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# HEMDAT YAMIM

## דִּין הַמְּדֹנָה

### Parashat HaShavua

Shemot, 19 Tevet 5778

#### Unknown Spiritual Power

Harav Yosef Carmel

Before the appointment of Moshe at the burning bush, the *pasuk* announces: "Hashem saw Bnei Yisrael, and Hashem knew (vayeda)" (Shemot 2:25). Many of our great commentators have toiled to explain this *pasuk*, especially its conclusion. Doesn't Hashem always know everything? What exactly is it here that Hashem "knew," and what does it have to do with Bnei Yisrael's burgeoning redemption?

Rashi explains that before Moshe's mission began, there was a period of *hester panim* (a hidden divine face), a phenomenon whose dangerous consequences can be appreciated by those of our generations and many others. Therefore, with the "knowing," Rashi explains, "He put his heart upon them and did not turn His eyes away."

Ibn Ezra explains in a different direction: "Hashem saw the Egyptian treachery that they performed openly, and He knew what they were doing clandestinely." According to this, the topic of the knowledge was the Egyptians' behavior. The idea of torture done behind the gates of death camps is also something we, unfortunately, can relate to.

Abarbanel says: "On the one hand, he heard Bnei Yisrael's anguish, and on the other hand, he saw that Bnei Yisrael acted in the manner of the Land of Egypt, regarding their idolatry. Despite this, Hashem tipped their judgment toward merit, "knew" them, and had mercy on them to liberate them." Abarbanel seems to be based on a *midrash* (Rabba, Shemot 1). "Hashem saw that they will in the future rebel at Yam Suf, and He knew that they would say there 'He is my G-d; He saw that they would say [at the Golden Calf] 'these are your gods, Israel,' and He knew that they would say 'We will do' before 'We will hear.'"

The *midrash* is trying to deal with the nation's situation: on one hand, it is able to reach great spiritual heights and, on the other, it falls into deep pits in regard to keeping *mitzvot* and fear of Hashem. This crucial *pasuk*, at the cusp of liberation, provides a great lesson for our times. If we want to know what can cause Hashem to "rule" in our favor, we can look at the next passage in the *midrash*: "He saw that the average people repented and even the wicked people had thoughts of repentance, and Hashem knew, because one person did not know what was in his counterpart's heart, but each one had thoughts of repentance in his heart."

This teaches us that people may tend to repent in a way that only Hashem knows. It is not only the righteous who "carry the nation on their backs." Even the average and the wicked lend a hand and are righteous in their own way. In the past years, despite deterioration in certain areas, there are hidden holy thoughts in the nation, and these sprout up in between the cracks throughout Israeli society. This is a much broader phenomenon than the movement of open *teshuva*. This joins with open advances in Israel in important areas.

Even if the path is long, let us internalize our *parasha*'s message. We should look for these thoughts of *teshuva*, including in social, moral, and values-based fields, and encourage their growth. If we rush matters and think we can easily turn them into full *teshuva*, we will ruin progress. But the seeds are there. "Hashem knew." Friends, let us employ patience.

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# Ask the Rabbi

by Rav Daniel Mann

## Is Raising Children a *Mitzva*? – part II

**Question:** Is it a *mitzva* to care for one's own children: feeding, changing diapers, getting them to bed, etc.? If so, what is the source? Does it apply equally to men and women? If it is not a *mitzva*, wouldn't any *mitzva* take precedence over such activities?

**Answer:** [Last time we saw that even if taking care of one's children were not a *mitzva*, it would be a proper, central reality of life, to be done even when it takes away from one's ability to perform certain *mitzvot* and delays others. Now we will see sources that indicate that it is a *mitzva* in its own way.]

The *gemara* (Ketubot 50a) states: "Praiseworthy is one who guards justice, who does *tzedaka* every moment" (Tehillim 106:3). Is it possible to do *tzedaka* every moment? Our rabbis in Yavneh said that it refers to one who supports his sons and daughters when they are young." Let us consider two difficulties in this *gemara*: 1. Why is supporting one's own children considered *tzedaka*? (The *gemara*'s next opinion attributes the *pasuk* to raising orphans). 2. How is supporting one's children "every moment"? Rashi answers both questions: 1. It is talking about an age at which there is no full obligation to support. The support of close family members actually has *tzedaka* precedence over others, unless there is a halachic obligation (e.g., a husband to a wife) (Shulchan Aruch, YD 251:3). 2. "Always, day and night, they are his responsibility." I understand "day and night" that it is not just giving money, which one can do in a moment, but that whatever needs arise can and often do fall upon him.

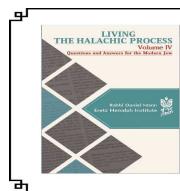
The *gemara* (Makkot 8a) says that a father is exempt from the consequences of injuring his son while disciplining him because it is a *mitzva*. It does not make sense that discipline is a *mitzva* and positive elements of child-rearing are not. Thus, we have another indication of a *mitzva* to raise children.

However, one will not find this *mitzva* in one of the "lists of *mitzvot*," as it is not a free-standing *mitzva*. The Rambam (Avel 14:1) lists several acts of kindness as Rabbinic positive *mitzvot*, including visiting the sick, comforting mourners, involvement in a funeral, and escorting a guest, among other acts. He concludes: "Although all of these *mitzvot* are of Rabbinic origin, they are included in 'v'ahavta l'reiacha kamocha' (You shall love your friend like yourself) (Vayikra 19:18)." This formulation is paradoxical. On the one hand, if these *mitzvot* are Rabbinic, they are not from the Torah, but on the other hand, they are included in a *mitzva* of the Torah! This apparently means the following. The Torah requires one to do his fair share of acts of kindness. One person could fill his whole kindness quota on, say, visiting the sick, and never take part in funerals or have guests. Therefore, the Rabbis instituted an independent obligation in each of the matters listed.

Actions of raising children are not on the list above although the Rambam does mention applications elsewhere in his work (Matanot Ani'im 10:16 for one). It is possible the list is not exhaustive. It is also possible (see part I) that not only the Torah but even the Rabbis left these matters for a person to do voluntarily, in principle, even though practically, from a human perspective, they are activities that are incumbent upon him. Indeed, if one is not able (for various reasons) to do a lot of the caring for children, he/she can arrange for others (e.g., pre-school, day care) to take major parts in providing the child's physical, educational, and emotional needs. However, when a mother or father acts normally, which includes a tremendous amount of work raising his children, this is a fulfillment of "v'ahavta l'reiacha kamocha." This fundamentally applies equally to men and women; in practice, reason and practicality should guide a family how to share these responsibilities. It is unlikely that a father will have to miss putting on *tefillin* one day because he is too busy tending to his children. But he might legitimately put them on later and miss *minyan* because a child is sick.

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# Ein Ayah

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

## The Teshuva of a Non-Sinner

(condensed from Ein Ayah, Shabbat 5:81)

**Gemara:** R. Yonatan said: Whoever says that Yoshiyahu sinned is making a mistake, as the *pasuk* says: "He did that which was straight in the eyes of Hashem, and he went in all the ways of his father David" (Melachim II, 22:2). So how do we explain: "There was no one like him before him, a king who returned to Hashem" (ibid. 23:25), [which implies that he previously sinned]? It means that every ruling he made from the time he was 8 until he was 18 he returned [to the litigant who lost]. Maybe he took from one and gave to the other? It says that he did it "*b'chol me'odo*," which implies that he gave his own.

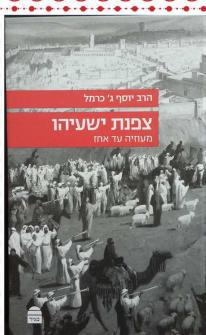
**Ein Ayah:** The good inclination of a proper spirit will often lead a person to the straight path even in matters that he did not learn how to do properly. Such a person will not be able to be truly exact in his actions, which can only be accomplished when instructed by the Torah. However, he will not stray by much, and even the mistakes, since they come from a pure spirit due to lack of study, will have a moral value. Thus, there is a difference between someone with good moral powers for goodness and sanctity but who is only missing the light of Torah and one who innately is deep in evil powers, which lead him away from goodness.

When the two types of people improve their actions due to the light of the Torah and become new people, there will be a difference between them. For one whose whole life was corrupt at its core, when he sees the light, his main purpose is to erase the past. If his activity was very broad, as a king's would be, he will try to uproot the influences of his actions from the dark period and plant new ones that will straighten all that was corrupt.

This is different from one who was always sincere and who was guided by morality, even though he was missing the light of Torah and therefore walked in darkness in his own life and his impact on others. He should not try to erase the past but to improve and enlighten it. He should expand and develop what he did based on the depth of the divine light of the Torah of truth.

We are told about Yoshiyahu that his path was always like that of his father David, a great spirit crowned with grandeur. Hashem was always before him, even before he learned the detailed blueprint for proper life. Even his mistakes, although they needed to be fixed, left a positive imprint because they contained elements of light and general justice.

This is what R. Yonatan meant when saying Yoshiyahu had not sinned, as he had not sinned in a broad moral sense. Therefore, he did not have to uproot that which he built or totally change his approach, which was a good one. Rather, he took noble steps to fix the mistakes with kindness and greatness without undoing the past. That is why he did not return the money from one litigant to the other, which would undo the whole previous ruling that had been based on a pursuit of justice. He just needed to fix the blemishes that affected individuals. The word of a king is dominion (see Kohelet 8:4). Rather he gave money on an individual basis from *kol me'odo*, his own resources, which he used to reimburse those who lost due to his mistakes.



### 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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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

## A Worker “Cleaning Up” a Demised Company’s Mess

(based on ruling 75116 of the Eretz Hemdah-Gazit Rabbinical Courts)

**Case:** The plaintiff (=*pl*) contacted the defendant (=*def*), a manager for an “internal travel” company, to organize the lodgings and events for their son’s bar mitzva at a guest house. They decided on a package at a certain hotel, and *def* gave a quote of 40,500 shekels. *Def* informed *pl* that he had to deposit 30,000 shekels in her company’s bank account to enable her to order rooms from the hotel. *Pl* did so and received a receipt. A few weeks later, *def* informed *pl* that her company’s owner fled abroad after emptying the failed business’ accounts. It turns out that the rooms were never ordered, and the rooms that were supposed to be ordered were taken by a different family. *Pl* ended up spending more than 50,000 shekels on other rooms at the same guest house. *Pl* is suing *def* for the following: 30,000 shekels for the money he wasted due to *def*’s useless instructions; 10,300 shekels for spending extra money on the new rooms because *pl* had not ordered when she said she would; 5,000 shekels for the fact that *pl* ended up having to make time-consuming arrangements (including having to take off from work) that *def* was supposed to have done. *Def* argues that she was only a salaried worker for the company, which is the entity that should be sued. Regarding the fact that the rooms in question were not obtained, this was based on a mistake that the guest house made.

**Ruling:** While *pl* was the subject of a great injustice, one that might have even been purposeful on the company’s part, a major question is the status of a corporation and its shareholders and workers’ liability. While there is a *machloket* how to view a corporation regarding “religious” applications (e.g., *ribbit*, *chametz*), regarding monetary obligations, we follow the accepted practice to treat a corporation as a separate entity (see *Minchat Yitzchak X:143*). Even the owners of the corporation do not have liability. This is also a principle that those who sign our arbitration agreement accept upon themselves. Exceptions to this rule, both in secular law and in our *beit din*, are when someone used the corporation as a “front” to perpetrate a fraud or when a worker caused damage through gross negligence.

In this case, our research into the corporation shows that *def* was not a shareholder of the company but a salaried worker. There is also no evidence that she was aware that the company was not solvent. Although she did not get paid for her last two months of work, at the time the money was paid, her salary was not that late. The reason such a large down payment was demanded could be as *def* claimed, that the boss needed funds for a major project at a Dead Sea resort. Therefore, *def* is not to be blamed for taking the high down payment without warning *pl*.

[While skipping significant detail,] it is not clear that the added expense that resulted from the order not being placed earlier was *def*’s fault or that it represented an actual loss (as opposed to a lack of gain) for *pl*. Therefore, this is not grounds for any payment either.

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

**David Chaim ben Rassa**

**Lillian bat Fortune**

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