, as found in Tehillim 18) takes a third approach. The darkness under Hashem's feet refers to Hashem bringing darkness to His enemies when He "tramples them with His feet." Thus, the three possibilities are that the darkness hides the Divine Presence, expresses a descent to the physical world, or depicts the hard times for Hashem's enemies. When darkness is once again mentioned in David's song (Shmuel II 22:12), the Targum again says it refers to the Divine Presence. Also, then, after the Exodus, when there were clouds of glory and darkness, Rashi (Shemot 14:21) explains it as Hashem's Presence separating the Egyptian army from Bnei Yisrael.

If we are able to unite ourselves and live as one person with one heart opposite the mountain, maybe we will merit to see some of the special clouds that our forefathers saw at Sinai.

Hemdat Yamim is dedicated to the memory of:

Eretz Hemdah's beloved friends and Members of Eretz Hemdah's Amutah

Rav Shlomo Merzel z"l Iyar 10, 5771	Rav Reuven Aberman z"l Tishrei 9, 5776	Mr. Shmuel Shemesh z"l Sivan 17, 5774	Mr. Moshe Wasserzug z"l, Tishrei 20, 5781
Hemdat Yamim is endowed by Les & Ethel Sutker of Chicago, Illinois. in loving memory of Max and Mary Sutker & Louis and Lillian Klein , z"l	R' Yaakov ben Abraham & Aisha and Chana bat Yaish & Simcha Sebbag , z"l	R' Eliyahu Carmel z"l Rav Carmel's father Iyar 8, 5776	Mrs. Sara Wengrowsky bat R' Moshe Zev a"h, 10 Tamuz, 5774
R' George Weinstein , Gershon ben Yehudah Mayer, lover of the Jewish Nation, Torah and Land.	Rav Asher Wasserteil z"l, Kislev 9, 5769	Rav Yisrael Rozen z"l Cheshvan 13, 5778	R' Abraham Klein z"l Iyar 18, 5779
			R' Benzion Grossman z"l, Tamuz 23, 5777
			Tamar Lichtenstadt z"l. May her memory be a blessing

Mr. **Jack Levin** – Chaim Yaakov ben Shlomo Yitzchak HaLevi z"l – by his family.
Those who fell in wars for our homeland. May Hashem avenge their blood!



Eretz Hemdah

Deans: Harav Yosef Carmel, Harav Moshe Ehrenreich
2 Bruriya St. corner of Rav Chiya St.
POB 8178 Jerusalem 91080
Tel: 972-2-5371485 Fax: 972-2-5379626.
amutah number 580120780

American Friends

of Eretz Hemdah Institutions
c/o Olympian, 8 South Michigan Ave.,
Ste. 605, Chicago, IL 60603, USA
Our Taxpayer ID #: 36-4265359

www.erezhemdah.org info@erezhemdah.org

Donations are tax deductible according to section 46 of the Israeli tax code

Ask the Rabbi

Backing Out of an Oral Offer to a Potential Worker

Question: I needed work done on my house – only part of the job acutely. I contacted Reuven, who came recommended; he quoted a high price. Because of the acute need, I agreed without shopping around. When he said he could only come a week later, I found Shimon to do the first part of the job. (It is not clear to me if Reuven now expects to do the rest of the job.). Shimon told me that Reuven charged much too much and offered to do the remaining part for half of Reuven's quote. Do I have a halachic or moral obligation to use Reuven?

Answer: Regarding enforceable monetary obligations, a commitment to use a worker is not binding unless an act of *kinyan* was made or the worker came to start the job (Shulchan Aruch, Choshen Mishpat 333:1). Coming to give an estimate does not count, but to do preparatory evaluation can count. If due to your agreement to hire Reuven, he turned down another offer and he cannot now find replacement work, you must pay based on the damage your job offer caused (ibid. 2). However, it is rare that a job that takes a few hours and the worker chooses the time would require such a worker to turn down another job (see Pitchei Choshen, Sechirut 10:(9)). **If** any of these grounds for obligation **might exist**, we cannot give you any sort of ruling, without both sides presenting their sides for us to rule.

If there was no binding obligation but one did not keep his word, the *mishna* (Bava Metzia 75b) says there are ground for *tar'omet* (being disgruntled). This is parallel to *mechusar amana*, when one backs out of an agreement to purchase something, and this is a (serious) moral deficiency.

There are several grounds that **might** relieve you of this status. First, the decision to employ Reuven must have been complete after the critical employment conditions were settled (compare to the rules of *mechusar amana* – Shulchan Aruch, CM 204:6; Pitchei Choshen, Kinyanim 1:(4)). It is unclear to us (maybe to you too) if this point was reached.

Another relevant matter is Reuven's high fee. If a *po'el* (roughly, one who is paid by time) overcharges, the homeowner cannot void his obligation due to mispricing, as a *po'el* is analogous to a slave, to whom the laws of *ona'ah* do not apply (Shulchan Aruch, CM 227:33). The Shulchan Aruch (ibid. 36) rules that *ona'ah* applies to a *kablan* (one who is paid by the job), like Reuven. On the other hand, not all agree (see Maggid Mishneh, Mechira 13:15), and according to some, *ona'ah* does not apply to work done on something connected to the ground (see Pitchei Teshuva, CM 227:26).

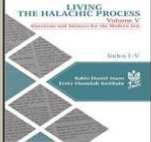
On the other hand, the question whether *ona'ah* applies or not may be irrelevant here. Regarding the case of *mechusar amana*, the Rama (CM 204:11) cites two opinions as to whether one may back out if the transaction is no longer worthwhile because of a price change. The final *p'sak* is unclear (Shach ad loc. 8). The S'ma (333:1) reasons that the same opinions would apply to a worker's possible *tar'omet*. The Aruch Hashulchan (ad loc. 1) says that an employer may back out if he found out the worker is unqualified without the moral stain of *tar'omet*. Similarly, if one found out the work was significantly overpriced, this should be grounds to remove the *tar'omet* even if the formal rules of *ona'ah* do not apply.

This being said, it is hard to trust one partial opinion, like that of Shimon, to conclude that Reuven is objectively, grossly overcharging. Perhaps Shimon needs the job badly and is offering a large discount. Maybe Reuven's work (regarding what he has planned, how he performs it, or materials) is on a different level than Shimon's.

In summary, it is likely that you are not morally bound to employ Reuven, and in a case of doubt on a moral, not legal obligation, there is room for leniency (see Chashukei Chemed, Sanhedrin 67a). On the other hand, you might consider the lack of clarity, both about the *halacha* and the story, and you do not know what points Reuven might raise. Therefore, it would be noble to discuss the matter openly with Reuven. Feel free to contact us again with your findings.

Do not hesitate to ask any question about Jewish life, Jewish tradition or Jewish law.





WE ARE HAPPY TO PRESENT OUR FIFTH VOLUME OF "LIVING THE HALACHIC PROCESS".

The book offers a compilation of questions and answers from our "Ask the Rabbi" project. Sources for the answers can be downloaded from our website.

Special price for Hemdah Yamim readers: \$20

Ein Ayah

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

Spiritual Liberty

(based on Ein Ayah, Shabbat 13:11)

Gemara: [It is forbidden to trap a bird in a house if] we are speaking about a “free bird” (*tzippor dror*), as it does not accept dominion, for it lives in a house the way it lives in the field.

Ein Ayah: Liberty is the greatest aspiration in life. It is for this reason that leaving slavery for freedom, [as our forefathers did in the Exodus from Egypt] is the most memorable event in the holy remembrances of the Jewish people. When we observe the holy days in the Jewish calendars, we note that it is “in remembrance of leaving the house of bondage in Egypt.” The Jubilee year, which marks the arrival of social life in Israel at its highest goal, is described by this word, *dror*, being “proclaimed in the land for all of its inhabitants” (Vayikra 25:10).

Real liberty is liberty that fits the internal content, which is planted in the human spirit, which Hashem made straight. This inclination toward real liberty allows one to not give in to any pressure. Nothing can cause it to be broken because of the strength of the spirit when the natural purity is maintained.

The sign of this type of freedom is the free bird. Because of the natural element of that bird’s spirit, it does not accept dominion and does not allow itself to be subdued. Even though its natural place of freedom is the field, where it is usually found, the fact that it is called a *tzippor dror* means that it is “at home” in a house as well. This is because of the spirit that does not accept a foreign yoke that does not allow it to complete the state of its spirit. It is able to make its place between individual men and the nation in general, and allow them to proudly wave the flag of sanctity and the light of Torah. This is appropriate, as the Torah is referred to rabbinically as “*charut-cheirut*” (a play on the words, engraved in stone and representing freedom) – see Shemot 32:16. The strength that comes from sanctity leads to true liberty and the sanctity of the Jubilee year, which talks of liberty (Vayikra 25:10), as is represented by the free bird.

A Sad, Positive Revolution

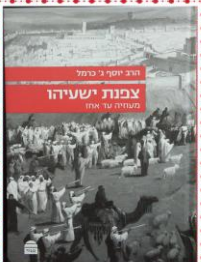
(based on Ein Ayah, Shabbat 14:2)

Gemara: Shmuel and Karna were sitting on the banks of the Malka River and saw that the water that they were drawing was murky. Shmuel said to Karna: “A great man (Rav) is coming from *Eretz Yisrael*, and he has digestive problems. Therefore, people are drawing water to greet him. Go check out how great a person he is.”

Ein Ayah: The arrival of Rav in Bavel created a whole revolution for the Babylonian Jewish community. The influence of the Torah studied in Bavel greatly increased, just as the times caused that the Jewish community of *Eretz Yisrael* waned in quality. It was Hashem’s Will that the malady of exile would increase.

The drawing of water is a symbol of uplifting. The uplifting of the spirit of Israel was appropriate due to Rav’s great impact there. The water was still murky, though, because clear light of the soul can only be found in *Eretz Yisrael*. Therefore, even the great advance due to the coming of Rav could not undo the murkiness. The sadness over this murkiness, which demonstrates pain in the nation, impacted the great teacher in Israel, Rav’s, senses. His intestines churned from the great despair over the fact that the exile was deepening, bringing him digestive problems.

Shmuel wanted to better understand this great man’s spiritual nature. On the one hand, Rav was upset about coming and strengthening the exile, but on the other hand, he was doing it. He was fulfilling the awesome prophecy which included greatness and bitterness, uplifting and murkiness, torment and aspirations – all together. Only a great spirit could unite all of these contradictions. That is why Shmuel wanted Karna to investigate.



**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.

Buy Now

P'ninat Mishpat

Compensating for a Governmentally Destroyed House – part II

(based on ruling 75040 of the Eretz Hemdah-Gazit Rabbinical Courts)

Case: The plaintiff (=pl) built a private house in a *yishuv* (=def), with *def's* financial assistance. Due to political considerations, authorities indicated they planned to destroy this and some other houses. *Pl* argues that *def* must compensate them (3,000 NIS per square meter plus a new plot to build on) for the following reasons: *Def* committed to paying all of the families whose houses would be destroyed; *def* forced *pl* to not publicly protest the demolition, which prevented *pl* from obtaining broad support. *Def* counters that they never promised but only hoped that they would be able to compensate; it has proven beyond *def's* means. Also, since *pl* openly threatened fighting the enforcement of the court order, which settlement experts said would jeopardize support for *def*, and *def* had to take *pl* to *beit din* and thereafter still complicated matters with some level of protest, they do not deserve compensation. Even if their peers, who followed the rules, get some compensation (mainly from a donor), *pl* should not.

Ruling: [Last time we saw that *def* was not obligated based on their stated desire to help residents whose homes were destroyed or for making *pl* suspend protest of the move.]

The decisions of a community such as *def* are required to be based on the principle of equality. If *def* will go through with compensating most of the owners of destroyed homes, they cannot exclude *pl* from that without just cause (see Shut Maharashdam, Yoreh Deah 117; Tuvei Ha'ir 17:4). It is not fair to *pl* to make his ability to receive compensation dependent on the opinion of a specific donor. Although some people in the *yishuv* are now annoyed with *pl*, since *def* has been unable to demonstrate that *pl* caused damage with his actions, they cannot exclude him. So, if *def* wants to back out of their hope to compensate, they may, but it must be on equal terms.

If the donor will donate directly and not through *def*, *pl* has no claims in this regard on *def*. However, *def* should make efforts to convince the donor that *pl* is also deserving.

The fact that *pl* originally did not comply with *def's* requests and had to be taken to *beit din* in order to work out what actions he may take should not be held against him. First of all, *def* was at fault for not telling *pl* in a timely manner of the authorities' final plan to destroy the home. At *beit din*, the two sides came to a joint agreement as to how *pl* would act. While *def* might have preferred full compliance, since there is no clear indication that *pl* did not follow what was decided, there is no room for denying him any rights that the others are receiving.

In summary, while *def* is not required to compensate any of the families, *pl* may not be excluded from what others receive.

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

Nir Rephael ben Rachel Bracha

Rivka Reena bat Gruna Natna

Vicki Victoria bat Daisy

Yishai ben Tamar

Meira bat Esther

Orit bat Sarah

Together with all *cholei* Yisrael

Comments or questions regarding articles can be sent to: info@erezhemdah.org

Eretz Hemdah is the premier institution for training young rabbis to take the Israeli Rabbinates' rigorous Yadin Yadin examinations. **Eretz Hemdah**, with its distinctive blend of Religious Zionist philosophy and scholarship combined with community service, ensures that its graduates emerge with the finest training, the noblest motivations resulting in an exceptionally strong connection to Jewish communities worldwide.