BS"D

Hannah and I will be unavailable during February 5-20. During this time, I won't have access to a computer and won't be able to prepare my weekly Devrei Torah. Our close friend Bill Landau, our pc guru, has generously offered to post Devrei Torah for me for February 8, 15, and 22 (Beshalach, Yitro, and Mishpatim). M"H, I expect to be back weekly starting with Terumah on February 29. NOTE: The Internet Parsha Sheet becomes available after midnight very early Friday mornings. The downloadable version for this period contain advance (not necessarily final) copies of Likutei Torah and archived Internet Parsha Sheets. On Fridays you may find the new Internet Parsha Sheet at www.parsha.net.

During our absence, you may download Devrei Torah for Beshalach, Yitro, and Mishpatim at http://orthodoxpotomac.com/

BS"D
February 4, 2020

Potomac Torah Study Center

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NOTE: Devrei Torah presented weekly in Loving Memory of Rabbi Leonard S. Cahan z"l, Rabbi Emeritus of Congregation Har Shalom, who started me on my road to learning almost 50 years ago and was our family Rebbe and close friend until his recent untimely death.

LATE MAARIV AT BETH SHOLOM THIS WEEK MONDAY - THURSDAY AT 8 P.M. RSVPs appreciated. To receive weekly updates or send RSVP: pcguru.landau@gmail.com.

Since I shall not have computer access during February 5-20, I am writing a message now for Beshalach, Yitro, and Mishpatim. Much of my perspective comes from Rabbi David Fohrman. I am treating the material for these three weeks via what I see as a common theme.

As with much in Judaism, the story goes back at least to Avraham and Sarah. An early Paro took Sarah into his harem when Avraham and Sarah went to Egypt during a famine. When Paro saw that God protected Sarah and that she was Avraham's wife, he gave his daughter Hagar to Sarah as a servant. Since the Torah has no vowels, one can read the daughter's name as HaGer, the foreigner. Sarah and Hagar abused each other, and Sarah eventually had Avraham send Hagar away. Four generations later, the Jews ended up back in Egypt, and after the third generation all died, the Egyptians enslaved and abused the Jews. Chazal state that slavery started with the death of Levi and lasted 116 years until the Exodus. (During the 116 years of oppression, many Jews forgot and stopped davening to God.)

B'Nai Yisrael eventually cried out to God (davened). God responded and remembered His promise to the Patriarchs. God selected Moshe to be his instrument to redeem the Jews. Moshe noticed what others missed (such as a burning bush where the fire did not consume any part of the bush). Moshe also he had compassion for fellow Jews and other disadvantaged people (and animals). God appeared to Moshe with three different names. "Ehyeh," or "I was, am, and always will be," means that God was, is, and always will be with the Jews. This name also means that God cares for and protects all Jews. "Kel Shaddei" is the aspect of God that the Patriarchs knew – a shepherd who leads from behind (like a shepherd) and nudges the world, but in a way that is only obvious to those (like the Patriarchs and Matriarchs) with strong faith in God. God told Moshe that now, He was about to appear as Hashem, the Lord, one who leads from up front, performing obvious miracles. This third aspect of God is what would teach Paro, the Egyptians, Jews, and other nations who Hashem was – that is, that God is the one, true God, in charge of the world.

When Moshe and Aharon went to Paro, he responded that he knew all 70 gods and had never heard of Hashem. God brought a series of ten plagues, overwhelming Egyptian gods or god symbols (such as blood and the Nile), controlling nature, fine tuning so the plagues went on and off when Moshe announced to Paro that they would do so, and affecting the Egyptians but not the Jews each time. With the help of Moshe and Aharon, God was providing a graduate level course for Paro, the Egyptians, other nations, and B'Nai Yisrael in who Hashem was and how powerful He was.
In **Beshalach**, God provided B'Nai Yisrael with a series of tests. God's presence in a pillar of cloud during the day and a pillar of fire at night led the Jews for several days. God did not provide water or food until the Jews were thirsty and hungry – tests to see whether they would ask God to provide provisions. The people could relate to a God of war who could plunder Egypt and defeat armies, but not to a God of love and compassion who cared for each individual. (None of the Egyptian gods had compassion for individuals.) The Jews complained to Moshe about thirst and hunger, not to God. The lesson of asking God (not a human) for help and including God in their mundane lives took a lot longer than the lesson of believing in God's power to overcome physical enemies.

Since Paro had only given the Jews permission to go for three days, when they were a few days late returning, Paro realized that they were not returning. He sent his army to follow. God had the Jews camp with a sea (Sea of Reeds) on one side and the desert on the other side. When the Egyptian army approached, God would only part the waters of the sea once the Jews bought in and entered the water. Once the Jews started, God made the sea part and provided a safe passage for the Jews, but with a barrier keeping the Egyptians from following until the Jews had all crossed the sea. When the Egyptians followed, God made the waters return, drown the Egyptian army, destroy their chariots, and kill their horses. The Jews could hear what was happening, but God did not permit them to see the destruction, because they were not at a high enough spiritual level to deserve seeing the destruction of their enemies. When morning came, the Jews could see the signs of the destruction, and they broke out in song. Miriam realized that her prophesy had come true – that her younger brother would redeem the Jews. Miriam therefore led the women in second song. (The Jews crossed the sea, and God destroyed the Egyptian army, on the seventh day, so we read the song on the seventh day of Pesach.)

Moshe's father-in-law (**Yitro**) heard that God had taken the Jews from Egypt and destroyed the Egyptian army, so he brought Moshe's wife and sons to him. When Moshe told Yitro that God cared for and protected each Jew, by providing water and food every day, he was over whelmed that the Jewish God was compassionate as well as powerful. Yitro therefore prepared a feast to celebrate all the God had provided. Yitro, however, disapproved of Moshe spending many hours every day meeting with any Jew who had questions – teaching every Jew how to include God in his daily life. Yitro suggested the system of leaders of groups that became the model of the court system in our country. After three days of preparation, God presented the Aseret Dibrot (ten statements or commandments) with thunder, lightening, and various sound effects. The presentation frightened the people so much that after hearing the first two statements from God, they moved back and asked Moshe to listen and tell them the remaining statements. Hillel summarized the ten statements (as rest of the 613 mitzvot) in his famous remark: "That which is hateful to you, don't do to your friend."

The Torah changes style suddenly with Mishpatim. To this point, the Torah has been primarily narrative. In Mishpatim, the Torah presents 53 mitzvot (23 positive and 30 negative commandments). Mishpatim reads like a law book. Many of the mitzvot have a link to Yosef's life. The pattern for many mitzvot in the Torah is that stories from our past reappear as mitzvot. For example, the first laws concern an Eved Ivri, or a Jewish slave. The only other place the Torah mentions an eved Ivri is Yosef. We have laws about an ox falling into a pit. Yaakov refers to Yosef as an ox, and the brothers put him in a pit. The battles between Sarah and Hagar return as laws regarding proper treatment of gerim, or strangers/foreigners.
Mishpatim focuses on laws that relate to the ten statements – the most central laws in Judaism. The Torah is basically (but not entirely) chronological for narratives, but the Torah presents laws thematically. In short, laws next to each other in the Torah have some thematic connection. The laws in Mishpatim are here specifically because they relate to the ten statements. Most of the other of the 613 mitzvot appear later in the Torah.

As Hannah and I prepare to leave for Israel, we recall the connections that our beloved Rebbe, Leonard Cahan, z"l, had to our homeland. Rabbi Cahan's parents and sister all made aliyah, and he traveled there regularly (always returning with Judaic treasures that he made available to congregants). We visited with Rabbi Cahan's family on each visit, and we look forward to visiting his sister Naomi on this trip. As we read of the sputtering trip of our ancestors from Egypt until they finally reached Israel 40 years later, we can cherish the fact that Jews in our lifetime can go to Israel – something denied to our people for 2000 years, until our generation.

Note: from lack of time and access to computer and photocopying, I am unable to provide the usual Devrei Torah that I normally prepare in the remainder of this introduction. M"H, look for these materials for Terumah.

Note: The Jews were in Egypt for 210 years and actively in slavery for 116 years after the death of Levi. Yaakov was born in 2108. Yosef was born when Yaakov was around 91 years old, or around 2199. The Jews came to Egypt when Yosef was 40 years old (2238). Yosef died at age 110 (2309). The Exodus was in 2448 (Chabad). These dates indicate that the Jews were in Egypt for 210 years, of which 116 years were after Levi's death – the years considered to be active slavery (https://www.chabad.org/library/article_cdo/aid/3915966/jewish/Timeline-of-Jewish-History.htm). Beshalach opens during Nissan 2448.

Please daven for a Refuah Shlemah for Nossan ben Pessel, Mordechai ben Chaya, Baruch Yitzhak ben Perl, David Leib HaKohen ben Sheina Reizel, Zev ben Sara Chaya, Uzi Yehuda ben Mirda Behla, HaRav Dovid Meir ben Chaya Tzippa; Eliav Yerachmiel Ben Sara Dina, Amoz ben Tziviah, Reuven ben Masha, Moshe David ben Hannah, Meir ben Sara, Yitzhok Tzvi ben Yehudit Miriam, Yaakov Naphtali ben Michal Leah, Kaddish Yehuda ben Golda, Dov Ber ben Sima, Tuvia Zev ben Chaya Rivka, Zissel Bat Mazal, Chana Bracha bas Rochel Leah, Elisheva Chaya bas Leah, Leah Fruma bat Musa Devorah, Miriam Malka bat Leah, Hinda Behla bat Chaya Leah, Beyla bat Sara, Nechama bas Tikva Rachel, Miriam Chava bat Yachid, Ruth bat Sarah, and Tova bat Narges, all of whom greatly need our prayers.

Shabbat Shalom, Hannah & Alan

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Shabbat Shalom

Volume 26, Issue 18 **Shabbat Shekalim - Parashat Mishpatim** **5780 - B"H**

Covenant and Conversation
Rabbi Jonathan Sacks

Loving the Stranger

There are commands that leap off the page by their sheer moral power. So it is in the case of the social legislation in Mishpatim. Amid the complex laws relating to the treatment of slaves, personal injury and property, one command in particular stands out, by virtue of its repetition (it appears twice in our parsha), and the historical-psychological reasoning that lies behind it:

Do not ill-treat a stranger or oppress him, for you were strangers in Egypt. (Exodus 22:20)

Do not oppress a stranger; you yourselves know how it feels to be a stranger [literally, "you know the soul of a stranger"], because you were strangers in Egypt. (Ex. 23:9)

Mishpatim contains many laws of social justice – against taking advantage of a widow or orphan, for example, or charging interest on a loan to a fellow member of the covenantal community, against bribery and injustice, and so on. The first and last of these laws, however, is the repeated command against harming a ger, a "stranger." Clearly something fundamental is at stake in the Torah's vision of a just and gracious social order.

If a person was a son of proselytes, one must not taunt him by saying, "Remember the deeds of your ancestors," because it is written "Do not ill-treat a stranger or oppress him."

The Sages noted the repeated emphasis on the stranger in biblical law. According to Rabbi Eliezer, the Torah "warns against the wronging of a ger in thirty-six places; others say, in forty-six places."[1]

Whatever the precise number, the repetition throughout the Mosaic books is remarkable. Sometimes the stranger is mentioned along with the poor; at others, with the widow and orphan. On several occasions the Torah specifies: "You shall have the same law for the stranger as for the native-born."[2] Not only must the stranger not be wronged; he or she must be included in the positive welfare provisions of Israelite/ Jewish society. But the law goes beyond this; the stranger must be loved:

When a stranger lives with you in your land, do not mistreat him. The stranger living with you must be treated as one of your native-born. Love him as yourself, for you were strangers in Egypt. I am the Lord your God. (Lev. 19:33–34)

This provision appears in the same chapter as the command, "You shall love your neighbour as yourself" (Leviticus 19:18). Later, in the book of Deuteronomy, Moses makes it clear that this is the attribute of God Himself:

"For the Lord your God is God of gods and Lord of lords, the great God, mighty and awesome, who shows no partiality and accepts no bribes. He defends the cause of the fatherless and the widow, and loves the stranger, giving him food and clothing. And you are to love those who are strangers, for you yourselves were strangers in Egypt." (Deut. 10:17–19)

What is the logic of the command? The most profound commentary is that given by Nachmanides:

The correct interpretation appears to me to be that He is saying: do not wrong a stranger or oppress him, thinking as you might that none can deliver him out of your hand; for you know that you were strangers in the land of Egypt and I saw the oppression with which the Egyptian oppressed you, and I avenged your cause on them, because I behold the tears of such who are oppressed and have no comforter…Likewise you shall not afflict the widow and the orphan for I will hear their cry, for all these people do not rely upon themselves but trust in Me.

And in another verse he added this reason: for you know what it feels like to be a stranger, because you were strangers in the land of Egypt. That is to say, you know that every stranger feels depressed, and is always sighing and crying, and his eyes are always directed towards God, therefore He will have mercy upon him even as He showed mercy to you [and likewise He has mercy on all who are oppressed].[3]

According to Nachmanides the command has two dimensions. The first is the relative powerlessness of the stranger. He or she is not surrounded by family, friends, neighbours, a community of those ready to come to their defence. Therefore the Torah warns against wronging them because God has made Himself protector of those who have no one else to protect them. This is the political dimension of the command. The second reason, as we have already noted, is the psychological vulnerability of the stranger (we recall Moses' own words at the birth of his first son, while he was living among the Midianites: "I am a stranger in a strange land," Ex. 2:22). The stranger is one who lives outside the normal securities of home and belonging. He or she is, or feels, alone – and, throughout the Torah, God is especially sensitive to the sigh of the oppressed, the feelings of the rejected, the cry of the unheard. That is the emotive dimension of the command.

Rabbi Chayim ibn Attar (Ohr HaChayim) adds a further fascinating insight. It may be, he says, that the very sanctity that Israelites feel as children of the covenant may lead them to look down on those who lack a similar lineage. Therefore they are commanded not to feel superior to the ger, but instead to remember the degradation their ancestors experienced in Egypt.[4] As such, it becomes a command of humility in the face of strangers.

Whichever way we look at it, there is something striking about this almost endlessly iterated concern for the stranger – together with the historical reminder that "you yourselves were slaves in Egypt." It is as if, in this series of laws, we are nearing the core of the mystery of Jewish existence itself. What is the Torah implying?

Concern for social justice was not unique to Israel.[5] What we sense, however, throughout the early biblical narrative, is the lack of basic rights to which outsiders could appeal. Not by accident is the fate of Sodom and the cities of the plain sealed when they attempt to assault Lot's two visitors. Nor can we fail to feel the risk to which Abraham and Isaac believe they are exposed when they are forced to leave home and take refuge in Egypt or the land of the Philistines. In each of the three episodes (Genesis chapters 12, 20, 26) they are convinced that their lives are at stake; that they may be murdered so that their wives can be taken into the royal harem.

There are also repeated implications, in the course of the Joseph story, that in Egypt, Israelites were regarded as pariahs (the word "Hebrew," like the term hapiru found in the non-Israelite literature of the period, seems to have a strong negative connotation). One verse in particular – when the brothers visit Joseph a second time – indicates the distaste with which they were regarded:

They served him [Joseph] by himself, the brothers by themselves, and the Egyptians who ate with him by themselves, because Egyptians could not eat with Hebrews, for that is detestable to Egyptians. (Gen. 43:32)

So it was, in the ancient world. Hatred of the foreigner is the oldest of passions, going back to tribalism and the prehistory of civilisation. The Greeks called strangers "barbarians" because of their (as it seemed to them) outlandish speech that sounded like the bleating of sheep.[6] The Romans were equally dismissive of non-Hellenistic races. The pages of history are stained with blood spilled in the

name of racial or ethnic conflict. It was precisely this to which the Enlightenment, the new "age of reason," promised an end. It did not happen. In 1789, in revolutionary France, as the Rights of Man were being pronounced, riots broke out against the Jewish community in Alsace. Hatred against English and German immigrant workers persisted throughout the nineteenth century. In 1881 in Marseilles a crowd of ten thousand went on a rampage attacking Italians and their property. Dislike of the unlike is as old as mankind. This fact lies at the very heart of the Jewish experience. It is no coincidence that Judaism was born in two journeys away from the two greatest civilisations of the ancient world: Abraham's from Mesopotamia, Moses' and the Israelites' from Pharaonic Egypt. The Torah is the world's great protest against empires and imperialism. There are many dimensions to this protest. One dimension is the protest against the attempt to justify social hierarchy and the absolute power of rulers in the name of religion. Another is the subordination of the masses to the state – epitomised by the vast building projects, first of Babel, then of Egypt, and the enslavement they entailed. A third is the brutality of nations in the course of war (the subject of Amos' oracles against the nations). Undoubtedly, though, the most serious offence – for the prophets as well as the Mosaic books – was the use of power against the powerless: the widow, the orphan and, above all, the stranger.

To be a Jew is to be a stranger. It is hard to avoid the conclusion that this was why Abraham was commanded to leave his land, home and father's house; why, long before Joseph was born, Abraham was already told that his descendants would be strangers in a land not their own; why Moses had to suffer personal exile before assuming leadership of the people; why the Israelites underwent persecution before inheriting their own land; and why the Torah is so insistent that this experience – the retelling of the story on Passover, along with the never-forgotten taste of the bread of affliction and the bitter herbs of slavery – should become a permanent part of their collective memory.

It is terrifying in retrospect to grasp how seriously the Torah took the phenomenon of xenophobia, hatred of the stranger. It is as if the Torah were saying with the utmost clarity: reason is insufficient. Sympathy is inadequate. Only the force of history and memory is strong enough to form a counterweight to hate.

The Torah asks, why should you not hate the stranger? Because you once stood where he stands now. You know the heart of the stranger because you were once a stranger in the land of Egypt. If you are human, so is he. If he is less than human, so are you. You must fight the hatred in your heart as I once fought the greatest ruler and the strongest empire in the ancient world on your behalf. I made you into the world's archetypal strangers so that you would fight for the rights of strangers – for your own and those of others, wherever they are, whoever they are, whatever the colour of their skin or the nature of their culture, because though they are not in your image, says God, they are nonetheless in Mine. There is only one reply strong enough to answer the question: Why should I not hate the stranger? Because the stranger is me.

[1] Bava Metzia 59b.
[2] Exodus 12:49; Leviticus 24:22; Numbers 15:16, 29.
[3] Ramban, commentary to Exodus 22:22.
[4] Ohr HaḤayim, commentary to Exodus 22:20.
[5] See Moshe Weinfeld, Social Justice in Ancient Israel and in the Ancient Near East (Jerusalem: Magnes Press, 1995).
[6] The verb barbarízein in ancient Greek meant imitating the linguistic sounds non- Greeks made, or making grammatical errors in Greek.

The Person in the Parsha
Rabbi Dr. Tzvi Hersh Weinreb

Careers

"What do you want to be when you grow up?" That was once the standard question to ask an eight- or nine-year-old when trying to make conversation with him or her. Somehow, every child had an answer, which ranged from "fireman" to "football player" to "nurse."

It seems to me that we don't ask that question of children these days, at least not as frequently as we used to. Perhaps we are afraid to put pressure upon them. Or perhaps ambition is no longer viewed as a positive value, as it once was.

The fact is that our tradition does value ambition, if it leads to some positive goal. A career which helps a person support himself and his family is one such goal. A career which serves the community is another.

Which careers are especially valued by the Torah? This week's Torah portion, Parshat Mishpatim (Exodus 21:1-25:18), provides us with an occasion to reflect upon one highly valued career, serving on a court of law as a judge.

Our parsha begins with the verse, "These are the rules that you shall set before them." Rashi understands the phrase "before them" to mean that questions regarding these rules must be adjudicated by Jewish judges familiar with the rules which are outlined in the ensuing several chapters of the parsha. Already in last week's parsha, Yitro, we learned that Moses saw the role of judge as being one of his leadership responsibilities. Only at the advice of his father-in-law did he assign the role of judge to a hierarchy of others. Judgeship is thus one of the first careers prescribed by the Torah.

The Talmud has something to say about just how noble a career judgeship is and in the process recommends several other excellent career paths for "nice Jewish boys." I am referring to the following passage in the tractate Bava Batra8b, which in turn interprets two biblical verses:

"The knowledgeable will be radiant like the bright expanse of sky, and those who lead the many to righteousness will be like the stars forever and ever" (Daniel 12:3).

'The knowledgeable' are the judges who adjudicate the law with absolute truthfulness, as well as those who serve the community as trustees who distribute charity (gabba'ei tzedakah). 'Those who lead the many' are the schoolteachers of young children…

And as for Torah scholars? To them, the following verse applies:

"May His beloved be as the sun rising in might!" (Judges 5:31).

There we have it. Four admirable careers are set forth by the Talmud: the judiciary, involvement in the distribution of charity, primary education, and Torah scholarship.

Tosafot, the collection of commentary in the margin of every page of Talmud, suggests that there is a rank order to these "careers." Starlight is less bright than "the bright expanse of sky." This implies that school teaching is less praiseworthy than acting as a judge or gabbai tzedakah, whereas the Talmud scholar, who is compared to the sun, ranks highest.

Other commentaries interpret the Talmudic text differently. One interesting approach is taken by the 19th-century rabbi of Lyssa, Rabbi Yaakov Loberbaum, who is known for his masterwork on civil law, Netivot HaMishpat. He objects to the approach taken by Tosafot. After all, he asks, "Our eyes can see that the stars are brighter than the 'expanse of the sky,' and what connection is there between judges and gabba'ei tzedakah that allows us to compare both of them to the celestial expanse?"

His answer is most instructive: "There are materials which are colorless, but which reflect whatever color shines upon them. An example is glass. It has no color of its own. Shine a red light upon it, and the color red is reflected. Shine a green light, and green is reflected. The expanse of the sky is itself colorless like glass. This is what a judge has in common with a trustee of charity. They both must be absolutely neutral, with no color of their own. The judge must be totally unbiased, and so must be the person who determines how charity is to be distributed. He must not favor one needy person over another but must distribute the community funds 'without color.' But schoolteachers are compared to the stars, which glow equally upon all. Whereas judges and gabba'ei tzedakah must discriminate between one party and the other, the schoolteacher must 'shine' upon all of his pupils equally, without discrimination."

Although the Lyssa Rav does not comment on Torah scholars and their likeness to the sun, we can speculate on that connection for ourselves. The sun is the ultimate source of light and heat, and so too the Torah is the ultimate source of intellectual light and spiritual

warmth. Torah study, our tradition teaches us, outweighs all other values in its importance.

Truth to tell, each one of us individually must strive to incorporate into our behavior all four of these career roles. We are all "judges." even if not clothed in judicial robes or sitting in judicial chambers. We are constantly called upon to judge others in all sorts of ways, and we must always attempt to honestly judge ourselves.

We all must decide how to distribute our charitable resources: the time we give to the community and the money we contribute to the needy.

We are all teachers; if not in the classroom, then in the family and synagogue and shopping mall.

And we certainly must all, according to our intellectual limitations and the restrictions that time places upon us, be diligent in our Torah study and become as knowledgeable in Torah as we possibly can.

From this perspective, each and every one of us is called upon to discharge the duties of our "careers:" judge others without bias; distribute our resources compassionately and fairly; teach little children in some appropriate manner; and, above all, study Torah.

If we do, then we are all worthy of being called luminaries as bright as the bright expanse of the sky, shining like the stars at night, and lighting up the world like the sun by day.

Torah.Org: Rabbi Yissocher Frand

Two Promises You Can Bank On
The Chidushei HaRim Distinguishes Between Promise in Mishpatim and Promise in B'Shalach

Towards the end of Parshas Mishpatim, we are promised that if we worship Hashem "… He will bless your bread and your water and will remove illness from your midst." [Shmos 23:25]. The Chidushei HaRim contrasts this pasuk with a similar pasuk in Parshas B'Shalach, which promises that if we keep the Torah then: "…any of the diseases that I placed upon Egypt, I will not bring upon you…" [Shmos 15:26].

The Chidushei HaRim writes that the pasuk in Mishpatim is a blessing for success in our efforts to make a livelihood (parnassa) while the pasuk in B'Shalach refers to protection from illness. People get sick and have illnesses. So, the Almighty promises – in B'Shalach – that those illnesses that have befallen the Egyptians, will not happen to Israel in the future ("I will not bring upon you"). Regarding the physical ailments mentioned in B'Shalach, we are told "I will not place them upon you" (future tense).

Our pasuk in Mishpatim, however, is referring to an illness that is already within the person. Therefore, it states "I will remove illness from your midst." Apparently, here the Torah is speaking about something the person has already. What is this illness that the person has that is apparently in our system already? The Chiddushei HaRim says it is a specific 'disease' called 'Dayga' – 'Daygas haParnassa', namely worry about making a proper living. This is something that occupies most of humanity – fear that they will not be able to put bread on the table for their families. This is a 'disease' that a person does not catch from germs. It is already within each of us.

The pasuk is teaching that Hashem will bless us with good livelihoods. As a result, this 'disease' that is potentially within everybody's system will be removed from our midst. The Chidushei HaRim explains that the end of our pasuk here in Mishpatim (regarding removal of the 'disease' of worry about parnassa) goes in tandem with the beginning of that same pasuk which promises us that we will make a good living – having plenty of food and drink on our tables. As a result, one of mankind's great ills will be taken away from us – I will remove the fear and concern of not making a living from your midst.

Honesty Is the Torah Policy

The pasuk states in this week's parsha, "From a matter of falsehood distance yourself." [Shmos 23:7] This is the Torah's admonition about being truthful and honest. The commentaries point out that this is the only midah [character trait] from which the Torah specifically instructs us to distance ourselves ('Tirchak'). We are commanded to stay as far away as possible from sheker [falsehood]. Do not skirt the truth; run away from sheker.

It is well known that if Rav Yaakov Kamenetsky exemplified one particular midah), it was his pursuit of truth (derishas ha'Emes). I once read in a biography that as someone whose name was Yaakov, he took it upon himself to excel in the attribute of pursuing truth in all his dealings as we know the Patriarch Yaakov typified the characteristic of truth (Titen Emes l'Yakov [Micha 7:20]).

I would like to relate two stories about this great Rosh Yeshiva that demonstrate his adherence to the midah of Emes [truth].

A fellow came to Rav Yaakov and asked him the following shaylah [question]: He wished to take off from his job on the day of Purim. Although Purim is only a rabbinic holiday and strictly speaking work is not prohibited, he wanted to celebrate the day as it should be celebrated, not to come home late in the afternoon and run through perfunctory fulfillment of the day's rituals.

Under normal circumstances, his employer allowed employees to take a personal leave day but his company at that time was exceedingly busy and they had made a temporary policy that they were not allowing personal leave days during this busy period. So, he went to Rav Yaakov and asked if he might be able to take it as a sick day. He felt that he had a couple of justifications for requesting such an absence on those grounds. First of all, Purim follows Ta'anis Esther which is a fast day which leaves a person a bit weak and fatigued. Second of all, Purim is a time which, due to all the drinking and feasting done on that day, leaves nobody feeling very good, certainly not by later in the day.

This is bending the truth somewhat because he was not really sick and strictly speaking, sick days are reserved for people who are really sick. How did Rav Yaakov answer this Shaylah? Did he tell him to take off the day and observe Purim as a Jew should observe it and bend the truth, or otherwise?

Rav Yaakov instructed him that Purim is a Rabbinic holiday and "You shall distance yourself from falsehood" is a Biblical command. It is a no brainer. Go to work and fulfill the obligations of Purim before or after work to the best of your ability. Work on Purim rather than say something that is not true.

When I told over this incident in one of my speaking engagements, a person from the audience came over to me and told me another story about Rav Yaakov:

When Rav Yaakov was rav in Toronto, the shul presented him with a silver platter as a Purim present for Purim. A few days after Purim, one of the shul members saw Rav Kamenetsky in a Toronto Pawn Shop with this very same silver platter. The member thought it highly inappropriate. The shul gave their rabbi a gift and he went to pawn it! The member was shocked. He went back and told other members of the shul and the Board of Directors. The Baale Batim, being Baale Batim, came to Rav Yaakov and asked him "What kind of business is this – you went to pawn our gift in a pawn shop?"

In olden times a Rav did not get a salary. He got "Rabbonishe Gelt". What's "Rabbonishe Gelt"? When you go to the Rav to sell your Chometz, you slip him a little gift. For funerals, weddings, and other special occasions, members gave their Rav money. Rav Yaakov told the "Committee of Inquiry" that part of "Rabbonishe Gelt" is when the congregation gives their rabbi a gift before Purim. That being the case, he told them, this was part of his salary. If it is part of his salary, he felt, he needed to declare it on his Income Tax form as earned income. "I need to know how much the silver platter is worth so I know how much to declare." So, he took it into the pawn shop to assess the fair market value of the platter so that he could accurately record it as part of his income tax declaration.

This is another example of the honesty of Rav Yaakov Kamenetsky. When I told over this second story about honesty of Gedolei Yisrael, another person from the audience came up to

me and told me a third such story – this one about Rav Aharon Soloveitchik, z"l.

Rav Aharon Soloveitchik for many years commuted from Chicago to New York. After his brother Rav Yosef Baer Soloveitchik, stopped giving the shiur in Yeshivas Rabbeinu Yitzchak Elchanon, Rav Aharon used to give the shiur there. He was also the Rav haMachshir for Streits' Matzah. In short, he commuted on a weekly basis between his home in Chicago and New York City.

One time he came to the airport with his mother-in-law, who was travelling with him that day and he came up to the ticket counter and ordered two tickets. The agent behind the counter said "Rabbi, you are in luck! We are having a special – Spouses Fly for Free – today!" Rav Aharon responded, "This is not my wife, this is my mother-in-law." The agent told him, "Do not worry. We do not check marriage licenses." He questioned the clerk – "Do you have permission to do that?" She hemmed and hawed. Rav Soloveitchik then asked to see her supervisor. The supervisor also told him, "Do not worry. We never check. You are a male and she is a female. Take the special." Rav Aharon then again questioned the supervisor: Do you have permission from the company to do that? She could not tell him definitively that she had permission from the company to knowingly give the Spouses Fly Free special to a couple that were not husband and wife so Rav Aharon he refused to accept the discounted tickets.

This is Eirlichkeit [honesty]. This is fulfillment of "M'Dvar Sheker Tirchak."

I am not paskening whether or not we are strictly obligated to turn down such an offer if we are travelling with our daughters or mothers-in-law rather than our wives, but it is certainly an Eirlichkeit. Certainly, when it is an out and out falsehood, when it is clearly bending the truth, we indeed need to distance ourselves.

Dvar Torah
Chief Rabbi Ephraim Mirvis

How can you tell if a person is truly religious?

A number of our Parshiot commence with the word 'Eileh'. Such as, "Eileh Toldot Noach" – "These are the generations of Noach." "Eileh Hadevarim" – "These are the words." "Eileh Phekudei HaMishkan" – "These are the reckonings of the Mishkan."

But Parashat Mishpatim commences, "V'Eileh Hamishpatim" – "And these are the ordinances."

Strict grammarians will tell us that you do not start a sentence with the word 'and' – and you definitely don't start a whole chapter or passage with the word 'and'. But that is exactly what we do at the beginning of Mishpatim.

Rashi tells us that the conjunction 'and' here serves to link our Parsha to the previous one. He says, "Ma Harishonim M'Sinai Af Eiluh M'Sinai – Just as the previous passage, dealing with the Ten Commandment and laws concerning the Alter, were given to us at Mount Sinai – so too the passage of Mishpatim which follows. The passage that deals with our responsibility to our fellow human beings – that too was given at Mount Sinai.

That is what the 'Vav' does for us. It enables us to appreciate that the content of Mishpatim is just as important as the content of Parashat Yitro.

It's all about what it means to be religious. If you ask people about being 'dati' (religious), they will immediately think of one's responsibilities to Hashem; davening, keeping Shabbat, Kashrut, spirituality and holiness. And of course, all of these are essential parts of being religious. But what the 'Vav' comes to teach us is that being scrupulous in your business matters, not damaging the property or hurting the feelings of other people, reaching out to assist all people – that too is an integral part of what true religion actually is. Both components of our conduct were given to us at Mount Sinai.

In Temple times, the 'Sanhedrin', which dealt with all matters pertaining to our relationships with others, was purposely situated on the Temple Mount, right next to the Temple itself. This was in order to indicate that what we offered on the Alter between ourselves and Hashem had to be accompanied by responsibility towards our fellows.

The Gemara in Masechet Baba Kamma, Daf Lamuf Amud Bet, teaches that if you would like to become a 'chassid' – a truly pious individual then you need to be an expert in 'Milei D'Nazikin' – the laws of damages as presented to us in the Parsha of Mishpatim. That is, ultimately, how one can become a perfectly pious and religious person.

However, the 'Vav' needs to work the other way round as well. Let no one think that just concentrating on our relationships with others is sufficient. In addition we need to have that relationship with Hashem. That is the power of the 'Vav' – to bring the two together.

So, how do you know if a person is truly religious?

You'll be able to see that they are connected to Hashem in a responsible way and are also outstanding in their approach to others.

They are people who are mindful of that crucially important 'Vav'.

OTS Dvar Torah: Rabbi Shaul Vieder
Faculty, Midreshet Lindenbaum

The Social Message

Money per se isn't bad. It's a tool and a resource we receive from the God. The real question is what the use of this money does to the person using it. Will that person choose to grow rich at the expense of the needy? Will people amass fortunes by defrauding the poor and those who are in distress?

What is considered important? And what is considered even more important? This question could be asked with regard to which political party's platform is more ethical, and whom we should elect. Alternatively, it could also produce a dispute among the rishonim, the medieval Spanish-Jewish sages, regarding how many principles of faith there are. Are there thirteen, as Maimonides suggests, or are we to follow Rabbi Joseph Albo, who maintains that there only three principles?

A well-known example of this appears at the end of Tractate Makkot, in the Babylonian Talmud. The text states that according to Psalm 15, King David condensed the 613 commandments in the Torah into 11 principles. The prophets further condensed the mitzvot until the prophet Habakuk narrowed all the mitzvot of the Torah down to one principle of faith in Hashem: "the righteous shall live in their faith".

The question of what is considered important and what more important came to mind with regard to Parashat Mishpatim, the parasha immediately following the giving of the Torah, which enumerates a long list of positive and negative commandments – 53 in total. Could we say that among these commandments, there are "flowers that are more beautiful than others"?

According to the Sefat Emet, who represents the Hassidic stream, if we were to ask Rabbi Menahem Mendel of Kotzk this question, we would be rather surprised by his answer.

He writes the following commentary on the end of chapter 22: "… and you shall be a holy people, you shall not eat unclean meat of the field, rather you shall throw it to the dogs. The Kozker Rebbe teaches us that 'Hashem has no shortage of ministering angels, yet He longs to sanctify human beings, and therefore, people must preserve holiness with their actions.'"

The Kotzker Rebbe explains that if, in the previous parasha, we were told by Hashem that we should be "a kingdom of priests and a holy nation," we are to conclude that to achieve that level of holiness, we must rise above ourselves and attain the level of the angels. Otherwise, we won't achieve a holy state when serving Hashem. This week's parasha entreats us to live as human beings, and to be humane. This is the only way we can experience holiness. We won't attain holiness by hallucinating about reaching the level of the highest ranks of angels. Our day-to-day lives, whether we are on the road, in the field, or encountering unclean meat, could lead us to achieving holiness through observing divine commandments. Thus, holiness is present among human beings, and is expressed in the way that people conduct their lives – guided by

the Torah. This choice is in the channel connecting God and man.

It seems to me that if we were to ask one of these midrashic commentators to choose a unique commandment – to pick but one beautiful flower from the garden – we would hear the resounding words of the midrash on verse 24, chapter 22: "When you lend money to My people, to the poor person [who is] with you, you shall not behave toward him as a lender; you shall not impose interest upon him:" This is the important commandment, among all of the commandments that concern man and fellow man in this week's parasha. The sheer number of commentaries on this verse come to teach us an important social concept.

I'll suffice with a partial modern interpretation that appears in Midrash Tanchuma, chapter 12, and in Midrash Rabba, chapter 15:

This may be compared to a king who makes his treasures available to a certain individual who later begins to oppress the poor, kill the widows, embarrass the needy, despoil the naked, do violence and theft, indulge in falsehood, and squander the king's treasures. Similarly, the Holy One, Blessed be He, opens His treasure to the wealthy, with all that He possesses in it, as it is said: 'Mine is the silver, and Mine the gold' (Hag. 2:8) Then the rich man begins to loan money on interest. And he starts to taunt the widows and oppress them with interest, to embarrass the poor, and to humiliate the naked who seek charity from him, even though the Holy One, blessed be He, had declared: 'Whoever mocks the poor blasphemes his Maker' (Prov. 17). If a man's neighbor is in debt to him for a hundred zuzim, he beats him, strips him, does violence to him, steals from him, and destroys the pledges he entrusted to him. Then the Holy One, blessed be He, says: 'Woe to you that spoils, and you were not spoiled; and deals treacherously, and they did not deal treacherously with you! When you had ceased to spoil, you shall be spoiled' (Isa. 33). The Holy One, blessed be He, gave him wealth from His treasure house, which was a treasure house of truth, and he made it into a treasure house of falsehood…

This midrash is a parable about a king who allowed someone to use his funds, but that person exploited his control over the money to defraud the poor, and to harm orphans and widows in need. The man also squandered the funds, causing the king to lose a lot of money. This is the story, in a nutshell. How can we apply moral of this fable to reality?

The commentator explains that in reality, the fable's king is God, who opened his coffers to not just one person, but to many people who grew rich off of His money. Yet what did those people do with the king's money? The commentator explains how they exploited that money to lend to people who needed loans, with interest. Those people are the poor, the orphans and the widows. However, unlike the parable, in which the king is passive and unaware of what was done with his money and unaware that he was losing his money, the commentator depicts the God's rebuke: "Through this act of denigrating the poor, you are cursing me! They could be no greater chilul Hashem – desecration of God's name – than that!" The rebuke continues as follows: "When you use a poor person's property and clothing, which he pledged to you against the loan, you have become a thief in the eyes of Hashem." The commentator ends with Hashem's statement to anyone who lends on interest and seizes the pledged property of the debtors: "I gave you the money of truth, and you have made it the money of lies."

Money per se isn't bad. It's a tool and a resource that we receive from God. The real question is what the use of this money does to the person using it. Will that person choose to grow rich at the expense of the needy? Will people amass fortunes by defrauding the poor and those who are in distress? Our Parsha states that "…you shall not accept a bribe, for a bribe will blind the clear sighted and corrupt words of the righteous." Money can blind a person from seeing the destitute, the weak and the needy. When all you see is money, it blocks the human landscape, with its richness and crises. Even a judge can deviate from the truth and issue a false ruling. Likewise, a person with money can turn the money of truth into the money of falsehood. In this way, we are unable to see the image of God and the nature of mankind. We are only able to see the coins.

As we try to create a human society drawing on God's laws, a society which clarifies which of its principles are most important, it seems that if we use the money for those who really need it, and not in order to exploit them and grow rich at their expense, through falsehood and fraud, we will truly become a kingdom of priests and a holy nation. Perhaps, by viewing money in this way, we will be more careful in how we observe the other commandments concerning property and damages, and the commandments between man and fellow man that are listed in this parasha.

Dvar Torah: TorahWeb.Org

Rabbi Daniel Stein

Verbal Abuse

The Torah stresses the importance of treating the most vulnerable members of society in an exceedingly gentle and sensitive fashion, as the pasuk states, "You shall not wrong (lo tonu) the convert etc. You shall not mistreat any orphan or widow" (Shemos 22, 20-21). However, in fact this prohibition applies not only to converts, orphans, and widows, but extends to other people within the community as well, as we are told, "And do not wrong (v'lo tonu) one another" (Vayikra 25, 17). The Gemara (Bava Metziah 58b) posits that since a general prohibition against cheating others is already recorded in the earlier pasuk, "you shall not wrong (al tonu) one another" (Vayikra 25, 14), this latter prohibition must be directed towards additional forms of mistreatment, specifically hurtful speech or even verbal abuse, known as onaas devarim.

Rabbi Avraham Pam once observed, "Over the past few years, so much has been written and said concerning the sin of speaking lashon hara etc. However, there is another sin relating to speech about which very little is spoken, and that is onaas devarim." Rav Pam continued and reflected upon the irony of this phenomenon. Lashon hara is evil speech which is perpetrated about someone else, usually in their absence. However, the prohibition of onaas devarim relates to hurtful and even abusive remarks that are made directly to the victim, in their presence, which can obviously be all the more offensive and traumatic, and therefore arguably deserves greater attention and vigilance. Indeed, we find certain instances in halacha where a verbal assault is treated more severely than a physical attack, which of course is also a heinous crime.

For example, while it is well established, that a doctor can cause a wound for a medical or rehabilitative purpose, cruel and insulting comments are prohibited even when one has the best of intentions. The Gemara (Bava Basra 16a) attests that Peninah taunted Chanah (Shmuel 1, 1) about her childlessness only in order to encourage her to daven with greater intensity. Nonetheless, despite her noble objective, the pain Peninah caused Chanah with her words was intolerable, and she was ultimately punished bitterly as a result. The Vilna Gaon suggests that this lesson is alluded to in the language of the ensuing pasuk, "If you dare cause him pain, so that he shall cry out to Me, I shall surely hear his cry" (Shemos 22, 22). Even if one only caused grief to the orphan or the widow, for their own benefit, "so that he shall cry out" to Hashem with greater devotion, it is still forbidden.

Similarly, the Baal Haturim (Breishis 21, 10) claims that the Jewish people were exiled specifically to the land of Egypt as result of the unforgiving manner in which Sarah unceremoniously evicted Hagar the Egyptian from her home, as the pasuk states, "She said to Avraham, 'Cast out that slave-woman and her son.'" Rav Shlomo Kluger alleges that the familiar statement of the Pesach Haggadah, "And he went down to Egypt forced by the word," does not refer to the "word" of Hashem, but rather to Sarah's callous words towards Hagar. Even though Sarah acted aggressively for the sole purpose of preserving the spiritual integrity of Yitzchok, her descendants were punished for her abrasive tone. Rav Chaim Shmuelevitz (Sichos Mussar) compares a person who speaks harshly to others to one who ventures into an ominous blaze. No matter how virtuous their intentions, they will inevitably become burned.

In addition, the Ramban (Shemos 21, 15) notes that the method of capital punishment

administered for cursing a parent is more stringent than the death penalty which accompanies striking a parent. Rav Eliyahu Baruch Finkel proposes that this reflects the reality that often the emotional wounds of betrayal and isolation created by the denunciations and condemnations of one's own child, can be more profound and painful than a physical bruise or gash. The Maharal (Nesivos Olam) explains more deeply, that verbal assaults can be so pernicious and poignant because they are not targeted at the external body which is naturally trained to heal over time, but rather with intent to harm the soul of a person, to diminish their self-worth, significance, and contribution. For this reason, the recovery process from the emotional wounds of hurtful comments can be complex and prolonged, and can never be confined to a financial settlement or mitigated by monetary compensation.

One of the subtler differences between the two competing versions of musical notes (trop) that accompany the ten commandments, known as the taam tachton and the taam elyon, is that in the taam tachton there is a pasach underneath the letter tzadi in the word "lo tirtzach" - "do not murder", while in the taam elyon there is a komatz. The word "pasach" is related to the word "lifsoach" - "to open," and the word komatz is associated with "likmotz" - "to close." The Chasam Sofer suggests that this teaches us that in order to avoid verbal murder, and to preserve the dignity and wellbeing of others, we need to be able to close our mouths and refrain from speaking harshly and in a hurtful manner towards others. At the same time, when we witness verbal abuse, we must summon the courage and strength to open our mouths, to protest, protect, and defend the lives and self-esteem of the innocent and all those who need our help.

Torah.Org Dvar Torah
by Rabbi Label Lam

Just Not Rich Enough

You shall not oppress any widow or orphan. If you oppress him, [beware,] for if he cries out to Me, I will surely hear his cry. My wrath will be kindled, and I will slay you with the sword, and your wives will be widows and your children orphans. (Shemos 22:21-23)

Literally translated the last two verses read, "…if you will oppress-oppress him, for if he cries-cries to Me, I will hear-hear his cry…" Why the double expressions? The Mechilta explains that even a slight oppression, and even if the victim does not cry out loud, I will hear their cry, and how much more so if the persecution was strong and repeated and the widow or orphan cried out loud to Me will the horrific results will redound back in your direction.

While these verses refer also to the oppression of any person, Rashi tells us that the orphan and the widow are singled out because of their extra vulnerability. However the sages do tell us that HASHEM pays extra attention to their cries because they don't have anyone else to defend them. HASHEM, so to speak, adopts their cause defends their honor Himself. We see how careful and extra sensitive we must be when dealing with certain classifications of people. Their pain is amplified in Heaven and the results can be catastrophic.

The Torah is really telling us more though. Let us employ a few extra lenses and see what an opportunity these same verse afford. One valuable idea is spelled out in the Ten Commandments where HASHEM says that He Himself is "does kindliness for thousands of generation for those who Love Me and guard My Mitzvos" and he "visits the iniquity of the parents on the children for three and four generations" (if the children follow in the bad ways of the parents). Rashi tells us that this is mathematical proportion. There are no 2000 generations in history. The minimal ratio of good to bad is 500 to 1. HASHEM is 500 times more benevolent than punitive.

Another factor to compute is that we have a Mitzvah in the Torah to "go in His ways". Whenever we find a trait of HASHEM explicitly spelled out or implied in Torah there is an opportunity for us to emulate the Creator and "go in His ways". HASHEM visited Avraham when he was sick and we too should visit the sick.

Now we have enough information to turn this entire series of verses around. Employing the Talmudic logic of "how much more so in the positive direction" (500X's), and if we choose to emulate the ways of HASHEM and hear the pain of the orphan and the widow and anyone else in distress, we can invite HASHEM's love to flow in our direction. Here is an example.

The Chofetz Chaim zt'l told the following story: The Dubno Magid zt'l once met a blind widower walking with his son in the streets of Vilna. Most people didn't pay much attention to them, but the Dubno Magid greeted them, and spoke with them. They told him about their great poverty, how their home wasn't heated, and that they didn't have food. The Dubno Magid took them into his home so they could warm up, and to eat dinner. The Dubno Magid noticed that the son was very wise, so he hired a Melamed to teach him Torah. From that day on they became part of the Dubno Magid's household. Even after the blind father was Niftar, the Dubno Magid continued paying for the child's tutor.

This child became Reb Shlomo Kluger zt'l, one of the Gedolei HadDor whose Torah illuminates the world until today. The Chofetz Chaim would say: Many people saw the blind pauper with his son walking around the streets of Vilna. They shook their heads, said 'nebach! What a rachmanus!' and that's about all. But the Dubno Magid took action. He showed concern, fed them, and paid for a tutor for the child. If the Dubno Magid hadn't helped them out, the Jewish Nation would have lost a Gadol b'Yisrael.

The Torah often expresses the negative scenario and the weight of the results that follow a violation because there are lines that should not be crossed. Also to describe the extent of the good there is no human language sufficient and our imaginations are just not rich enough.

Bar Ilan University: Dvar Torah

Ancient Covenants: G-d and Israel, Suzerains and Vassals
By Joshua Berman

This week's reading describes how the Holy One, blessed be He, made a covenant (Heb. *brit*) with the Israelites (Ex. 24:3-8). But what exactly is a "covenant"? Words like "agreement" or "contract" are not a suitable definition, for agreements and contracts are made between equals where each side enters the relationship of its own free will; but in this week's reading, although the Israelites said, "we will do and obey" (Ex. 24:7), it is patently clear that they did not have the option of refusing the terms of the "covenant."

In the ancient world, suzerains heading powerful empires or kingdoms made suzerainty agreements with other kings of lesser strength, who essentially served as their vassals. In this article I shall focus primarily on the vassal agreements in the Hittite kingdom (from the 13th century, B.C.E.), in an attempt to clarify the meaning of the term "covenant" as it existed between the Lord and His people, Israel. The form of these contracts apparently represents the conventions of political usage practiced in Israel, as well as by other peoples elsewhere. Below I shall point out parallels that can be drawn between these contracts and passages from Scripture, and these comparisons will enable us to better understand the concept of covenant in the Bible and appreciate its innovative elements.

It is surprising to discover how similar the Torah's descriptions of the covenant between the Lord and Israel are to Hittite suzerainty contracts. This similarity is evident primarily in certain components of form. Five components stand out in particular: 1) an historical preamble; 2) itemization of rights, responsibilities, and realm of authority of each party to the pact; 3) depositing the covenant in the temple; 4) summoning witnesses; 5) a list of blessings for upholding the contract and curses for violating it.

1) **The historical preamble**. Late Bronze Age suzerainty contracts for the most part began with an historical preamble, documenting the events that led to the pact being made. This part is designed to explain the circumstances that brought the vassal king to subordinate himself to the suzerain. A single principle runs throughout all these historical preambles: in all of them the vassal expresses his moral and legal obligations to the suzerain, in exchange for the benefaction that the latter bestows upon

him. In all the contracts reviewed, the Hittite king initiated action for the benefit of his vassal, and in exchange received the vassal's loyalty.

The historical preambles of the Hittite political contracts generally begin with the formulation: "The words of [name of the Hittite king]," immediately followed by a description of the favors bestowed by the Hittite ruler on his vassal; benefaction, by virtue of which the vassal expresses his thanks and his willingness to subject himself to his benefactor.

The account of the Theophany at Mount Sinai contains important elements paralleling these contracts. The fact that in the book of Exodus the account of leaving Egypt precedes that of the Theophany at Mount Sinai fits in well with this format. To better understand the parallel, however, we must examine the preamble to the Decalogue: "G-d spoke all these words, saying: I the Lord am your Gd who brought you out of the land of Egypt, the house of bondage."

Special attention should be paid to the moral or legal basis of the laws that Gd gave the Israelites: He did not identify himself as the Creator of Heaven and Earth, rather as the Gd who bestowed many graces on the "kingdom" of Israel, graces in exchange for which He deserved the people's loyalty and subordination to Him. After the first nineteen chapters of the book of Exodus, which describe the Israelites' redemption and their exodus from Egypt, the verse, "I the Lord am your Gd who brought you out of the land of Egypt, the house of bondage," seems a superfluous repetition. However, at this juncture in history, when the Lord was making His pact with the Israelites, the Suzerain's graces had to be clearly documented in the formulation of the contract itself.

2) **The terms of the pact**. After the historical preamble, the Hittite suzerainty contracts generally detailed the conditions imposed by the suzerain on his vassals as an expression of their loyalty. Generally, these conditions pertained to matters of defense: marking borders, putting down subversive activities, capturing and turning in fugitive criminals, and the like. For our discussion, what is important is the terminology used in the contracts and how this terminology worked its way into the narratives dealing with the Theophany at Mount Sinai as a paradigm of the relations between the Lord and the children of Israel. For example, many Hittite contracts place restrictions on the political activity of the vassal king; he may enter a covenant only with the suzerain.

These texts add new depth to our understanding of familiar biblical verses. The modern reader understands the commandment, "You shall have no other gods besides Me," as an epistemological statement: Gd, who took the Israelites out of Egypt, is the sole true Gd, and hence the need to stress that believing in any other deity is false. But if we look at this command in the context of contracts in the ancient world, it takes on a different coloration. The Lord is the suzerain; the Israelites are His vassals. Worshipping other gods means not only believing in something false, but also breaking one's obligation, just as making treaties or establishing relations with another kingdom would be a traitorous act on the part of the vassal king.

3) **Depositing the contract in the temple**. Another typical element of Hittite suzerainty contracts was an article providing that a copy of the contract be deposited in the temple of the deity worshipped by vassal party, in order to embody the desire of the local deity to stand by the terms of the agreement.

The same formulation, adapted to the new theological conception, appears in the Bible. The covenant (or at least a representative sample from it) was deposited in the ark placed in the Holy of Holies (Ex. 25:21; 40:20). In this way the vassal people of Israel expressed public recognition of their pact with the Divine Suzerain and the central role played by this pact in their relations with the Lord.

4) **Witnesses to the covenant**. The Late Bronze Age contracts generally included a long list of celestial witnesses, invoked to enforce the covenant and to punish the subordinate party if he should violate its conditions. Often these deities came from the world of nature, and sometimes even elements in the natural world itself were called to witness, e.g., heaven and earth, mountains or rivers.

This format, too, underwent modification in the biblical context. Summoning other gods to witness the covenant between Gd and Israel surely did not fit in with the spirit of the Bible. Instead, at a certain juncture the Lord Himself assumed the role of the suzerain king and of the divine witness: "Take to heart all the words with which I have warned you this day" (Deut. 32:46). However, we generally find a vestige of an earlier theme that was common in the ancient Near East: it is not the Lord who bears witness to the obligation of the Israelites, but rather the great forces of nature, Heaven and Earth, whom the Lord appointed to fill this role. The Torah describes the tablets of the covenant as providing symbolic proof or public evidence of the covenant between human beings and Gd. The Tablets are referred to simply as the "Pact" and the ark as the Ark of the Pact (e.g., Ex. 25:16, 21, 26:33-34).

5) **Blessings and curses**. The Hittite contracts generally concluded with the favors that the gods would bestow upon the vassal in exchange for his fealty, and the misfortunes that would beset him if he were to violate the covenant. The blessings and curses generally were presented one after the other, as in these verses:

If you…do not observe the words of this treaty, the gods…shall destroy you…They will draw you out like malt from its husk…And these gods…shall alot you poverty and destitution… Your name and your progeny…shall be eradicated from the earth…The ground shall be ice, so that you will slip. The ground of your land shall be a marsh of…so that you will certainly sink and be unable to cross.

If…you observe this treaty and oath, these gods will protect you…together with your wife… her sons and grandsons,…And the land…shall prosper and expand. And you...—the Hurrians shall accept you (!) for kingship for eternity.

This feature is not present in the Sinai narrative in Exodus, but appears elsewhere in the Torah, especially in the passages of blessings and curses in Leviticus (chapter 26) and Deuteronomy (chapter 28).

The parallels which we have noted have far-reaching theological significance. First of all, the inclusion of an "historical preamble" in the covenant hints that the relationship between Gd and man is based in Scripture on acknowledging the Lord's beneficence and on moral commitment, not only on Gd's awe-inspiring might. However, perhaps the most important consequence of the covenant between Gd and Israel being couched in the format of suzerainty contracts from the Late Bronze Age is that it enhances the status of the human party to the contract, the people of Israel, who have entered a covenant with the Lord as suzerain.

To fully realize this it suffices to contemplate the nature of the relationship of children to parents, young to old, servants to masters, and subjects to rulers. In all of these examples, a group of lower social status maintains a relationship with a party of higher social status. Moreover, all of these relationships involve paying respect, and the respect is always uni-directional: the inferior party pays respect to the superior one. However, contrary to this pattern, material from the Mari Tablets and el-Amarna archives reveals that in political pacts respect was paid reciprocally between suzerain and vassal.

A variety of metaphors were used in the ancient Near East to describe the bond between man and Gd: a child and parent, servant and master, subject and king. In all these types of relationship respect is unilateral: the inferior respects the superior. Any of these metaphors could be used to describe the position of the human being vis-à-vis Gd in Scripture. But, alongside all these, Scripture is in search of complementary models enabling it to describe the encounter between the human and the divine in a new, far-reaching way. Scripture adopts the format of late Bronze Age Hittite contracts because in them respect was manifest reciprocally. This signifies that in the Bible's concept of the covenant, Gd respects the human being just as the human being respects Gd. *[Translated by Rachel Rowen]*

BS"D

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Parshas Mishpatim These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: CD #889The Neighbor Who Forgot To Turn Off The Fire. Good Shabbos! Yad Yechiels New Website http://www.yadyechiel.org/

A True Friend

The pasuk "If the ox of a man will gore his fellow man's ox and it dies they will sell the live ox and split its value and also the dead (ox) shall be split." [Shmos 21:35] is discussed at length in the beginning of Tractate Bava Kamma, along other laws involving damage to or by one's property. The expression at the beginning of this pasuk "v'ki yeegof shor ish es shor re'eyhu..." is normally translated "When a man's ox will gore his friend's ox". However, the Ibn Ezra quotes an interpretation from a certain 'Ben Zuta' who offers an alternate translation. Ben Zuta claims that the words "shor re'eyhu" mean the "fellow ox" of the ox who is doing the goring. It is not to be translated as "the ox of his friend" as we commonly translate but rather "the ox gores his friend" – another ox!

The Ibn Ezra minces no words in dismissing the interpretation of Ben Zuta. In his inimitable style he writes "the ox has no 'friend' other than Ben Zuta himself!" In other words any one who says such an interpretation is a worthy companion to an ox and has no place in the Study Hall.

The concept of friendship and the concept of "re'yah" [friend] as in "v'Ahavta l're'yahcha kamocha" [you should love your friend as yourself], only applies to human beings. Friendship is an emotional relationship that reflects an aspect of humanity. Animals can have companions and they can even have mates. But the whole concept of friendship is not applicable to them. Therefore, the Ibn Ezra dismisses the interpretation of Ben Zuta: Do not talk about "friends of animals" – there is no such thing.

Rav Hutner, zt"l, makes the following very interesting observation: The word "re'ya," which is one of several ways of saying "friend" in Hebrew comes from the same root as the word "teruah" as in "It shall be a day of teruah [blasting] for you" [Bamidbar 29:1] (referring to Rosh HaShannah). The Targum Unkelos on this pasuk translates "yom teruah" as "yom yevava". "Yom yevava" means a day of moaning, or a day of broken up cries.

That is why the main thrust of the shofar sound is the "shevarim" (the broken wailing sound). There is a question in Halacha as to whether the true shevarim is the 3 short sounds we call shevarim or the series of shorter blasts that we call teruah or a combination of both, but whatever its nature, the "shevarim" is the essence of the shofar blowing. The single blast sound (tekiah) that proceeds and follows the "shevarim" merely provides a frame, so to speak, to highlight the essence of the shofar sound – the sobbing cry of shevarim.

Thus, the etymology of Teruah, sharing the same root as re'yus [friendship] has the connotation of breaking something up. Rav Hutner says that is why a friend is called re'yah – the purpose of a friend is to "break you up" and to "give you chastisement". A true friend should stop us in our tracks and give us a kick in the pants, when necessary. A friend is not the type of person who always pats us on the back and tells us how great we are, always condoning whatever we do. The purpose of a friend (re'yah), as is the purpose of Teruah (shofar blast), is to tell us – sometimes – "you don't know what you are talking about!"

Obviously, there has to be an overall positive relationship. Someone who is always critical will not remain a friend for very long. A person needs to have a modicum of trust and confidence in someone before he is prepared to hear criticism from him. But the fellow who always slaps us on the back and tells us how great we are is likewise not a true friend. A true friend must be able to stop us and sometimes be able to break us.

In one of the blessings of Sheva Brochos (recited at a wedding and during celebration meals for the week thereafter), we make reference to the newlywed couple as being "re'yim ahuvim" [loving friends]. There is a message behind this expression. In order for a Chosson-Kallah / Husband-Wife to be "loving friends," they need to have the capacity to be able to say to each other "this is not the way to do it; this is not the way to act". Obviously, a relationship in which this is the entire basis of their interaction is not going to fly. But – if one is deserving of it – the type of wife a person will find will be one who will be a "re'yah ahuva" in the full sense of the word "re'yah".

This is why no ox ever had a "re'yah". No ox will ever tell its companion ox "It is not right to eat like that" or "You are eating too much" or "You are eating too fast." A true friend needs to do that.

Similarly, the Netziv says on the pasuk, "A helpmate, opposite him" [Bereshis 2:18] that sometimes in order for a person to be a helper (ezer), the person needs to be an opponent (k'negdo). It should not just be "Honey, you're great" and "Honey, you are always right." Sometimes it must be "Honey, you are an idiot!" This is a true instance of "re'yim ahuvim".

May we all merit having such true friendship between ourselves and our companions and between ourselves and our spouses.

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webmaster@koltorah.org Parashat Mishpatim Feb. 9, 2013

One Small Step At A Time
by Rabbi Darren Blackstein

Having just read the Parashah containing the Aseret HaDibrot, we now turn our attention to Parashat Mishpatim and its many laws that govern how we treat our fellow man. There seems to be a stark contrast between Parashat Yitro's involvement in our connection to the Divine and Parashat Mishpatim's involvement in our interpersonal relationships. Parashat Yitro's drama is engulfed in a spectacular experience where Am Yisrael, under the

weight of Hashem's words, need to beg for relief, while Parashat Mishpatim seems to be an aftermath containing civil laws, coupled with an innate moral code. Perhaps the transition between these Parashiyot is much smoother than it appears on the surface.

The last Pasuk of Parashat Yitro (Shemot 20:23) states that we should not ascend a Mizbei'ach by way of stairs. This implies that we should ascend by way of some type of ramp. The Pasuk explains that this is to avoid revealing any nakedness in our approach to the altar. Rashi (ad loc. s.v. Asher Lo Tigaleh Ervatecha) explains that climbing stairs necessitates the elongation of our stride, thereby increasing the chance of exposing the inner thigh. Rashi continues to explain that this remains an issue despite Hashem's commandment to the Kohanim to wear linen pants. The reason that this is an issue is due to the fact that the climbing stairs is a physical motion that, in a bodily way, advertises the nakedness of the leg, even though in this case it is covered. The motion of climbing stairs itself thereby becomes a disrespectful activity, and, consequently, should not be performed near such a holy place. Then, Rashi quotes a Kal VaChomer from the Mechilta that states the following: If we are careful to avoid humiliating inanimate objects such as stones because they have this holy use, we should, all the more so, be careful to avoid humiliating our fellow man because he is created in the image of Hashem! Rashi enables us to realize that inherent in our connection to Hashem is our connection to each other.

At the beginning of this week's Parashah, Rashi (Shemot 21:1 s.v. VeEileh HaMishpatim) asks how it can be connected to Parashat Yitro. Again quoting the Mechilta, Rashi explains that the message is that just as the topics of the altar in Yitro and interpersonal laws in Mishpatim are juxtaposed, similarly, the Sanhedrin, which adjudicates the laws of Mishpatim, should be located near the Mizbei'ach, which is described in Yitro. This is all well and good in terms of deriving a message from the juxtaposition, but this seems like a lesson born out of the convenience of these two topics being next to each other, and not out of a fundamental connection. The Maharal, in his Sefer Gur Aryeh, explains what Rashi has in mind. He writes that the function of the Mizbei'ach is to promote a sense of peace and well-being between us and Hashem through the sacrifices that are offered there. Similarly, the function of the Sanhedrin is to promote a sense of peace and well-being amongst the people through the debates that it resolves and the laws that it clarifies. Therefore, this similarity in function is reflected not only through the juxtaposition of the topics, but also through the physical proximity of one to the other.

What message can we extract from this? It seems that we are being told that there are underlying connections between the way we conduct our spiritual lives and the way we conduct our interpersonal lives. Jews must reflect a healthy respect and concern for the holiness that is inherent in Bein Adam LaMakom, as well as in Bein Adam LaChaveiro. This is necessitated by the Tzelem Elokim that is part of every human being. A similar point is made by the Maharal by way of Rashi in last week's Parashah. We are told in Perek 20 that Hashem described "all" these Aseret HaDibrot (20:1). Rashi (ad loc. s.v. Eit Kol HaDevarim HaEileh) explains that the word "all" implies that Hashem said all of the commandments at once. Bnei Yisrael were not able to tolerate that, though, so Hashem delivered the Aseret HaDibrot in another way. The Maharal explains that Rashi teaches that Hashem said them all together; while this was impossible to understand, He relayed the message that all of Hashem's words and all of the Torah are connected and part of a large harmonious whole. We must strive to reflect this message in our daily living. We must see the Kedushah in the performance of a ritualistic Mitzvot as well as in our social conduct. Both should reflect the holiness embedded in each.

As a recommendation in terms of our progress, I must echo the words of our Rosh HaYeshiva, Rav Yosef Adler. Rabbi Adler often suggests that progress must be made in small quantifiable amounts. Taking on too much too soon will lead only to failure and disappointment. Perhaps this message can be seen through the ramp leading to the altar. A ramp provides for a slow, smooth journey to the next level, while a step proceeds in a sharp incline leading to a possibility of stumbling. As we are counted upon, through our contributions in Parashat Shekalim, to be a part of our nation's service to Hashem, may we all be Zocheh to uplift our treatment of, and connection to, one another in ways that reflect the message of the unified Kedushah of Hashem Himself.

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from: Kol Torah Webmaster <webmaster@koltorah.org>
to: Kol Torah <koltorah@koltorah.org> date: Thu, Dec 13, 2012 at 8:11 PM
subject: Kol Torah Parashat MiKeitz Vayigash Vayechi 5773

Beit Din Basics – Part One
by Rabbi Chaim Jachter

Many otherwise knowledgeable Jews find the contemporary workings of financial litigation in Beit Din to be obscure and even foreign. In this series we will highlight some basic points about Beit Din that every Jew should find helpful. In an effort to enhance comprehension, we will present a fictional case and explain how a Beit Din could resolve such a situation.

In order to make matters simpler, we will forego our usual copious citations to the sources of the issues we discuss. Many sources for these issues appear in the second volume of Gray Matter, where commercial litigation in Beit Din is discussed at great length. We will begin our discussion by presenting seven introductory concepts that are essential for understanding how Batei Din currently function.

Batei Din, Civil Courts, and Attorneys

Halachah forbids us to submit financial disputes to a Nochri court for adjudication (as we discussed at length in our past two essays). Financial disputes with our fellow Jews should be resolved "within the family" and according to the rules of our tradition. We should emphasize that this is entirely in harmony with civil law, as civil courts are most pleased with alternative dispute resolution. Civil courts are overburdened and the government is delighted to be relieved of the burden of resolving our disputes.

Indeed, civil courts will most often enforce the decisions of Batei Din. It is sound civil public policy to encourage such arbitration. However, the civil courts will enforce a Beit Din ruling only if the Beit Din adhered to the civil rules for arbitration. For example, a civil court will not enforce a Beit Din ruling if the Beit Din did not permit each litigant to be represented by a licensed attorney of his or her choice. For this and other reasons, litigants are often represented in Beit Din by attorneys, even though the Mishnah and Gemara hardly ever describe the presence of lawyers in a Beit Din.

It is very much in the interest of promoting Halachic observance to hew closely to the civil procedures for arbitration, since civil courts are currently the only mechanism for enforcement of Piskei Din (Beit Din rulings). The Torah speaks of the Mitzvah to appoint "Shofetim VeShoterim," judges and policemen, to enforce the rulings of the Dayanim (rabbinic judges). In a Torah society, the Jewish government appoints Shoterim to enforce the rulings of the Beit Din. In American society, the civil courts function as our Shoterim. Those who reside in the United States are most fortunate that the courts are strongly inclined to enforce properly-adjudicated Batei Din arbitrations. This is not the case in many other jurisdictions.

The Role of Civil Law in Beit Din – Three Portals

One might be rightfully puzzled at the title of this section – after all, a Beit Din is supposed to rule in accordance with Halachah. What role could civil law have in Beit Din? There are, however, three portals through which Halachah potentially incorporates civil law. The first is that in regards to financial matters, Dina DeMalchuta Dina, the Halachah obligates us to honor the laws of the jurisdiction in which we reside. However, there is considerable difference of opinion in regard to the scope of the applicability of this rule. Moreover, Posekim are most reluctant to eviscerate Halachah by too liberal an application of Dina DeMalchuta Dina.

Many Dayanim are more comfortable with a different portal, Minhag HaMedinah – the common commercial practice of a particular locale. The Mishnah and Gemara quite often apply Minhag HaMedinah even when it is not identical to Halachic mandate. Work hours is a classic example (Halachah expects employees to work from dawn to dusk). The common commercial practice of fewer or longer working hours overrides the Halachah. It is important to note that Dina DeMalchuta Dina often determines and creates the Minhag HaMedinah.

In fact, the rules and procedures of the Beth Din of America (available at www.bethdin.org) state that its Dayanim will incorporate common commercial practice in their rulings "to the fullest extent permitted by Jewish Law." A contemporary example is building codes. A Beit Din will not, for the most part, adjudicate a dispute between a home owner and a building contractor based on the standards for buildings articulated by the Gemara. Instead, compliance with contemporary building codes is the basis, for the most part, of the decision. Indeed, the parties to a building agreement expect contemporary building codes to serve as the benchmark for proper fulfillment of their contract. Thus, civil building codes create a Minhag HaMedinah and are incorporated into the Halachah.

A more controversial portal is the contractual agreement for a Beit Din to adjudicate disputes in accordance with civil law of a specific jurisdiction as of the day of the contract. The Beth Din of America will, generally speaking, honor such agreements. They reason that Halachah follows Rabi Yehudah who permits structuring financial affairs in any manner provided that it is honest, consensual, and does not violate ritual law (such as the prohibition of Ribit, charging interest).

Other Batei Din view such agreements as violations of the prohibition to adjudicate in civil court. They reason that Halachah forbids submitting both to the authority of a Nochri court and to Nochri law. The Beth Din of America, however, argues that one submits to the authority of the civil law only if the contract calls for the Beit Din to rule in accordance with the civil law as of the date of the adjudication of the future dispute.

Indeed, the prenuptial agreement promoted by the Rabbinical Council of America and the Beth Din of America offers the option for couples to submit to the jurisdiction of the Beth Din of America for adjudication of any financial dispute emerging from divorce, based on civil equitable distribution laws or community property laws. Of course, the agreement calls for the Beit Din to apply these civil laws as they apply on the day of the signing of the prenuptial agreement.

Considering that Halachah incorporates some aspects of civil law, it is often desirable to select at least one Dayan who is expert in the civil law of the specific matter that is being adjudicated by the Beit Din. Many of the Dayanim who serve on the Beth Din of America earned a law degree.

Shetar Beirurin/Binding Arbitration Agreement

Batei Din require litigants to sign a Shetar Beirurin, a binding arbitration agreement, before they will adjudicate a dispute. Without such consent, the Beit Din might not have Halachic jurisdiction over the parties and the parties might choose to ignore the Beit Din's rulings. Moreover, a civil court will not enforce a ruling unless the parties signed a proper binding arbitration agreement. Batei Din do not enjoy authority in a country that separates state and religion, unless the parties contractually agree to submit to the jurisdiction of a specific Beit Din to settle a specific dispute.

Indeed, refusal to sign a Shetar Beirurin is regarded by Batei Din as tantamount to refusal to adjudicate the dispute in Beit Din and one who acts thusly is held in contempt of rabbinic court ("Mesareiv LaDin"). Refusal to sign a Shetar Beirurin is a strong indication that the party does not intend to respect and honor the Beit Din ruling if it does not rule in his or her favor.

Since the Shetar Beirurin is both a Halachic and civil necessity, it must conform both to Halachah and to civil law. The Beth Din of America's Shetar Beirurin is in English, for example. The aforementioned RCA/BDA prenuptial agreement is written in English and is independent of the Ketubah and the Tena'im.

The composers of the RCA/BDA prenuptial agreement considered the dissenting opinion in Avitzur v. Avitzur, a classic New York civil court (5-4) ruling. The majority upheld the civil enforceability of the Conservative movement's prenuptial agreement, a binding arbitration clause written in Aramaic and incorporated into the traditional Ketubah. The dissent argued that a civil court is not permitted to enforce a "liturgical document." In addition to avoiding the Conservative prenuptial agreement's Halachic flaws, the Orthodox prenuptial agreement steers clear of this critique and thereby enhances its likelihood of enforceability in civil court.

One Dayan or Three Dayanim

The first Mishnah of Mesechet Sanhedrin teaches that a Beit Din of three is required for adjudication of commercial disputes. However, Halachah permits parties to choose one Dayan to judge their dispute. As we mentioned earlier, Halachah grants us great flexibility in regards to financial matters. The advantage of choosing one judge is that the matter can be resolved more quickly since time is not needed for the judges to agree upon a ruling. Moreover, the expense of paying more than one Dayan is avoided.

The advantage of a Beit Din of three Dayanim is that there will be much more grappling with the issues involved. Most likely, a better decision will be reached since more perspectives are involved in arriving at a decision. Pirkei Avot specifically advises rabbis to refrain from resolving monetary disputes alone without the benefit of two additional Dayanim.

It is especially recommended to use a Beit Din of three Dayanim if the matter is under serious dispute and emotions are running high. In such cases, creating/restoring peaceful relationships is a major goal of a Din Torah (Beit Din litigation). There is much greater chance of achieving Shalom when three Dayanim decide a case. The losing party is much more likely to reconcile himself/herself to a decision of three experts rather than only one. A rational individual who is convinced of his or her stance in a dispute will relent when three respected figures believe otherwise.

Conclusion

IY"H, we will continue with the presentation of Beit Din basics in our next issue.

Beit Din Basics– Part Two
by Rabbi Chaim Jachter

Many otherwise knowledgeable Jews find the contemporary workings of financial litigation in Beit Din to be obscure and even foreign. Last week we began a series of essays in which we highlight some basic points about Beit Din that every Jew should find helpful. In an effort to enhance comprehension, we will present a fictional Din Torah and explain how a Beit Din could resolve the dispute.

In order to make matters simpler, we will forego our usual copious citations to the sources of the issues we discuss. Many sources for these issues appear in the second volume of Gray Matter, where commercial litigation in Beit Din is discussed at great length. We will continue our presentation of seven introductory concepts that are essential for understanding how contemporary Batei Din function.

Choice of Beit Din – Beit Din Kavu'a or Zabla

Halachah offers two basic options of choosing a Beit Din to adjudicate a dispute. One is a sitting Beit Din (Beit Din Kavu'a) and the other is a Zabla Beit Din, in which each litigant chooses a Dayan and the two Dayanim then choose a third Dayan. There are advantages and disadvantages to each type of Beit Din. Some prefer a Zabla because the parties exercise some control over the choice of Dayanim. Customarily, the two Dayanim chosen by the parties ascertain that the third Dayan (Shalish) is acceptable to both litigants.

A disadvantage of this type of Beit Din is that sometimes the Dayanim chosen are not compatible and do not work well together. While each Dayan may be excellent in his own right, the combination might not work well. Another disadvantage is that a Zabla Beit Din, generally speaking, will be more expensive, since the Dayanim serve not only as the judges but also as the administrators of the case. Since the Dayanim must invest more time, their fees are higher. Visit www.bethdin.org for a list of fees charged by the Beth Din of America, a Beit Din Kavu'a.

Another advantage of using a Beit Din Kavu'a is that many Batei Din, such as the Beth Din of America and the State of Israel's rabbinic courts, have published formal rules and procedures for the Dinei Torah that they adjudicate. An ad hoc Zabla Beit Din does not have such rules and procedures which specify the rules the Dayanim will follow. A solution to this problem, however, is to denote in the Shetar Beirurin/binding arbitration agreement that the Zabla Beit Din will be following the rules and procedures of a specific Beit Din Kavu'a.

Choice of Law – Din, Pesharah, and Pesharah Kerovah LeDin

As surprising as it sounds, there is a choice of law in Beit Din. While every Beit Din judges based on Jewish Law, Halachah offers three options regarding the methodology of decision-making to be employed by the Beit Din. One option is "Din," the strict application of the Halachah. Another is "Pesharah," which can mean either compromise or equity (Batei Din vary in their understanding of the term Pesharah). The third option is "Pesharah Kerovah LeDin," which is a blend of the aforementioned two. While the Beth Din of America used to offer litigants the choice of pure Din in its rules and procedures, in recent years it has offered only either Pesharah or Pesharah Kerovah LeDin.

Both the Gemara and the Shulchan Aruch strongly discourage applying strict Din in practice. In fact, many Batei Din today regard a litigant who insists on a Din judgment as a Mesareiv LeDin, in contempt of rabbinic court. Such is the extent of the avoidance of conducting a Din Torah (Beit Din litigation) in accordance with strict Din.

The preferred method is Pesharah Kerovah LeDin, since Pesharah often appears to be arbitrary. Indeed, Batei Din will apply Pesharah only if the parties specifically request a pure Pesharah. Pesharah Kerovah LeDin is the preferred method of conflict resolution; on the one hand, it hews for the most part to the rules set forth in the Shulchan Aruch, but it nonetheless offers some flexibility to consider equity and fairness in decision-making.

One would think that a plaintiff would prefer Din, since this would allow collection of all he is owed without compromise. However, a plaintiff might prefer Pesharah, as the rules of evidence are somewhat relaxed in such a case, and therefore it may be easier for him to prove his case to the Beit Din. In addition, some Batei Din will not excuse Gerama BeNezikin (indirect damage) if ruling in accordance with Pesharah, unlike pure Halachah, which does not obligate one to pay for damage done indirectly. Thus, there are both potential advantages and disadvantages to both plaintiff and defendant in regards to choosing either Din, Pesharah, or Pesharah Kerovah LeDin.

The choice of Din, Pesharah, and Pesharah Kerovah LeDin is spelled out in the Shetar Beirurin/binding arbitration agreement signed by the litigants appearing before Beit Din. Litigants should also ask the written clarification for their understanding and application of Pesharah (is it compromise or equity) and Pesharah Kerovah LeDin (is it inclined more to Pesharah or to Din). The Beth Din of America explains its standards regarding Pesharah and Pesharah Kerovah LeDin in its rules and procedures, available at www.bethdin.org.

We should clarify that Pesharah is not an extra-Halachic consideration. Rather, it is an integral component of Halachah, since the Torah commands us (Devarim 6:18), "VeAsita HaYashar VeHaTov BeEinei Hashem Elokecha," to do the right and the

good in the eyes of Hashem. Rashi explains that this refers to the idea of Pesharah. Thus, when Dayanim apply Pesharah Kerovah LeDin or Pesharah, they are acting well within their Torah mandate and not outside the boundaries of Halachic dispute resolution.

Role of your Rav

Generally speaking, it is not a good idea for one's Rav to resolve a monetary dispute. Tensions often run very high regarding monetary disputes, and it is usually preferable for a neutral and disinterested party/ies to resolve the dispute. Moreover, a Rav is generally biased toward his congregants, since he presumably has a deep connection with them, thereby rendering him disqualified to render an unbiased decision regarding a dispute.

Introduction to the Fictional Case

Before we present our model case we need to introduce three basic Halachic concepts. The first is HaMotzi MeiChaveiro Alav HaRe'ayah, that the burden of proof rests upon the plaintiff. Witnesses and documents are classic forms of evidence; e-mail correspondence today is often used as evidence in contemporary Batei Din. Thus, if one claims that his friend owes him $40,000 and produces no evidence to that effect, the Beit Din will not award any compensation to the plaintiff.

The second concept is Shevu'at Modeh BeMiktzat. In this case, the plaintiff makes a claim and the defendant admits to part of the claim. Admission is the strongest form of evidence, as Chazal teach, "Hoda'at Ba'al Din KeMei'ah Eidim Dami," an admission is the equivalent of one hundred witnesses. However, if there is no evidence beyond the amount of admission, the Beit Din does not obligate the plaintiff to pay any more than he has admitted to.

However, since he has admitted to part of the claim, the Torah demands an oath from the defendant that he does not owe any more money than that which he admitted. For example, if one demands $24,000 from his friend, who admits to $100 of the claim, the friend is required to pay only $100 since there is no evidence to the amount beyond that sum. However, he must take an oath that he truly owes no more than $100.

The third concept is called Pidyon Shevu'ah, the redemption of an oath. As we discussed at length last year in Kol Torah (archived at www.koltorah.org), the virtually universally accepted practice among contemporary Batei Din is to refrain from administering oaths. In a situation where one is obligated to take one of the three Torah level oaths, Modeh BeMiktzat, Shevu'at Eid Echad (where there is one witness to bolster the plaintiff's claim) and Shevu'at HaShomerim (the oath taken by a watchman who claims that the item he was guarding was stolen, that he did not take the item), the Beit Din will impose a Pesharah upon the parties. The Beit Din, in issuing such a Pesharah, must exercise good judgment to ensure that a fair and reasonable decision is issued, as we discussed at length last year.

A Fictional Case

A musician hired a website designer (both parties reside and work in San Francisco) to help sell twelve of his recordings on the internet. The musician engaged the website designer to perform three tasks: edit the recordings, post them to his website, and add e-commerce capability to his website. In testimony before the Beit Din, the musician and website designer had no disagreement about this point.

They did, however, sharply disagree about the terms of payment. The plaintiff (the website designer) claimed he was hired to work for $120 per hour and that he worked for 200 hours to complete the assigned tasks. Thus, he claimed that he was owed $24,000. The defendant (the musician) claimed that the agreement was to pay twenty-five percent of the proceeds from the sale of the recordings. The defendant stated that he received a total of $400 for the recordings. Thus, he claimed that he owed only $100. The terms of payment were not recorded in a document, nor were there any witnesses to testify what the parties agreed to pay.

Conclusion

We conclude our discussion at this point asking the reader to think how a Beit Din would resolve this issue, utilizing the introductory material from the essays of the past two weeks. Try to figure out how a decision would be made if either Din or Pesharah or Pesharah Kerovah LeDin were utilized by the Beit Din. The answers will be presented IY'H in next week's issue.

Beit Din Basics – Part Three
by Rabbi Chaim Jachter

This week we conclude our series on financial litigation in Beit Din. We have highlighted some basic points about Beit Din that every Jew should find helpful. In an effort to enhance comprehension, last week we introduced a fictional case and this week we will explain how a Beit Din could resolve this situation.

In order to make matters simpler, we will forego our usual copious citations to the sources of the issues we discuss. Many sources for these issues appear in the second volume of Gray Matter where commercial litigation in Beit Din is discussed at great length. We will continue our presentation of seven introductory concepts that are essential for understanding how contemporary Batei Din function.

Our Fictional Case

The following dispute was brought to a Beit Din in Northern California in the winter of 2012. A musician hired a website designer (both of whom live in San Francisco) to help sell twelve of his recordings on the internet. The musician engaged the website designer to perform three tasks – edit the recordings, post them to his website, and add e-commerce capability to his website. In testimony before the Beit Din, the musician and website designer had no disagreement about this point.

They did, however, sharply disagree about the terms of payment. The plaintiff (the website designer) claimed he was hired to work for $120 per hour and that he worked for 200 hours to complete the assigned tasks. Thus, he claimed that he was owed $24,000. The defendant (the musician) claimed that the agreement was to pay 25% of the proceeds from the sale of the recordings. The defendant stated that he received a total of $400 for the recordings. Thus, he claimed that he owed only $100. The terms of payment were not recorded in a document nor were there any witnesses to testify what the parties agreed to pay.

Resolution According to Pure Din

If this case were to be resolved according to pure Din, strict Halachah, a Beit Din would obligate the musician to pay only $100. Beit Din would not obligate him to pay any more money, since there is no evidence that he owes anything above this amount. However, Beit Din would require the musician to take an oath that he owes no more than $100 (a Shevu'at Modeh BeMiktzat, as explained in last week's issue). Nonetheless, as we noted in our previous issue, pure Din is rarely applied in contemporary Batei Din.

Resolution According to Pesharah Kerovah LeDin

We also noted last week that Pesharah Kerovah LeDin, a blend of pure Pesharah and Din, is the preferred method of conflict-resolution in Beit Din. In our fictional case, the litigants signed a Shetar Beirurin (binding arbitration agreement) in which they agreed that the Beit Din should adjudicate their dispute in a manner of Pesharah Kerovah LeDin.

Many Batei Din follow Rav Kook's recommended course of how to arrive at a ruling in the manner of Pesharah Kerovah LeDin. The Beit Din first determines how to resolve the matter in accordance with pure Halachah. Then it considers the equities of the situation. In this situation, the website designer performed a considerable amount of work for the musician and thus fairness would dictate that he be paid considerably more than $100 for his efforts. We reemphasize that which we noted last week, that when Dayanim apply Pesharah Kerovah LeDin or Pesharah, they are acting well within their Torah mandate and not outside the boundaries of Halachic dispute resolution.

In this case a Beit Din could apply the Halachic manner of resolving of a somewhat similar, albeit not identical, situation. The Shach (Choshen Mishpat 333:44) and Ketzot HaChoshen (331:3) address a situation in which one hired a professional to perform a task related to his profession but did not specify the wages. Halachah assumes that professionals do not work for free unless they explicitly state that they are doing so and thus in the usual situation the professional must be compensated. However, since a wage was not specified the Shach and Ketzot rule that the employer pays only the lowest amount paid for such work in the locale in which it was performed. We cannot assume that the employer would have hired someone to work for more than the lowest rate in his area.

We must stress that the case of the Shach and Ketzot is not identical to the fictional case we are presenting. In our case the parties specified a wage but disagreed as to what was agreed to. Nonetheless, a Beit Din could apply this somewhat analogous case, since when there is a dispute as to the agreed wage it is as if no wage was agreed upon. Moreover, compensating the musician in accordance with the lowest amount paid for such work in his area is far more equitable than giving him only $100 for his time, efforts, and talent.

A Beit Din would have to consider in such a case as to what is the "locale" in such a situation. Such work could have been farmed out to anywhere in the world. For example, the musician could have hired people in parts of the world such as India, where they receive far lower wages than what is paid in the United States for performance of such tasks. A Beit Din would have to decide whether the payment should be the minimum paid for such work in Northern California or anywhere in the world.

A Beit Din would rule that the wage is determined by the lowest fee charged in Northern California since it is clear that the musician was interested in hiring someone who resides locally and not someone who lives on the other side of the globe. There are distinct advantages to working with someone who lives nearby and it is obvious that the musician was interested in these advantages since he in fact hired someone who lives close to him.

The Beit Din in our fictional case consulted with five experts and each reported that $5,000 was the minimal amount paid for such work in Northern California in 2012. Thus, the Beit Din obligated the musician to pay $5,000 in accordance with a blend of

Pesharah and Din. In addition, the Shevu'at Modeh BeMiktzat which he was obligated to take according to strict Din was redeemed in a reasonable and fair manner in accordance with the contemporary Beit Din practice of Pidyon Shevu'ah (discussed last week).

Interestingly, in our fictional situation, the musician insisted on taking a Shevu'ah (oath) to bolster his claim and excuse him from paying more than $100. The Beit Din, however, declined to administer a Shevu'ah in accordance with contemporary practice.

Resolution According to Pure Pesharah

If the Beit Din were to have decided this issue based on pure Pesharah the Beit Din might have awarded compensation to the website designer in accordance with the average wage paid in Northern California. Thus, had the parties agreed to Pesharah, the website designer would have been granted another $1,000. Pesharah Kerovah LeDin, however, demands the Beit Din to remain near the bounds of Din which calls for paying only the lowest wage, in a somewhat similar situation.

Lessons to Learn from the Fictional Case

Had the parties to our fictional Din Torah committed their agreement to writing, the dispute would not have emerged from their interaction. In fact, the Gemara (Bava Metzi'a 75b) urges loans to be issued in writing and before witnesses to avoid problems. Interestingly, a very experienced Dayan, Rav Chaim Cohen, once commented that Dinei Torah usually arise amongst people who are not organized in their affairs and expose to themselves ambiguity created by a lack of clarity in their business dealings. Carefully clarifying the terms of a business interaction greatly reduces the likelihood of dispute and the need for litigation.

Another lesson is that the litigants in our case should have settled their dispute amongst themselves without resorting to Beit Din resolution. The parties in our fictional case were fighting bitterly over this matter and each side hired attorneys to represent them in Beit Din. In addition, a full Beit Din of three Dayanim was absolutely necessary in this hotly contested situation. Had the musician offered to give the website designer $7,500 and had the website designer agreed to accept payment of even $2,500, they would have each saved money considering the costs of their lawyers and the costs of the Dayanim.

One wonders what psychological forces drive people to pursue litigation even though they would save money if they compromise. It is possible that the mistake is the pursuit of victory rather than fairness. However, this is usually a counterproductive activity since in most situations it is in the interest of both parties to settle their differences amongst themselves without having to pay lawyers and Dayanim. One should also consider the psychological costs of the stress and time that is expended in the course of the pursuit of an intense litigation. The health benefits of settling a dispute should not be dismissed as trivial.

Conclusion

In our fictional case, the plaintiff acted correctly and went to civil court to confirm the Beit Din's award. The civil court, seeing the reasoned decision offered by the Beit Din (see our discussion of this issue in Gray Matter volume three) and recognizing its fairness, upheld the rabbinic court award. The parties learned their lessons and took care to record their business transactions in writing and sought to settle any disputes they had without resorting to litigation.

Thanks to hamelaket@gmail.com for collecting the following items:

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from: Destiny Foundation/Rabbi Berel Wein <info@jewishdestiny.com>
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Weekly Blog :: Rabbi Berel Wein

Expectations

A great deal of our reactions to events is dependent upon what our previous expectations regarding those events or personalities were. If we have very high expectations of success, morality or altruistic behavior from our individual leaders, be they political or religious, national or personal, we are invariably doomed to disappointment - the higher the expectation, the more bruising the disappointment. Much of this disappointment is engendered by our heroes engaging in normal human behavior in circumstances when somehow we expect super human behavior from them. Our expectations are fed by the public image and persona of those leaders who invariably portray themselves as being all-wise, selfless and beyond pettiness and human foibles.

Since they have portrayed themselves in such a fashion, the rule of society – the bigger they are the harder they fall – invariably is invoked. We are witness to this on a national scale regarding the attitude of much of European political leadership, academia and intelligentsia towards the state of Israel.

Not long ago one of the foreign ministers of a Scandinavian country openly stated: "We expect much more from Israel than we do from the Palestinians or the Arabs. Therefore, it is true that we do have a double standard when it comes to events and policies regarding the Middle East." This revealing statement emphasizes the truth that throughout history Jews were expected to be more Christian than the Christians, more liberal than the liberals and certainly more pacifist and peace-loving than anyone else. This expectation, unfair and unrealistic as it may be, was somehow fostered by the Jewish self-image. This attitude has been carried over today by the unrealistic and unfair expectations that many Jews have today of Israel. When Charles de Gaulle called us an "elitist" people he was reflecting the attitude that many Jews have about themselves. So, when Jews do not behave in an "elitist" fashion, the disappointment of the world and of the Jewish people is truly magnified.

The Jewish world, especially the observant Orthodox section of it, is currently reeling from a number of scandalous incidents involving yeshivot, Chasidic courts, Kabbalistic savants, differing ideologies, corruption and criminal charges against revered rabbis, powerful political leaders and public representatives of our faith. Great people and seemingly holy institutions have been brought low by sad and unworthy incidents loudly trumpeted by the press and the media both here and in the United States.

What makes all of these incidents so much more painful is that we were led to expect more. If rioting factions in one of the greatest yeshivot in the world can break up a prayer service for the sake of turf and self interest, it is difficult to see how Torah and meaningful prayer can be advanced amongst the masses of the Jewish people. And this is simply because the antagonists themselves have portrayed themselves as the paragons of virtue and see themselves as being the true owners of the tents of Jacob. We expect better from them. We expect restraint and holiness, tolerance and peace and the willingness to abide with agreed-upon settlements crafted by the religious court system. When these expectations are dashed by what unfortunately can be called "normal" human behavior – selfishness, self-interest, turf and greed – the despair and hardship of the observer is compounded.

There are apparently only two possible antidotes to this disease of scandal and dispute. One is to simply lower our own expectations of our leaders and institutions - to admit that they are not infallible; they are not necessarily as holy as they portray themselves to be and that in their human errors – even shameful ones - can and will occur. Apparently this is the way that the Bible and the Talmud chose in discussing the lives and events of the great leaders of the Jewish people in First and Second Temple times and thereafter. No one gets a free pass. Paradoxically, this does not seem to diminish anyone's greatness or heroic stature in the eyes of the Jewish people. Rather, it enhances their humanity and our ability to identify with them and learn from their challenges and circumstances of life. In effect, we are taught to have realistic expectations of humans and thus minimize the angst and despair that unrealistic expectations will always bring upon us.

A second path in this area is to truly demand high achievements from our leadership, that they truly live up to their public persona and press clippings. Covering up faults and ignoring the obvious circumstance that the emperor has no clothes can only lead to public shame and private disaster. I think that perhaps both of these attitudes can be pursued simultaneously and that Jewish society will strengthen and enhance it.

Shabbat shalom

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Weekly Parsha Blog:: Rabbi Berel

Mishpatim

One of the most puzzling, if not even disturbing subjects, discussed in biblical and halachic detail, appears in this week's Torah reading. That subject matter concerns itself with the institution of slavery – of literally owning another human being and defining them as human chattel. Certainly, the entire subject matter grates on the ears and sensibilities of Western citizens in our current twenty-first century.

We remember the words of Abraham Lincoln that if there is any wrong in human society, slavery is certainly that wrong. Yet, as a matter of cold hard fact and reality, slavery still exists in a large part of human society today and was certainly the norm in all human societies for many millennia. Only in the eighteenth and nineteenth centuries did Western societies begin the slow, painful and always violent change of mindset and practice and legally abolish slavery.

Large parts of the Moslem world today still incorporate slavery as part of their social and economic fabric of life. So, we moderns ask the question, certainly to ourselves if not publicly, why does it seem that the Torah accepts

and even condones the practice of slavery? It devotes a great deal of space and thought to regulating it, limiting it, and making it more humane and less brutal.
Yet, in the final analysis it does not speak out against the practice nor does it forbid it as being a moral and legal wrong. To the true believer, this question like all questions regarding religion and faith, has really no validity. To the nonbeliever, there never is an acceptable answer to any of one's doubts and questions regarding faith and revelation.
To many if not most of us who, though believing are nevertheless troubled by seeming moral inconsistencies and who search for Torah relevance in our everyday lives, this type of question gnaws at us.
The Talmud many centuries ago pointed out the inefficiencies and economic backwardness that slavery inflicts upon society. Its famous statement was: "One who purchases a slave to serve one's self is in reality acquiring a master over one's self." Yet, even here it is the impracticality of slavery that is being attacked and not the immorality of the institution itself.
Many of the great Torah commentators, especially of the last few centuries, have attempted to deal with this issue. They saw in it – in this Jewish attitude toward slavery - an institution that could rehabilitate the criminal, give opportunity to the helpless poor, educate the ignorant and bring the pagan to monotheistic society and its enlightened practices and attitudes.
As true and high sounding as these goals are at best, they still do not sound a ringing condemnation of the institution of slavery itself. I think that we are forced to say that since the Torah was given to all societies and all times – an idea emphasized by Maimonides throughout his works – the Torah, as was its wont in many cases, spoke to a current and long-lasting society that could not imagine a world where slavery should no longer exist.
It regulated the institution and look forward to a time such as ours where, in most human societies, that institution would no longer exist. The Torah never commanded the acquisition of slaves. It tempered the practice, waiting for the time when it would cease to be an issue.
Shabbat shalom

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from: Ohr Somayach ohr@ohr.edu to: weekly@ohr.edu subject: Torah Weekly **Ohr Somayach :: Torah Weekly :: Parshat Mishpatim**
For the week ending 14 February 2015 / 25 Shevat 5775
by Rabbi Yaakov Asher Sinclair - www.seasonsofthemoon.com
Insights
Getting Rid Of The Donkey Work
"And on the seventh day you shall rest, in order that your ox and your donkey should rest." (23:12)
"I'll never forget the first time I kept Shabbat. I woke up on Sunday morning and thought it was Monday…"
"It was almost like an out-of-body experience..."
"I felt this tremendous closeness to the whole creation; as if everything was in its place..."
Ask anyone who became observant what it was that turned them on to Judaism and you'll probably find that it was Shabbat.
Shabbat is "the source of blessing".
Shabbat is the most distant whisper of the World-to-Come, a glimpse into a world beyond time and space that we connect to by refraining from actions that connect us to time and space.
G-d gave the Jewish People an awesome power: the ability to infuse the physical world with the spiritual; to elevate the physical world so that it speaks the language of the soul.
"And on the seventh day you shall rest, in order that your ox and your donkey should rest." (23:12).
Why is it important that "my ox and my donkey" should rest on Shabbat? Are they going to go to shul as well? Wasn't Shabbat given to man and man alone?
The Torah is telling us here that our Shabbat rest should be such that it creates ripples of spiritual energy that elevate the entire world and felt even by the animals.
The Midrash describes how one of our Sages sold an ox to a non-Jew and it refused to work for its new owner on Shabbat because resting on Shabbat had become second-nature to it.
When we keep the mitzvot properly — and especially Shabbat — the whole world feels the difference.
Sources: based on Rabbi Avraham Mordechai of Gur, zatzal; Midrash Pesikta Rabbati 14

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subject: Peninim on the Torah by Rabbi A. Leib Scheinbaum
Peninim on the Torah by Rabbi A. Leib Scheinbaum
***Parshas* Mishpotim**

You shall not cause any pain to any widow or orphan. (22:21)
It takes a truly reprehensible person to take advantage of a widow or orphan. These are individuals who are alone against the world. Why make life even more difficult for them? At first glance, we may even wonder why the admonishment against afflicting the almanah, widow, or yasom, orphan, is even included with the many laws that are mentioned in this parsha. Quite possibly, Hashem wants to put everyone on notice: He takes a special interest in the plight of these lonely people. He will listen to their pleas when they cry out to Him in pain. Anyone who causes them harm will have to answer to Hashem.
Another - perhaps deeper - lesson can be derived from here. Although many laws can be found in the Torah, the Jewish Code of Law, other equally important laws may not be written explicitly in the Torah. These are the laws that are written on the Sefer ha'lev, book of the heart. While the laws of the Torah are written on parchment, the laws concerning the widow or orphan - or anyone like them - are written on the walls of one's heart. Only someone whose heart is made of cold stone turns a deaf ear to the pleas of the widow and orphan. The following story, which took place with Horav (Dayan) Yechezkel Abramsky, zl, demonstrates this concept.
In England, where Rav Abramsky was Head Dayan of the Bais Din, full-time yeshivah students who were registered in a bona-fide yeshivah were exempt from military duty. Her Majesty's royal army respected Torah study. England is very meticulous in its adherence to the letter of the law. Thus, a student was required to produce papers that were filled out by the yeshivah and had proper signatures affixed, before he would be freed from military duty. The exemption was renewed annually. The signature of the Chief Judge of the Rabbinical court had to be affixed to the paperwork, or it would be rejected.
One day, just before the deadline for submitting the exemption requests, a woman visited Rav Abramsky with a tale of woe. She was a widow, the mother of a ben yachid, an only son. He was a special young man whose commitment to Torah study and mitzvah observance was unquestionable. He spent every waking hour immersed in Torah. The problem was that since his father had passed away, he felt that his mother should not be left alone. He, therefore, had left the yeshivah and was studying the entire day and most of the night in the local shul. While this was acceptable to his mother, she could hardly expect him to receive a military deferment based on shul attendance. The government demanded organized institutional learning; studying in shul did not qualify for an exemption.
The anxious mother reported to Rav Abramsky, "I spoke to the administration of the yeshivah and asked them if they could still keep my son on their list of students. After all, he is studying full-time. They replied that rules are rules; if a student does not actually attend the yeshivah, he may not be included on their roster of students. I have come to the Rosh Bais Din,

Head Dayan, of England, to help me in my plight. I cannot allow my son to be drafted."
Rav Abramsky replied, "Now look, according to natural law, there is no way around this rule. One is either registered in yeshivah - or he is not. There is, however, a different "code of law", that to which we Jews adhere: supernatural law, l'maalah min ha'teva. Hashem is the Father of widows and orphans. His Divine compassion overrides all laws. I will immediately go to the clerk in charge of deferments and appeal to him. You should supplicate Hashem for rachmanus, mercy. I will do mine. You will do yours. Together, we will hopefully succeed in saving your son."
And so it was. The widow sat down with her Sefer Tehillim and poured out her heart to her Father in Heaven. The tears flowed freely. When a child appeals to a father, no holds are barred. One says what one feels. Rav Abramsky wasted no time. He immediately took a taxi to the Ministry of Defense and presented himself before the individual in charge of deferments. Rav Abramsky was a well-known, highly respected figure in England. When he personally came to the ministry, it was understood that it was not a social call. It was a matter of the greatest importance.
Rav Abramsky was immediately ushered into the clerk's office. "How can I help you, Rabbi?" the clerk asked. Rav Abramsky related the entire story, saying how he had prepared the list of all yeshivah students who were up for deferments. He explained that a widow had appealed to him to help her son. Her story was sad, her circumstances certainly extenuating. Could he help? The man gave the usual response, that he would love to help, but his hands were tied. Rules were rules.
Rav Abramsky now began his plea. "My good young man, I am already an old man, while you still have a long life ahead of you. With old age comes life experience of which I have plenty. You live by and adhere to your codex of written laws. I am aware of another book of law, one which is of greater value and significance than your codex. I refer to the Book of the Heart. In the Book of the Heart, it is inscribed that whoever acts kindly towards a widow or an orphan will be greatly rewarded by the Almighty Himself. Indeed, this reward will continue on for generations. Anyone who helps G-d's children will be the beneficiary of the Almighty's enduring kindness. I reiterate to you. Think twice about what I am asking you. Let the Book of the Heart be your guide. The heart implores you to act kindly towards this widow and her only son."
Rav Abramsky returned home and waited. Three days later, a letter came from the Ministry of Defense exempting the young man from military service. The clerk had listened to his heart.

And six years you shall sow your land… but the seventh year you should let it rest and life fallow… six days you should do your work, but on the seventh day you should rest. (23:10,11,12)
The Torah juxtaposes the laws of Shemittah, the Sabbatical year, upon the weekly Shabbos, simply because both attest to the handiwork of the Creator which took place during the Six Days of Creation. Following these "working" days, Hashem rested, which was the first Shabbos. This seventh day of rest is commemorated both weekly on Shabbos and every seven years, in the form of Shemittah. In his Pri Tzaddik, Horav Tzadok HaKohen, zl, cites the Mechilta 20, that tells us that the Torah cautions us not to neglect the weekly Shabbos during the Shemittah year. This statement begs elucidation. Why would we think that the prohibitions associated with Shabbos Kodesh are relaxed during the Shemittah year? In what way is the Shemittah year different from all other years?
Rav Tzadok explains that the Torah is alluding to a misguided presumption that we might make. There are those who err, thinking that Shabbos was given to us as a day of rest from the difficult work in the fields, so that we can focus on our Torah studies. The Shemittah year was a time when physical work in the fields was suspended, allowing for sufficient time for studying Torah during the course of the entire year. Since one might speculate that Shabbos observance was not compulsory during the Shemittah year, the Torah makes a point of underscoring the requirement to observe Shabbos day during Shemittah.
Rav Tzadok wonders what is really wrong with the premise that the Shemittah year be a time for relaxed Shabbos observance. After all, it makes sense that, if one is constantly free to study Torah, it would not be necessary to set aside a specific day for rest. If we have all of the time in the world to study Torah, why assign a special day of rest for the purpose of studying Torah? Rav Tzadok explains that such a question indicates that one does not understand one of the founding principles upon which Shabbos is established.
When we observe Shabbos, Hashem bestows upon us an elevated level of kedushah. A Shabbos-observant Jew is a new being. He is endowed with greater kedushah, sanctity. "Verily you shall observe My Shabbos, for it is a sign between Me and you throughout your generations, that you may know that I am Hashem, Who sanctifies you" (Shemos 31:13).
Indeed, although we have sufficient time during the Shemittah year to study Torah, the reward of increased levels of kedushah are available only to those who observe Shabbos Kodesh. Hashem designated us as a holy nation. Kedushah is the purpose of our lives, and Shabbos is the time for renewing and increasing our capacity for it. Rav Tzadok observes that the Torah often prefaces the mitzvah of Shabbos with instructions concerning the days preceding Shabbos, such as, "Six days you should work." Is it not obvious that one may work on the days leading up to Shabbos? Why does the Torah specifically address working on the days preceding Shabbos?
Rav Tzadok explains that herein the Torah is teaching us an important principle concerning Shabbos. To get the most out of Shabbos, one must prepare during the six days preceding it. On a spiritual plane, this means that Shabbos is inherently linked to the weekdays that precede it. The preparation of "Six days you should work" is a reference to the spiritual "work" of Torah-study and mitzvah observance.
One does not just become holy. It is a mindset that he achieves through plumbing the depths of Torah, by developing a strict code of ethical behavior, and by understanding that "we" are not like everyone else. Hashem wants us to strive for holiness. Kedushah is a state of being that applies to the entire Jew; it does not just address basic halachos. I recently came across an article decrying the fact that ethical behavior, which used to be the measure of a Jew, no longer seems to play much of a role. There are written rules, and there are written rules and behaviors that obligate a ben Torah to act in a demeanor which reflects kedushas Yisrael.
The author quotes Horav Dov Katz, zl, author of the Tenuas HaMussar, a close talmid, student, of Horav Reuven Dov Dessler, zl, and the Alter of Slabodka, Horav Nosson Tzvi Finkel, zl. He writes: "It is obvious that all contemporary dealings concerning religious issues revolve around the commonly known mitzvos, such as Shabbos, kashrus, shul worship, etc. It is almost as if the entire Torah consists only of these few principles and in them lies the salvation of Judaism in its entirety. No one seems to protest against heretical views and false conceptions disseminated among the masses…. No one cries out against the breakdown of modesty and purity, both abroad and at home, against the desecration of the sanctity of Jewish family life, against the permissiveness that has become rife and that has exceeded all limits (the author passed away in 1979). No protests are raised against lying, cheating, deceit and forgery prevalent in business, against theft and violence, usury, the withholding of wages and exploitation that fill every corner of the land. No one decries the hatred toward man, the widespread corruption of virtuous conduct, the foolishness (in the way people act) and ignorance (which by their actions they manifest). No one deplores the dissolution of every vestige of the image of G-d from the human personality… These matters, it seems, are not the function of Orthodoxy. They do not enter into the purview of Judaism."
These are powerful words which can be summed up simply as: We do not reflect a presence of kedushah in our lives. We live by what is permissible and what is not. Apparently, everything in between and above - what is

proper and correct, and what is inappropriate and should be frowned upon - does not seem to affect us.
Returning to Rav Tzadok's thesis, we must bear in mind that what we do in the "six work days" is critically relevant to the creation and success of our Shabbos experience. The level of kedushah that we achieve on Shabbos is greatly determined by the scope of our spiritual preparations for Shabbos. Thus, after Shabbos passes and we have risen to new heights, we once again commence our journey of preparation for the upcoming Shabbos.
Rav Tzadok delves deeper into the important aspect of Shabbos preparations. We often think that we function in two disparate arenas of activity: physical and spiritual. On one side of the spectrum stands the Torah, with its positive and prohibitive commandments. On the opposite side of the spectrum are the physical activities of life, the mundane acts eating, sleeping, working, etc. We view some of these activities as necessary, while others are viewed as neutral activities, which, if a person desires, he will carry out. We certainly do not view them as necessities.
The Ramban says that there is no such thing as a neutral activity. Rather, we should elevate our actions: sleeping, so that one is not tired when he learns Torah; eating, so that one has sufficient strength for Torah-study. In such a manner his "mundane" activities achieve mitzvah status. They are no longer in the realm of physicality. If, however, his intentions remain purely physical, he has obviated their ability to achieve kedushah, relegating them to the dimension of physicality.
The lesson to be derived herein is significant and profound. We need not disavow our involvement in legitimate physical activity. It is just that when we carry out these legitimate activities, we do not execute them simply in accordance with the "dos" and "do nots" of halachah. Our eating should contain sublime thoughts concerning the origin of all food and the true purpose of life. Thus, we accord our gratitude to the Almighty for enabling us to serve Him, and for giving us the food which will energize us to carry out our mission in this world. As such, the mundane act of eating takes on a new perspective. Animals eat and humans eat, but only a fool is unable to discern the difference between these two legitimate physical activities. When we "plant" spirituality - we reap spirituality
Likewise, our Shabbos is reflective of our work week. When the primary focus of the mundane is physical in nature, we cannot expect much more from our Shabbos. The more sanctity we inject into our daily mundane lives, the greater will be Hashem's bestowal of holiness from Above.

In loving memory of HILLEL BEN CHAIM AHARON JACOBSON by his family: David, Susan, Danial, Breindy, Ephraim, Adeena, Aryeh and Michelle Jacobson and his great grandchildren

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Orthodox Union / www.ou.org
Britain's Former Chief Rabbi Lord Jonathan Sacks
Healing the Heart of Darkness

Jobbik, otherwise known as the Movement for a Better Hungary, is an ultra-nationalist Hungarian political party that has been described as fascist, neo-Nazi, racist, and anti-semitic. It has accused Jews of being part of a "cabal of western economic interests" attempting to control the world: the libel otherwise known as the Protocols of the Elders of Zion, a fiction created by members of the Czarist secret service in Paris in the late 1890s and revealed as a forgery by The Times in 1921.
On one occasion the Jobbik party asked for a list of all the Jews in the Hungarian government. Disturbingly, in the Hungarian parliamentary elections in April 2014 it secured over 20 per cent of the votes, making it the third largest party.
Until 2012 one of its leading members was a politician in his late 20s, Csanad Szegedi. Szegedi was a rising star in the movement, widely spoken of as its future leader. Until one day in 2012. That was the day Szegedi discovered he was a Jew.
Some of the members of the party had wanted to stop his progress and spent time investigating his background to see whether they could find anything that would do him damage. What they found was that his maternal grandmother was a Jewish survivor of Auschwitz. So was his maternal grandfather. Half of Szegedi's family were killed during the Holocaust. Szegedi's opponents started spreading rumours about his Jewish ancestry on the internet. Soon Szegedi himself discovered what was being said and decided to check whether the claims were true. They were. After Auschwitz his grandparents, once Orthodox Jews, decided to hide their identity completely. When his mother was 14, her father told her the secret but ordered her not to reveal it to anyone. Szegedi now knew the truth about himself.
He decided to resign from the party and find out more about Judaism. He went to a local Chabad Rabbi, Slomó Köves, who at first thought he was joking. Nonetheless he arranged for Szegedi to attend classes on Judaism and to come to the synagogue. At first, Szegedi says, people were shocked. He was treated by some as "a leper." But he persisted. Today he attends synagogue, keeps Shabbat, has learned Hebrew, calls himself Dovid, and in 2013 underwent circumcision.
When he first admitted the truth about his Jewish ancestry, one of his friends in the Jobbik party said, "The best thing would be if we shoot you so you can be buried as a pure Hungarian." Another urged him to make a public apology. It was this comment, he says, that made him leave the party. "I thought, wait a minute, I am supposed to apologize for the fact that my family was killed at Auschwitz?"
As the realization that he was a Jew began to change his life, it also transformed his understanding of the world. Today, he says, his focus as a politician is to defend human rights for everyone. "I am aware of my responsibility and I know I will have to make it right in the future."
Szegedi's story is not just a curiosity. It takes us to the very heart of the strange, fraught nature of our existence as moral beings.
What makes us human is the fact that we are rational, reflective, capable of thinking things through. We feel empathy and sympathy, and this begins early. Even newborn babies cry when they hear another child cry. We have mirror neurons in the brain that make us wince when we see someone else in pain. Homo sapiens is the moral animal.
Yet much of human history has been a story of violence, oppression, injustice, corruption, aggression and war. Nor, historically, has it made a significant difference whether the actors in this story have been barbarians or citizens of a high civilization.
The Greeks of antiquity, masters of art, architecture, drama, poetry, philosophy and science, wasted themselves on the internecine Peloponnesian War between Athens and Sparta in the last quarter of the fifth century BCE. They never fully recovered. It was the end of the golden age of Greece.
Fin de siècle Paris and Vienna in the 1890s were the leading centres of European civilization. Yet they were also the world's leaders in antisemitism, Paris with the Dreyfus Affair, Vienna with its antisemitic mayor, Karl Lueger, whom Hitler later cited as his inspiration.
When we are good we are little lower than the angels. When we are bad we are lower than the beasts. What makes us moral? And what, despite it all, makes humanity capable of being so inhumane?
Plato thought that virtue was knowledge. If we know something is wrong, we will not do it. Aristotle thought that virtue was habit, learned in childhood till it becomes part of our character.
David Hume and Adam Smith, two intellectual giants of the Scottish Enlightenment, thought that morality came from emotion, fellow feeling. Immanuel Kant believed that it came through rationality. A moral principle is one you are willing to prescribe for everyone. Therefore, for example, lying cannot be moral because you do not wish others to lie to you.
All four views have some truth to them, and we can find similar sentiments in the rabbinic literature. In the spirit of Plato, the sages spoke of the tinok shenishba, someone who does wrong because he or she was not educated to know what is right.[1] Maimonides, like Aristotle, thought virtue came from repeated practice. Halakhah creates habits of the heart. The rabbis said that the angels of kindness and charity argued for the creation of man because we

naturally feel for others, as Hume and Smith argued. Kant's principle is similar to what the sages called sevarah, "reason."

But these insights only serve to deepen the question. If knowledge, emotion and reason lead us to be moral, why is that that humans hate, harm and kill? A full answer would take longer than a lifetime, but the short answer is simple. We are tribal animals. We form ourselves into groups. Morality is both cause and consequence of this fact. Toward people with whom we are or feel ourselves to be related we are capable of altruism. But toward strangers we feel fear, and that fear is capable of turning us into monsters. Morality, in Jonathan Haidt's phrase, binds and blinds.[2] It binds us to others in a bond of reciprocal altruism. But it also blinds us to the humanity of those who stand outside that bond. It unites and divides. It divides because it unites. Morality turns the "I" of self interest into the "We" of the common good. But the very act of creating an "Us" simultaneously creates a "Them," the people not like us. Even the most universalistic of religions, founded on principles of love and compassion, have often seen those outside the faith as Satan, the infidel, the antichrist, the child of darkness, the unredeemed. They have committed unspeakable acts of brutality in the name of God.

Neither Platonic knowledge nor Adam Smith's moral sense nor Kantian reason has cured the heart of darkness in the human condition. That is why two sentences blaze through today's parsha like the sun emerging from behind thick clouds:

You must not mistreat or oppress the stranger in any way. Remember, you yourselves were once strangers in the land of Egypt. (Ex. 22: 21)

You must not oppress strangers. You know what it feels like to be a stranger, for you yourselves were once strangers in the land of Egypt. (Ex.

The great crimes of humanity have been committed against the stranger, the outsider, the one-not-like-us. Recognising the humanity of the stranger has been the historic weak point in most cultures. The Greeks saw non-Greeks as barbarians. Germans called Jews vermin, lice, a cancer in the body of the nation. In Rwanda, Hutus called Tutsis inyenzi, cockroaches.

Dehumanize the other and all the moral forces in the world will not save us from evil. Knowledge is silenced, emotion anaesthetized and reason perverted. The Nazis convinced themselves (and others) that in exterminating the Jews they were performing a moral service for the Aryan race.[3] Suicide bombers are convinced that they are acting for the greater glory of God.[4] There is such a thing as altruistic evil.

That is what makes these two commands so significant. The Torah emphasizes the point time and again: the rabbis said that the command to love the stranger appears 36 times in the Torah. Jewish law is here confronting directly the fact that care for the stranger is not something for which we can rely on our normal moral resources of knowledge, empathy and rationality. Usually we can, but under situations of high stress, when we feel our group threatened, we cannot. The very inclinations that bring out the best in us – our genetic inclination to make sacrifices for the sake of kith and kin – can also bring out the worst in us when we fear the stranger. We are tribal animals and we are easily threatened by the members of another tribe. Note that these commands are given shortly after the exodus. Implicit in them is a very radical idea indeed. Care for the stranger is why the Israelites had to experience exile and slavery before they could enter the Promised Land and build their own society and state. You will not succeed in caring for the stranger, implies God, until you yourselves know in your very bones and sinews what it feels like to be a stranger. And lest you forget, I have already commanded you to remind yourselves and your children of the taste of affliction and bitterness every year on Pesach. Those who forget what it feels like to be a stranger, eventually come to oppress strangers, and if the children of Abraham oppress strangers, why did I make them My covenantal partners?

Empathy, sympathy, knowledge and rationality are usually enough to let us live at peace with others. But not in hard times. Serbs, Croats and Muslims lived peaceably together in Bosnia for years. So did Hutus and Tutsis in Rwanda. The problem arises at times of change and disruption when people are anxious and afraid. That is why exceptional defences are necessary, which is why the Torah speaks of memory and history – things that go to the very heart of our identity. We have to remember that we were once on the other side of the equation. We were once strangers: the oppressed, the victims. Remembering the Jewish past forces us to undergo role reversal. In the midst of freedom we have to remind ourselves of what it feels like to be a slave.

What happened to Csanad, now Dovid, Szegedi, was exactly that: role reversal. He was a hater who discovered that he belonged among the hated. What cured him of antisemitism was his role-reversing discovery that he was a Jew. That, for him, was a life-changing discovery. The Torah tells us that the experience of our ancestors in Egypt was meant to be life-changing as well. Having lived and suffered as strangers, we became the people commanded to care for strangers.

The best way of curing antisemitism is to get people to experience what it feels like to be a Jew. The best way of curing hostility to strangers is to remember that we too, from someone else's perspective, are strangers. Memory and role-reversal are the most powerful resources we have to cure the darkness that can sometimes occlude the human soul.

[1] See Shabbat 68b; Maimonides Hilkhot Mamrim 3: 3. This certainly applies to ritual laws, whether it applies to moral ones also may be a moot point.

[2] Haidt, Jonathan. The Righteous Mind: Why Good People Are Divided by Politics and Religion. New York: Pantheon, 2012.

[3] See Claudia Koonz, The Nazi Conscience. Cambridge, MA: Belknap, 2003.

[4] See Scott Atran, Talking to the Enemy: Faith, Brotherhood, and the (un)making of Terrorists. New York: Ecco, 2010. The classic text is Eric Hoffer, The True Believer: Thoughts on the Nature of Mass Movements. New York: Harper and Row, 1951.

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Rav Kook List

Rav Kook on the Torah Portion

Mishpatim: Accepting Two Torahs

A careful reading of the Torah's account of Matan Torah indicates that the Jewish people accepted the Torah not once but twice. First it

"Moses came and told the people all of God's words and all of the laws. The entire people responded with a single voice, 'All the words that God spoke - we will do (Na'aseh).'" (Ex. 24:3)

Immediately afterward, we read:

"Moses wrote down all of God's words.... He took the book of the covenant and read it to the people. They responded, 'All that God said, we will do and we will understand (Na'aseh VeNishma).'" (Ex. 24:4,7)

These two passages cannot refer to the same event. In the first account, Moses communicated God's words orally, while in the second account he read to the people from sefer habrit, the written record of God's word.

This corresponds to the teaching of the Sages that not one but two Torahs were given at Mount Sinai - the Oral Law and the Written Law. The Jewish people first accepted upon themselves the Oral Torah, and afterward, the Written Torah.

Why Two Torahs?

Why was it necessary for the Torah to be given both orally and in writing? And why did the people accept the Oral Torah with the words, "We will do," but when accepting the Written Torah they added, "and we will understand"?

There are two aspects to Torah study. The primary goal of Torah is to know how we should conduct ourselves. This is the function of the Oral Law - the Mishnah and the Talmud - which discusses in detail how to apply God's laws to the diverse situations of life.

The second goal of Torah study is to know the Torah for its own sake, without practical applications. This goal is particularly relevant to the

Written Torah. Even if we do not fully understand the words and intent, we still fulfill the mitzvah of Torah study when we read the Written Torah. As the Sages taught: "One should first learn superficially, and later analyze [the material]... even if one does not [initially] understand what one has read" (Avodah Zarah 19a).

There is no value, however, in studying the Oral Torah if it is not understood properly. On the contrary, misreading the Oral Law will lead to errors in Halachic rulings and faulty conduct.

Attaining accurate insight into the practical application of Torah principles requires a breadth and depth of Torah scholarship. It is unreasonable to expect the entire people to reach such a level of erudition. For this reason, the practical side of Torah was transmitted orally. Only those who labor diligently in its study, receiving the traditions from the great scholars of the previous generation, will truly merit this knowledge. If this part of Torah had been committed to writing, many unlearned individuals would be falsely confident in rendering legal decisions, despite not having studied all of the relevant issues.

One might argue that perhaps the entire Torah should have been transmitted orally. But then Torah knowledge would be limited to only a select few. The Written Torah enables all to be exposed to Torah, on whatever level they are capable of comprehending.

Now we can better understand the Torah's account of Mount Sinai. When they first accepted the Oral Law, the people promised, 'Na'aseh.' This aspect of Torah related to the entire people only in terms of its practical application - "We will do." It was with regard to the Written Torah, which is intellectually accessible to all, that the people added, 'VeNishma' - "and we will understand."

First - "We Will Do"

It is natural to want to understand as much as possible and to act according to our understanding. The spiritual greatness of the Jewish people at Mount Sinai was their recognition of the benefit of not committing the Oral Law to writing so that their actions would best fulfill God's Will. This is the significance of their response, "We will do": we accept upon ourselves to follow the practical teachings of the scholars and teachers of the Oral Law. Since this acceptance was equally relevant to all, regardless of intellectual capabilities, the verse emphasizes that "the entire people responded with a single voice."

After they had accepted upon themselves to observe the Torah according to the teachings of the rabbis, Moses then presented them with the Written Torah. We would have expected that the people would have shown particular love for the Written Law, since they could approach this Torah directly. But in an act of spiritual nobility, the Jewish people demonstrated their desire to first obey and observe the applied rulings of the Oral Law. Thus they announced: "We will do," and only afterward, "we will understand."

In summary: the Jewish people received two Torahs at Sinai. Moses first gave them the Oral Law, so they could fulfill the Torah's principle goal - proper conduct in this world. Then Moses transmitted the Written Law, enabling each individual to access Torah at his level, and preparing the people to receive the practical teachings of the Oral Law.

(Silver from the Land of Israel. Adapted from Midbar Shur, pp. 160-165.)

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The Halachic Power of a Diyuk

Ohr Somayach :: Insights into Halacha

For the week ending 18 February 2012 / 24 Shevat 5772

By Rabbi Yehuda Spitz

Many people, when learning a shtikel Torah or a geshmake sugya,will inevitably make some sort of diyuk in their learning, whether in the words of the Tannaim and Amoraim, the Rishonim, or even in the Acharonim, in order to "come out with pshat". This is basically an inference to understand the intent of the text, based on the precise choice of words used. These diyukim are usually in the realm of pilpul or lomdus, and sometimes "pashut pshat", but every now and then an innocuous looking line might have actual halachic ramifications.

I would like to cite two prime examples of this based this week's parsha, Parshas Mishpatim, where we find the first time the Torah mentions the prohibition of Bassar B'Chalav - mixing milk and meat. The Torah actually mentions this three times[1], to teach us that there are three separate prohibitions[2] involved: cooking, eating, and deriving benefit from this forbidden mixture[3]. Rabbinically, even eating chicken and milk together is prohibited[4]. Due to the nature and potential for possible mix ups, Chazal made several other takkanos[5] to make sure that "ne'er the twain shall meet", including not having people eating both meat and milk at the same time at the same table[6], the waiting period mandated after eating meat and the rinsing, washing and palate cleansing required after eating milk products[7].

The first Mishna in the Chapter in Maseches Chullin[8] dealing with the laws of Milk and Meat begins: "Kol HaBassar Assur Lvashel BeChalav…V'assur L'haalos Im HaGvina al HaShulchan". "All meat (except for fish and grasshopper) is forbidden to cook in milk… and it's forbidden to place (this meat together) with cheese on the table".

The famed Rashash (Rabbi Shmuel Schtrashoun of Vilna)[9] notes that when it comes to the prohibition of cooking milk and meat, the Mishna used the same words as the Torah, meat and milk. Yet, when it came to the Rabbinical injunction of not placing them both on the same table, instead of milk, the Mishna switched to the word cheese. To explain the Mishna's choice of words, the Rashash makes an incredible three halachic diyukim in three separate aspects of this law, just from this one line of Mishna!

The halacha mandates that one who has partaken of milk products must do a three step process: kinuach - palate cleansing by eating a hard food item (ex. cracker), rechitza - hand washing, and hadacha - rinsing out of the mouth, before being able to have a meat meal[10]. The Rashash infers from our Mishna's switching to the word cheese that it is emphasizing that this 3-step halacha only applies to eating actual cheese, since it is likely to leave some residue in the mouth. However, drinking good ol' fashioned plain liquid milk, which does not, would only require a mouth rinsing (hadacha). Most authorities follow the Rashash's diyuk and rule this way as well[11].

As mentioned above, one of the steps needed after eating a milk meal before eating something meaty is rechitza - washing hands to make sure no residue remains. The Rashash is medayek again from the Mishna's stressing of the word cheese that this hand washing is only necessary if one ate cheese - a milky food that was held in one's hands. This would exclude actual milk, since it cannot be held in one's hands, but rather requires a container or cup to be able to drink it. Furthermore, in view of the fact that one's hands remain clean after drinking some milk (chocolate or otherwise), he opines that rechitza is not halachically required, similar to the Pri Chadash's ruling that one who eats cheese with a fork (and thereby keeping his hands clean) does not have to wash his hands afterward. Although the basic halacha seems to follow the Rashash's diyuk on this also[12], many feel that nevertheless one should still wash his hands after drinking a milk product, as hand washing does not usually entail too much effort[13].

It is well known[14] that if two people are eating together at a table, one eating meat and the other dairy, that a hekker, or something used to show that there is something different here (i.e. separate placemats, or putting something distinctive down), is required to highlight the fact that one is eating meat and the other dairy, and in order to serve as a constant reminder not to chas v'shalom possibly eat from each other's plates and stumble in the prohibition of eating milk and meat together. The Rashash feels that the Mishna's emphasis on the word "cheese" impacts this area as well. He maintains that the requirement of a hekker is dependant on the possibility of the food getting mixed up, and the one eating cheese might end up eating meat, and vice versa. Therefore, if one is merely drinking milk from a cup, there already is a built in hekker: the cup itself! Without the aid of the cup, the milk would not even be able to be drunk, let alone be possibly mixed up with the meat on the table. Therefore, he posits, if one is drinking milk at the same table with someone eating meat, no further hekker is required. The basic halacha seems to follow the Rashash's diyuk on this as well[15], though several contemporary authorities feel that it is worthwhile to be stringent, based on people's propensity to "dunk" their biscuits into their coffee[16], and the common occurrence of an open cup of coffee spilling[17].

Another excellent example of a related diyuk which has great halachic relevance is based on the wording of the Rema. The Shulchan Aruch rules that after eating meat one must wait six hours before eating milk[18]. He then adds, based on the Rambam[19], that this waiting period even applies to one who merely chewed meat without actually swallowing it. The Rema, in his glosses to this halacha, writes with a slight variation, that it is proper to wait six hours after eating meat before cheese. The illustrious Rabbi Akiva Eiger[20], infers from the Rema's choice of words "after eating meat", that he meant to dispute the Shulchan Aruch's ruling on chewing. He maintains that the Rema's intent was to rule that after merely chewing meat, one would not have to wait the full six hours, rather the "ikar din" of only one hour before being allowed to eat milk products.

Even though many authorities do not agree with this inference, and rule that even by chewing meat one has to wait the "full count"[21], nevertheless several authorities do

rule like Rabbi Akiva Eiger's understanding of the Rema's position, and allowing for leniency for one who simply chewed[22].

In conclusion, as the Chofetz Chaim was wont to stress (albeit by the issues of lashon hara), we should never underestimate the (halachic) importance of even just one word.

[1]"Lo Sevashel Gedi B'Chaleiv Imo". Parshas Mishpatim (Shmos Ch.23, 19), Parshas Ki Sisa (Shmos Ch.34, 26), and Parshas Re'eh (Devarim Ch.14, 21).

[2]There is, however, some debate as to how many of the 613 mitzvos this prohibition counts as. The Rambam (Sefer HaMitzvos, Lo Sa'aseh 186 & 187) and the Sefer HaChinuch (Mitzva 92 & 113) count it only as two mitzvos. The Tashbatz (Zohar Rakia, Azharos HaRashbag 197 - 200), however, counts it as the full three mitzvos, while the BeHa"G (Lavin 58) counts it as only one mitzvah. See Rabbi Yitzchak Aharon Kramer's recent Arichas HaDaas (on Hilchos Basar B'Chalav and Taaruvos, Ch. 1, footnote 4).

[3]Chullin 115b - Tanna D'bei Rabbi Yishmael - as the Biblical source for this prohibition. See Rashi's commentary to Mishpatim ibid. (end s.v. lo sevashel) and Tur / Shulchan Aruch Y"D 87, 1. The Baal HaTurim, in his commentary to Devarim ibid (s.v. lo sevashel) brings 'proof' to this source, as the Gematria of the words "lo sevashel" (do not cook) equals that of the words -"Issur achila u'bishul v'hanaah" (prohibited for eating and cooking and deriving benefit) = 763.

[4]Tur / Shulchan Aruch ibid; Rambam (Hilchos Mamrim Ch.2, 9) goes as far as to say that anyone who claims that a chicken and milk mixture is Biblically prohibited violates the Biblical commandment of 'Bal Tosif". This is the halacha, (following the Rambam, Rifand Rosh's understanding of the Mishna in Chullin 113a) and not like Rashal (Yam Shel Shlomo Chullin Ch. 8, 100) and Bach (ad loc 2) who hold like Tosafos' (Chullin 113a s.v. basar) understanding of the Mishna - see Shach (ad loc 4).

[5]Gemara Chullin 114b. Rashi (ad loc s.v. aval hacha) understands this to mean that it is all considered one gezaira; however the Taz (Y"D 88, 1) seemingly understands that this case is an exception and Chazal made a gezaira l'gezaira. See Pri Megadim (ad loc M.Z. 1, based on Lechem Mishna - Hilchos Maachalos Asuros Ch. 9, 20 and Kenesses HaGedolah - Y"D 88 haghos HaTur 3), Chochmas Adam (40, 11), Yad Avraham (ad loc) and Aruch Hashulchan (ad loc 3).

[6]Tur/ Shulchan Aruch Y"D 88, 1 & 2, based on Mishna & Gemara Chullin 103b - 104a and 107b.

[7]Tur/ Shulchan Aruch Y"D 89, based on Gemara Chullin 105.

[8]Chullin 103b - 104a.

[9]In his commentary to the above-mentioned Mishna 103b.

[10]Y"D 89, 2.

[11]Including Rav Chaim Falag'i (Yafeh Lev vol. 8), and the Darchei Teshuva (Y"D 89, 2). Although the Badei Hashulchan (Y"D 89, 43) feels that one should be stringent with this, based on the words of the Issur V'Hetter (40, 8), see the Zair Hashulchan (Y"D 89, Pnei Hashulchan 78) who refutes this. Similarly, even though the Divrei Malkiel (Shu"t vol. 5, 47) opines not to rely on this (for a different reason), Rav Ovadia Yosef (Shu"t Yabia Omer vol. 6, Y"D 7 end 1 and Shu"t Yechaveh Daas vol. 3, 58, in the footnote) disproves his reasoning and concludes that the ikar follows the Rashash on this. Rav Moshe Sternbuch (Shu"t Teshuvos V'Hanhagos vol. 2, 390) and the Yalkut Yosef (IV"H vol. 3, 89, end 46, & 56) also rule this way.

[12]Including the Pri Chadash (Y"D 89, 20), Shulchan Gavoah (ad loc, 8), Ba'er Heitiv (ad loc end 13) and Aruch Hashulchan (ad loc, 8).

[13]Including the Pri Megadim (Y"D 89 S"D 20), Chida (Shiyurei Bracha ad loc 15), Atzei Ha'Olah (Hilchos BB"C 3, 12 & Chukei Chaim 9; he maintains that a fork is actually worse that a cup, as one might use his hands to push the food onto the fork) [Darchei Teshuva (above) implies this way as well], Ben Ish Chai (Year 2, Parshas Shlach 14), and Kaf HaChaim (Y"D 89, 34).

[14]Tur/ Shulchan Aruch Y"D 88, 2; based on Gemara Chullin 104b. See earlier article "Ma'aseh Avos = Halacha L'Ma'aseh".

[15]Aruch Hashulchan (Y"D 88, 6).

[16]Shu"t Maadanei Melachim (77), explaining his reasoning why he wrote to be machmir lchatchila in Maadanei Hashulchan (88, 3). IY"H the halachic issues of "coffee-dipping" will be further explored in a future article.

[17]Rav Y.S. Elyashiv in Ha'aros B'Maseches Chullin (103b s.v. v'asur); Shaarei Shalom (on Piskei HaBen Ish Chai Y"D 88, 1, 1), based on the Maleches Shlomo (in his commentary to Mishnayos Chullin ad loc); similar to the Yad Avraham's (ad loc) shitta, that open containers of milk or meat require extra vigilance due to their propensity to spill. An interesting minority opinion on this is the Badei Hashulchan's (Y"D 88, 6 & Biurim s.v. al), who feels that one must be stringent with this, based on the opinion of the Ran, that the problem is that we are worried that one might even eat whatever is on the table, and rules that it forbidden to have even a sealed bag of milk on a table while eating meat. However, aside for the fact that the Aruch Hashulchan ruled explicitly like the Rashash, the other machmirim did also, and only said to be stringent lchatchila based on the tendency of an open cup to spill. See also Rabbi Yaakov Scozylas's recent Ohel Yaakov (on Issur V'Hetter pg. 139, footnote 6) who cites Rav Chaim Kanievsky's ruling, that there is no halachic issue with having a meat meal with a sealed bag of milk on the table.

[18]Y"D 89, 1.

[19]Rambam (Hilchos Maachalos Asuros Ch.9, 28). This ruling is also cited by the Tur (Y"D 89, 1). See Taz (Y"D 89, 1) and Pri Megadim (ad loc, M.Z. 89, 1).

[20]Y"D 89, 2.

[21] Including the Pri Toar (Y"D 89, 3), Pri Megadim (ad loc M.Z. 1, lo plug), Pischei Teshuva (ad loc, 1), Shiyurei Bracha (ad loc, 12), Atzei Ha'Olah (Hilchos BB"C 3, 2), Zivchei Tzedek (Y"D 89, 4), Ben Ish Chai (Year 2, Parshas Shlach 19), Yalkut Me'am Loez (Parshas Mishpatim, pg. 890), Shu"t Kapei Aharon (30), Kitzur Shulchan Aruch (46, 9) and Kaf Hachaim (Y"D 89, 4).

[22]Including the Yad Yehuda (Y"D 89, Pih"a 1& Pih"k 3), Aruch Hashulchan (ad loc, 4), and Badei Hashulchan (ad loc 38). See also Maadanei Hashulchan (ad loc 4), who concludes that in a case of need, an Ashkenazi definitely has what to rely upon.

For any questions, comments or for the full Mareh Mekomos / sources, please email the author: yspitz@ohr.edu

Disclaimer: These are just a few basic guidelines and overview of the Halacha discussed in this article. This is by no means a complete comprehensive authoritative guide, but rather a brief summary to raise awareness of the issue. One should not compare similar cases in order to rules in any real case, but should refer his questions to a competent Halachic authority.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda, and l'zchus for Shira Yaffa bas Rochel Miriam and her children for a yeshua teikef u'miyad!

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By Rabbi Yirmiyohu Kaganoff

The Lost Gift

By Rabbi Yirmiyohu Kaganoff

In this *parshas Mishpatim*, the Torah discuss the responsibility that a *shomer* assumes for someone else's property. Does a *shomer* always assume this much responsibility? Stay tuned and find out!!!

While learning in my study one day, I was greeted by a knock at the door. I opened the door to find two women, Rivkah and Leah, standing in the doorway.

"Rabbi," Rivka began somewhat apprehensively, "We have a *shaylah* that we need to ask you. I was supposed to bring a present to Lakewood for Leah's daughter, but, somehow, it got along the way. I feel responsible. Leah feels that I am not responsible and I should not feel any obligation to compensate her daughter, but I feel that I should."

"If anyone is responsible it is I," replied Leah. "I keep insisting that Rivka should not pay, and she keeps insisting that she should. We decided that we would refer this to the Rav to decide."

The case turned out to be a very interesting *halachic shaylah*.

A family member bought a very expensive wedding gift for Leah's recently married daughter, who now lives in Lakewood. Leah heard that Rivka's husband was driving to Lakewood, so she called to ask if he could bring the gift with him. Rivka suggested that Leah drop by and put the gift in the trunk of the car, so that they wouldn't misplace it.

Upon reaching Lakewood, Leah's daughter arrives to pick up the package. Rivka's husband checks the trunk of the car, but the gift is not there!! He calls Rivka, who in turn calls Leah, who says that she definitely placed the gift in the trunk. The gift seems to have inexplicably disappeared!

Who, if anyone, is responsible to replace the gift?

I asked for some time to think about the *shaylah*. In the interim, I needed to address some pertinent questions, which provides an opportunity to review the relevant *halachos*.

There are several *halachic* areas we need to clarify:

1. To what extent are you responsible for replacing an item that you were watching without remuneration?
2. If you permit someone to place an item in your house or car, does that mean that you are now responsible if the item is damaged, lost or stolen?
3. If you agree to transport an item as a favor, is there an assumption of responsibility, and if so, to what extent?

What Is A Shomer Chinam And To What Extent Is He Responsible?

Someone who assumes responsibility to take care of an item, but receives no benefit for doing so, is called a *shomer chinam*. He is responsible if the item becomes damaged, stolen, or lost because of his negligence, but not if he took proper care of the item.

EXAMPLE: Binyomin entrusted money to a *shomer* for safekeeping. When he came to collect his money, the *shomer* replied that he does not remember where he put it. Rava ruled that not knowing where you put something is negligent and the *shomer* must pay (*Bava Metzia* 42a).

What If He Did Not Expressly Assume Responsibility?

A *shomer* may specify that he assumes no responsibility for an item (*Mishnah, Bava Metzia* 94a). Furthermore, if he clearly did not assume responsibility, he is also not obligated to pay.

EXAMPLE: While fleeing from the Napoleonic wars, Naftali buried valuables in a pit in his backyard, and offered Asher to hide his valuables there, too. The two of them fled to a safer area, hoping to return one day to unearth their valuables. Fortunately, the war ended, and they were able to return. Naftali was eager to unearth the valuables and give Asher back his money, but Asher was busy taking care of other matters. Naftali sent Asher a message that he was unearthing the valuables, but Asher did not arrive immediately. By the time Asher arrived, his valuables had disappeared. Does Naftali bear responsibility?

Naftali and Asher addressed the question to Rav Yaakov of Lisa, the author of *Nesivos Hamishpat* (291:2). The *rav* ruled that Naftali is not obligated to pay any damages, since he never assumed any responsibility for Asher's valuables but merely made his hiding place available.

Thus, we have established that if a *shomer* assumes responsibility, he will have to pay for damage caused by his negligence, but if he does not assume responsibility, he does not have to pay.

However, our case is somewhat different from the case of the *Nesivos*. In his case, Asher knows that Naftali will not be around to supervise his property. In our case, Leah had accepted the gift on behalf of her daughter and Rivka suggested that it be placed in her car. Does that make Rivka responsible to replace it if it is lost?

Or, as we phrased our second question above: If you permit someone to place an item in your house or car, does that mean that you are now responsible if the item gets damaged, lost or stolen?

The *Gemara* raises the following *shaylah* which affects our question:

Daniel asked Shlomo if he could leave his sheep and some equipment in Shlomo's yard. Subsequently, Shlomo's dog, Fido, bit Daniel's sheep; the next day, someone stole the equipment. Assuming that Shlomo was negligent, must he pay for the damages?

The question is whether Shlomo ever assumed responsibility for Daniel's property. If he permitted Daniel to place the sheep and the equipment in his yard, does that mean that he assumed responsibility for this property? The *Mishnah* (*Bava Kamma* 47a) quotes a dispute between Rebbe and the *Chachomim* as to whether we assume that Shlomo took responsibility.

How Do We Paskin?

There are three opinions:

1. Some rule that Shlomo is responsible for the damage. They contend that when someone grants permission to place items on his property, he assumes responsibility to look out for the items.
2. Others contend that Shlomo is not responsible for the stolen equipment, but he is responsible for Fido biting the sheep (*Shach* 291:9*)*. Permitting someone to place items on his property doesn't mean that he assumes responsibility. However, Shlomo is liable if his animal caused damage to property that he allowed onto his premises.
3. Shlomo does not need to pay at all since he never accepted responsibility (*Shulchan Aruch, Choshen Mishpat* 291:3). (According to this opinion, even though Shlomo's dog bit Daniel's sheep, Shlomo is not responsible for damage done by his own animal on his own property.)

The *Shulchan Aruch* rules like the third opinion that Shlomo is not responsible, although other *poskim* disagree. Thus, we see that although someone permits you to put something in his house or car, you cannot assume that this means he is taking responsibility for it. Thus, placing the gift in Rivka's car does not, necessarily, mean that either Rivka or her husband is responsible for the gift.

However, there is a difference between Leah's gift and Daniel's sheep, other than the fact that one of them bleats. I am going to use another *din Torah* to demonstrate the difference between the two.

While Levi was packing his donkey to travel to the next city, Yehuda asked if he could send his shoes along. Levi responded, "You can put them on top of the donkey." Yehuda complied, and Levi rode off without tying the shoes adequately to the donkey. Subsequently, when the shoes were lost, Levi claimed that he never assumed any responsibility for Yehuda's shoes.

Is Levi responsible to pay Yehuda for his shoes? After all, he never told Yehuda that he was assuming responsibility; he simply allowed Yehuda to place his shoes on the donkey.

The *Rosh* (quoted by *Tur Choshen Mishpat* Chapter 291*)* ruled that Levi is indeed responsible, even though he never told Yehuda that he was assuming responsibility. Why are Yehuda's shoes different from Daniel's sheep, where we assumed that Shlomo took no responsibility? The difference is that when Levi transports the shoes with him, Yehuda will no longer be able to watch them. Under these circumstances, we assume that Levi accepted responsibility, unless he specifically stated at the time that he did not. However, when Daniel puts his sheep into Shlomo's yard, there is no reason why Daniel cannot continue to be responsible to take care of his sheep. Thus, there is nothing in Shlomo's action that implies that he is assuming responsibility.

Based on the above analysis, it would seem that Rivka is indeed responsible since she made Leah the offer of placing the gift in her car. This implies that Rivka assumed responsibility.

However, Rivka's gift is different from Yehuda's shoes for two reasons:

1. Rivka's gift was not put into a place that requires any type of supervision. The locked trunk of a car is a secure place to leave items. Thus, it is less certain that we can assume that Rivka accepted responsibility.
2. More importantly, Rivka told Leah to put the gift in the car, but also told her that her husband, not she, was going to Lakewood. Thus, Rivka certainly was not assuming responsibility for bringing the gift to Lakewood. We also cannot say that her husband assumed responsibility, when he never agreed expressly to take the package. Thus, it would seem that neither Rivka nor her husband is responsible. However, if her husband agreed to take the package, he would be responsible if, indeed, he had been negligent. Since we do not know where the package went, we would probably assume that the package disappeared because of some negligence on his part.

Does This Mean That Leah Is Responsible To Pay Her Daughter For The Gift?

Indeed it might. When Leah accepted the gift on her daughter's behalf, she assumed responsibility as a *shomer chinam*. We now have a new *shaylah*: Did she discharge this responsibility when she placed the gift in Rivka's car for the trip to Lakewood?

The *Gemara* records an interesting parallel to this case.

At the time of the *Gemara*, houses were not particularly secure places to leave valuables. For this reason, the proper place to store money and non-perishable valuables was to bury them in the ground. A *shomer chinam* who received money but did not bury the money would be ruled negligent, if the money was subsequently stolen (*Bava Metzia* 42a).

The *Gemara* mentions a case when this rule was not applied:

Someone entrusted money to a *shomer* who gave it to his mother to put away. His mother assumed that it was her son's own money, not money that he was safekeeping for someone else, and therefore placed it in his wallet rather than burying it. Subsequently, the money was stolen and all three of them ended up appearing before Rava to *paskin* the *shaylah*.

Rava analyzed the case as follows: The *shomer* is entitled to say that he has a right to give something entrusted to him to a different member of his family for safekeeping. Furthermore, there is no claim against him for not telling his mother that the money was not his, because she will take better care of it assuming that it was his. Therefore, the *shomer* did not act negligently. The mother also did not act negligently – based on the information she had, she acted responsibly. Thus, neither one of them is obligated to pay (*Bava Metzia* 42b).

The principles of this last *Gemara* can be applied to our case. Neither Leah, nor Rivka, nor Rivka's husband acted negligently in our case. Leah gave the gift to someone in a responsible way to get it to Lakewood. We have already pointed out that neither Rivka nor her husband ever assumed responsibility for the gift. Furthermore, neither one of them acted irresponsibly. Thus, it seems to me that none of the parties involved is *halachically* obligated to make restitution.

There is actually a slight additional angle to this story. Leah is, technically, obligated in an oath (a *shevua*) to her own daughter to verify that she indeed placed the gift in the car. However, since it is unlikely that Leah's daughter will demand an oath from her, she is not obligated to pay.

Needless to say, Leah will apologize to her daughter even if she has no technical responsibility, and will probably offer her daughter a replacement gift. Hopefully her daughter will accept the loss of a gift as a minor mishap, and put it out of her mind.

In general, we should be careful when we assume responsibility for items belonging to others, to take good care of them and not leave them around irresponsibly or near young children. We should pray to be successful messengers when entrusted with other people's property.

Parshas Mishpatim: God's Judgment and Human Judges

By Rabbi Yitzchak Etshalom

I. DO NOT SLAY THE INNOCENT AND THE RIGHTEOUS

Parashat Mishpatim, while being the first "collection" of Halakhah (law), expands on the theme of proper judges as introduced in Parashat Yitro (18:21). After presenting a lengthy list of civil and criminal laws, the Torah gives the following "advice" to the judges who are to administer these rules:

"[Distance yourself from a false matter;] do not slay the innocent and the righteous, Ki Lo Atz'dik Rasha' (for I will not exonerate the wicked)." (23:7) The second half of the verse begs explanation. The Hebrew *ki*, translated here as "for", is intended to express causality. To wit –

"…do not slay the innocent and the righteous; [the reason] for [that is that] I will not exonerate the wicked."
God is commanding us to exercise great care in carrying out capital punishment; the cause given, however, doesn't seem to have anything to do with the effect. How does God's relentless justice "I will not exonerate the wicked" explain the command to not slay the innocent and righteous?

II. RASHI'S EXPLANATION

Rashi, following the lead of the Mekhilta (Horovitz pp. 327-8) and the Gemara (BT Sanhedrin 33b) interprets the phrase as follows: "Do not slay the innocent and the righteous:

How do we know that if one exits the court as a convicted man and someone said 'I can show merit for this man' that we return him to the court? Therefore Scripture teaches: 'Do not slay the innocent'- even though he is not righteous, for he was not found righteous in the first court, nevertheless he is *naqi* (innocent) of capital punishment for we have found merit. And how do we know that if one exits the court as an acquitted man, and someone said 'I can show guilt for this man' that we do NOT return him to the court? Therefore Scripture teaches: 'Do not slay the righteous'-this is the righteous one who was found righteous by the first court. For I will not exonerate the wicked:

It is not your responsibility to return him; for I will not find him innocent in My court if he escaped your hands as an innocent one – I have many agents to kill him with the death penalty he should have incurred." Although this interpretation reads well within this half of the verse, its readability becomes strained when read in the context of the entire verse; all the more so when seen as part of the surrounding verses: (Shemot 23:6- 9)

* Do not pervert the judgment of your poor man in his cause:

* Distance yourself from a false matter; do not slay the innocent and the righteous, for I will not exonerate the wicked:

* Do not take graft; for graft blinds the eyes of the sighted and perverts the words of the righteous:

* Do not oppress the stranger; you know the spirit of the stranger, for you were strangers in the land of Mitzrayim. Within the context of these verses, Rashi's explanation is difficult on several counts:

* According to Rashi, the end of our verse is not an admonishment; it serves as a source of consolation: "Don't be concerned that you have not executed justice properly, for I will do so". The thrust of these verses is clearly exhortative, however, and "consolation" does not fit smoothly within the context.

* How does the first part of our verse: "Distance yourself from a false matter" connect with the rest of the verse as read by Rashi?

* How can the same man be referred to as a naqi (innocent one) and a rasha' (guilty one) simultaneously? According to Rashi, the naqi "escaped" the grasp of the court on a technicality, but God will catch up with that rasha .

Rashi's interpretation follows the Oral Tradition and grants support for the juridical tradition of favoring acquittal over conviction. It further explains the cause-effect relationship in our verse "Do not slay…for I will not exonerate." It is, however, not the smoothest p'shat (straightforward reading) in the verse; I would like to suggest another approach which will resolve the three problems we found with Rashi's comments.

III. ACCURATE JUDGMENT CONTINUES "MA'ASEH B'RESHEET"

Evaluating the p'shat will require a brief introduction. We must clarify the theological implications of humans sitting in judgment. Let's turn to the Gemara:

"'The nation stood by Moses from morning until evening'; do you really think that Moshe was sitting in judgment all day? When would he have time for Torah? Rather, this indicates that anyone who renders perfect justice for even one hour is considered a partner with God in Creation. Here it states: from morning until evening and over there (in B'resheet) it states: it was evening and morning one day." (BT Shabbat 10a) Man, created in the image of God, has the opportunity to become His partner in the ongoing process of creation. The central feature of the Creation is creating order out of chaos – creating light, then dividing light from dark; creating plants, each that will regenerate according to its own species; creating animal life and eventually humans that will reproduce according to their own kind. That phrase is repeated often enough in the first chapter of B'resheet that it becomes the anthem of creation. What is creation? Defining boundaries: light up to here, dark from here on; apples here, oranges there; birds up there, fish down there, animals over here and humans over there. The judge who does his job properly continues the process of making order out of chaos. That which is unlawfully taken is returned, that which is owed is paid. No man, rich or poor, is favored in this regard. The judge sees clearly and objectively, for he is not motivated by the greedy interests of the morally blind, rather by the enlightened self-esteem of the morally conscious.

This position can be explained in two ways.

1) Conventionally, we understand Man's goal to be "Imitatio Dei" – imitating God. This objective is expressed in the Gemara (BT Sotah

14a) " ' After the Lord your God shall you walk:' Is it possible to follow the Divine Presence?…rather emulate His traits…" The judge is, arguably, in the best position to fulfill this command. This view is supported by the verse which first implies mortal judges: "He that spills the blood of man, by man shall his blood be spilt, for in the image of God did He make man." (B'resheet 9:6) This last phrase can be interpreted as justification for capital punishment: The man who judges the murderer was created in God's image and can judge his fellow-even to be killed.

2) There is yet another way of explaining the role of the judge: To coin a phrase from the world of school law: "In locus Deis" – Man sits in judgment not as an emulator of the Divine, rather as His agent (see BT Nedarim 35b in re the Kohanim). Instead of trying to "follow" God, the judge is serving as His earthly arbiter of justice; hence the twofold meaning of Elohim as both "God" and "Court" (e.g. Shemot 21:6). The verses surrounding "Distance yourself from a false matter…" address this aspect of judgeship.

IV. VERBAL AND THEMATIC STRUCTURES – A BRIEF REVIEW

Although the Torah is normally read sequentially, there is a literary phenomenon which occasionally supplants sequential reading. This phenomenon, which we introduced two weeks ago is known as "chiasmus", named after the Greek letter 'Chi' which is shaped like an 'X'.
In a chiastic structure, the extremities focus toward the middle. For example:

"Nations will hear and be afraid, trembling will take hold of the inhabitants of K'na'an" (Shemot 15:14). The form here is "A B B A", where 'A' is the people ("Nations….inhabitants of K'na'an) and 'B' is the verb ("be afraid, trembling will take hold").

Written sequentially, this verse would is read: "Nations will hear and be afraid, the inhabitants of K'na'an will tremble when they hear."

Chiasmus is a poetic form which is not only a literary adornment, it establishes focus by placing the central theme or cause at the center of a phrase, verse or chapter. We can restructure our verse as follows:

A—–>Nations

B—–>will…be afraid;

B—–>trembling will take hold

A—–>inhabitants of K'na'an There are many examples of verbal chiasma.

(See A. Hakohen, "'Al Mivnim Khiastiim beSefer Devarim uMashma'utam" 'Alon Shevut 103 pp. 47-60; for more information on chiastic structure, see our shiur on Parshat B'Shalach from this year.)

A different sort of chiasmus exists in T'nakh. Whereas verbal chiasmus plays phrases or words off of each other, thematic chiasmus places related themes or ideas at the 'A' and 'B' locations respectively. Whereas in an earlier shiur, we utilized this approach to explain six and half chapters of text, it can be applied on a more "local" level.

For example:

"Remember that which 'Amalek did to you…wipe out any commemoration of 'Amalek from under the heavens; do not forget" (Devarim 25:17-19) may be structured as follows:

A—>Remember

B———->…that which 'Amalek did to you

B———->wipe out any commemoration of 'Amalek from under the heavens (what they did to you and what you do to them connects the two "B" sections)

A—>…do not forget (see Sifre ad loc. for the connection between the two "A" sections)

V. STRUCTURAL ANALYSIS OF OUR VERSES

Our section is a thematic chiasmus. There are five sections, as follows:

A—>Do not pervert the judgment of your poor man in his cause:

B———->Distance yourself from a false matter; do not slay the innocent and the righteous,

C————->for I will not exonerate the wicked:

B———->Do not take graft; for graft blinds the eyes of the sighted and perverts the words of the righteous:

A—>Do not oppress the stranger; you know the spirit of the stranger, for you were strangers in the land of Mitzrayim.

The 'A' phrases are thematically unified. The Torah is warning the judge against a danger inherent in the powerful position of the magistrate: single-minded concern with the letter of the law. The spirit of the Torah engenders sympathy and compassion for those less fortunate than us. The judge must, first and foremost, be a man of compassion. His zeal for justice must spring from a limitless well of concern for society and its members. The vision of an efficient society which runs smoothly at the expense of its individual's rights is anathema to Torah. The judge must not forget that the poor man is "your poor man" – your responsibility and your brother. Seeing a stranger, the judge might perceive him as a threat to the stability of the society which he protects. "No" says the Torah; "you know the spirit of the stranger" and there but for the grace of God goes the judge himself. (See the Haggadah "and if God had not taken us out of Egypt, we and our children and our grandchildren would still be enslaved to Pharoah") Sympathy, and its handmaiden, compassion, are the products of the awareness of how close we all are to tragedy; how easy it is for any one of us to become the poor man arguing his

cause, or the stranger looking for refuge. The sense of shared danger, or at least a potentially common misery, is the single most powerful motivation for sympathy. “How would I feel if I were in that man’s situation? How would I want to be treated?” In the Halakhic scheme, the response is always: “That’s how I’ll treat him.”

The ‘B’ phrases serve as a counterbalance to the compassion mentioned above. The judge, apprised of the demands of compassion placed upon him, might pervert justice due to that selfsame compassion. “The poor man is so much needier,” thinks the compassionate judge, “the rich can afford to lose; the poor man is probably innocent; I must show him mercy.” The Torah warns of that perversion in the ‘B’ phrases: “Distance yourself from a false matter…do not take graft.” The false matter and the graft referred to here are internal: i.e. the rationalizations with which we blind ourselves (see BT Shavuot 30). We ignore the trespasses of friends much as we turn a blind eye to the righteousness of our enemies; neither fits the image we’d like to maintain. The judge must be wary of this potential in his own psyche. His compassion is the necessary starting point; judging without soul is judging without the image of God. The fairness which must overrule compassion is the crowning feature of the judge. A judge who is fair without feeling the tension of sympathy is not a man; the judge who allows his sympathy to decide the case is not a judge.

“God saw that the world couldn’t exist by strict justice alone, so he added compassion…” (Rashi to B’resheet 1:1) We might add that “the judge cannot rule by compassion alone, he must add strict justice…”

VI. THE FULCRUM OF OUR CHIASMUS: GOD’S JUDGMENT

As we explained in our discussion of the Mahn (Parashat B’shalach), the purpose of a chiasmus is to highlight the central feature, which we called the “fulcrum” of the chiasmus. In our case, the ‘A’ and ‘B’ phrases serve to mitigate tendencies which judges may have which would pervert the environment of perfect justice. The ‘C’ phrase is the explanation and foundation of our section:
“…for I will not exonerate the wicked”:

The judge, “playing God” as he does, might come to the conclusion that his mandate is expansive. As long as God granted him the right and charged him with the responsibility of judging his fellow, any verdict that he delivers might be acceptable. This is the most common abuse of power; to wit: ” I am all-powerful, no one can stop me.” At this point, the Torah warns the judge that while he judges others, he is being judged. “I will not exonerate the wicked [judge].” If justice cannot flow from the almost impossible synthesis of fairness and compassion, it will creep from the fear of God. The judge must beware that God’s mandate is not a carte blanche for any kind of verdict; beware, lest His agency become perverted and His image tarnished.

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PARSHAT MISHPATIM [shiur # 1]

WHEN DID BNEI YISRAEL SAY 'NA'ASEH VE-NISHMA'?

When did Bnei Yisrael declare 'na'aseh ve-nishma'?

Most of us would probably answer: **before** they received the Ten Commandments (Rashi's opinion / and most of all elementary school teachers). However, many other commentators (including Ramban) disagree!

In the following shiur, we will uncover the source of (and the reason for) this controversy.

WHERE DOES PARSHAT MISHPATIM REALLY BEGIN?

Recall from Parshat Yitro that after Bnei Yisrael heard the Ten Commandments **directly** from God, they were overcome by fear and asked Moshe to act as their **intermediary** (see Shmot 20:15-18).

The result of this 'change in the plan' (i.e. from 'directly from God' to transmission via Moshe) becomes apparent in the very next pasuk. Note how the next 'parshia' (i.e. 20:19) begins as God commands Moshe (now acting as His intermediary) to relay an **additional** set of mitzvot to Bnei Yisrael:

> "And God said to Moshe: "Ko tomar el Bnei Yisrael... "
> [Thus **you** shall **say** to Bnei Yisrael:]
> * "You saw that I spoke to you from the Heavens.
> * Do not make any idols of Me...
> * An altar made from earth you shall make for Me..."
> (see 20:19-23).

However, this set of commandments that began with 'ko tomar' does not end here with the conclusion of Parshat Yitro. If you follow these psukim carefully, you'll note how these mitzvot continue directly into Parshat Mishpatim with:

> "And these are the **mishpatim** (rules) that you shall set before them..." [see 21:1 / see also Rashi & Ibn Ezra].

In fact, this set of laws that began with 'ko tomar' continues all the way until the end of chapter 23! It is only in 24:1 where this long quote (of what Moshe is instructed to tell Bnei Yisrael) finally ends. At that point, the Torah then resumes its narrative by describing the events that take place at Har Sinai.

Based on this simple analysis, we have basically identified a distinct unit of 'mitzvot' [from 20:19 thru 23:33) embedded within the story of Ma'amad Har Sinai.

In the following shiur, we will show how the identification of this unit can help us understand the controversy concerning when the story in chapter 24 takes place.

> [In our next shiur, we will return to discuss the content of this special unit, which contains not only the dibrot, but also a select set of mitzvot.]

WHAT MOSHE DOES WHEN HE RETURNS

Considering that this unit began with God's command to Moshe of: 'ko tomar' [thus you shall say to Bnei Yisrael]; once the quote of those mitzvot is complete (i.e. at the end of chapter 23), we should expect to find a narrative that tells us how Moshe fulfilled this command by telling over these mitzvot to Bnei Yisrael.

And indeed, this seems to be exactly what we find in the beginning of chapter 24:

> "... And Moshe came [back down from the mountain] and **told** the people all the **divrei Hashem** (God's words) and all the **mishpatim**" (see 24:3).

If 'divrei Hashem' refers to the laws in 20:19-22, and 'ha-mishpatim' refers to the laws that continue in Parshat Mishpatim (see 21:1), then this pasuk is exactly what we're looking for!

However, as you probably noticed, there is one minor problem. We would have expected this sentence (i.e. 24:3) to be the **first** pasuk in chapter 24; but instead it is the **third**. For some reason, what should have been the opening pasuk is preceded by a short recap of another commandment that God had given Moshe:

> "And Moshe was told to ascend the mountain [to God] with Aharon, and Nadav & Avihu, and the seventy elders to bow at a distance, after which Moshe himself will approach closer, while the others will not ..." (see 24:1-2, read carefully).

It is important to note that 24:2 forms the continuation of God's command that began in 24:1 - and is **not** a description of what Moshe did after that command! In other words, these psukim describe some sort of ceremony that God had commanded Moshe to conduct at Har Sinai. The question will be: When did this ceremony take place, and why?

Even though the meaning of these psukim (i.e. 24:1-2) may first seem unclear, later in chapter 24 we find precisely what they refer to:

> "Then Moshe, Aharon, Nadav & Avihu, and the seventy elders ascended the mountain, and they 'saw' the God of Israel..." (see 24:9-11).

Therefore, to determine what Moshe is 'talking about' in 24:3, we must take into consideration not only the 'ko tomar' unit (20:19-23:33) that he was commanded to convey, but also this ceremony where he and the elders are instructed to ascend Har Sinai and bow down from a distance, as 'parenthetically' described in 24:1-2.

RAMBAN'S APPROACH [the 'simple' pshat]

Ramban explains these psukim in a very straightforward manner. He keeps chapter 24 in its chronological order, and hence understands 24:1-2 as an instruction for Moshe to conduct a ceremony immediately after he relays the mitzvot of the 'ko tomar' unit.

Therefore, when "Moshe came and told the people the **divrei Hashem** and all the **mishpatim**" (see 24:3), the 'divrei Hashem' and 'mishpatim' must refer to what was included in the 'ko tomar' unit. Hence, Ramban explains that 'mishpatim' refers to the 'mishpatim' introduced in 21:1, while (by default) the 'divrei Hashem' must refer to all the other 'mitzvot' in this unit that do not fall under the category of 'mishpatim' (surely 20:19-22, and most probably some of the laws and statements in chapter 23 as well).

As Bnei Yisrael now hear these mitzvot for the first time, they immediately confirm their acceptance:

> "... and the people answered together saying: '**All** that God has commanded us - na'aseh - we shall keep" (24:3).

Even though Bnei Yisrael had already proclaimed 'na'aseh' before Matan Torah (see 19:5-8), this second proclamation is necessary for they have just received an additional set of mitzvot from God, even though it had been conveyed to them via Moshe.

THE CEREMONY

It is at this point in the narrative that Moshe begins the 'ceremony' that was alluded to in 24:1-2. Let's take a look at its details.

First, Moshe writes down the 'divrei Hashem' (see 24:4) in an 'official document' - which most all commentators agree is the 'sefer ha-brit' described in 24:7. Then; he builds a 'mizbeiach' [altar] and erects twelve monuments (one for each tribe) at the foot of the mountain. These acts are in preparation for the public gathering that takes place on the next day - when Bnei Yisrael offer **olot** and **shlamim** on that alter (see 24:5-6).

The highlight of that ceremony takes place in 24:7 when Moshe takes this 'sefer ha-brit' - and reads it aloud:

> "... Then Moshe took the sefer ha-brit and read it aloud to the people, and they answered: Everything which God has spoken to us - **na'aseh** ve-nishma [we shall keep and obey] (24:7).
> [Later in the shiur we will discuss what precisely was written in this **sefer ha-brit** and **why** the people respond 'na'aseh ve-nishma'.]

As a symbolic act that reflects the people's acceptance of this covenant:

> Moshe then took the blood [from the korbanot] and sprinkled it on the people and said: This is the **dam** ha-brit - blood of the **covenant**... concerning these commandments..." (24:8).

As a symbolic act that reflects the national aspect of this covenant, the ceremony concludes as its official leadership ascends the mountain and bows down to God:

> Then Moshe, Aharon, Nadav, and Avihu, and the seventy elders of Israel went up (the mountain) and they saw the God of Israel... And upon the nobles of Israel He laid not His hand; and they beheld God, and ate and drank (24:9-11).

Clearly, this ascent by the elders fulfills God's command as detailed in 24:1. In this manner, God had instructed Moshe not only to convey a set of laws to Bnei Yisrael, but also to present them as part of national ceremony.

This seems to be a nice and simple interpretation for 24:1-11, and reflects the basic approach of Ramban, Ibn Ezra and Rashbam.

Yet despite its simplicity, Rashi (and most likely your first Chumash teacher) disagree!

RASHI'S APPROACH - LAST THINGS FIRST

Quoting the Mechilta on 24:1, Rashi claims that this entire ceremony - including Moshe telling over the 'divrei Hashem & mishpatim', writing down and reading the 'sefer ha-brit', and proclaiming **na'aseh** ve-nishma , etc. (i.e. 24:1-11) - all took place **before** Matan Torah, and hence **before** this 'ko tomar' unit was ever given to Moshe Rabeinu.

This conclusion obviously forces Rashi to provide a totally different interpretation for the phrases 'divrei Hashem & 'ha-mishpatim' in 24:3 and for 'sefer ha-brit' in 24:7 - for they can no longer refer to mitzvot in the 'ko tomar' unit.

At first glance, Rashi's approach seems unnecessary (and rather irrational). [Note how Ramban takes issue with this approach in his opening comments on 24:1!]

However, by undertaking a more comprehensive analysis, we will show how Rashi's interpretation is not only textually based, but also thematically quite significant.

Let's first consider some factors that may have led Rashi to his conclusion.

First of all, the very manner in which chapter 24 begins is quite peculiar - as it opens in 'past perfect' tense ["Ve-el Moshe amar..." - and to Moshe it was told (see 24:1), indicating that all of the events recorded in 24:1-11 may have occurred earlier. Furthermore, if chapter 24 is indeed a continuation of the 'ko tomar' unit, then 24:3 should have been the first pasuk (as we discussed above).

These considerations alone allow us to entertain the possibility that these events may have taken place at an earlier time. Recall however that the events that took place before Matan Torah were already described in Shmot chapter 19. Recall as well (from our shiur on Parshat Yitro) that chapter 19 contained numerous details that were very difficult to explain.

Therefore, Rashi's approach allows us to 'weave' the events described 24:1-11 into chapter 19, thus explaining many of the ambiguities in that chapter.

FILLING IN THE MISSING LINKS

For example, recall from 19:22 how God tells Moshe to warn the '**kohanim** who stand closer', yet we had no idea who these **kohanim** were! However, if the events described in 24:1-11 took place at that time (i.e. before Ma'amad Har Sinai), then clearly the **kohanim** in 19:22 refer to the elite group (Nadav, Avihu, and the seventy elders) singled out in 24:1 & 24:9 - who were commanded to 'come closer' - but not as close as Moshe.

Furthermore, this interpretation explains the need for the extra warning in 19:20-25 [what we referred to as the '**limitation** section']. Recall how the ceremony (described in 24:4-11) concludes as this leadership group ascends the mountain and actually 'sees' God (see 24:10). Nevertheless they are not punished (see 24:11). Despite God's leniency in this regard at that time, He must command Moshe before Ma'amad Har Sinai to warn both the people and the kohanim not to allow that to happen once again!
[See 19:20-25.]

Rashi's interpretation carries yet another 'exegetic' advantage. Recall that Bnei Yisrael had already proclaimed 'na'aseh' in 19:7-8. If so, then there appears to be no need to repeat this proclamation in 24:3. However, if 24:3 takes place before Matan Torah, then 24:3 simply recaps the same event that already took place in 19:7-8.

Finally, Rashi's interpretation can also help us identify the '**heim'** mentioned in 19:13 - who are allowed to ascend Har Sinai once the Shofar sounds a long blast. Most likely, the '**heim'** are that very same elite group who are permitted to partially ascend Har Sinai during the ceremony (as described in 24:1-2, 9).

> [See Ibn Ezra aroch on 19:13, quoting this peirush in the name of Shmuel ben Hofni!]

These 'textual' considerations supply the 'circumstantial evidence' that allows Rashi to place the events of 24:1-11 within chapter 19, and hence before Matan Torah! With this in background, let's see how Rashi explains the details of 24:3 based on the story in chapter 19!

> And Moshe came [see 19:14] and told the people 'divrei Hashem' = the laws of 'prisha' [see 19:15] and 'hagbala' [see 19:12-13] and the 'mishpatim' = the seven Noachide laws and the laws that Bnei Yisrael received at **Mara** (see Shmot 15:25).
> [See Rashi on 24:3.]

In the next pasuk, Rashi reaches an amazing conclusion. Because these events took place before Matan Torah, Rashi explains that the 'divrei Hashem' which Moshe writes down in 24:4 [which later become the 'sefer ha-brit' that Moshe reads in 24:7] is no less than all of Sefer Breishit (and the first half of Sefer Shmot)!

How about Bnei Yisrael's reply of 'naaseh ve-nishma' (in 24:7)? Even though Rashi doesn't explain specifically what this refers to, since it was stated before Matan Torah, it clearly implies Bnei Yisrael's acceptance of all the mitzvot that God may given them, before they know what they are! Hence, this statement is popularly understood as reflective of a statement of blind faith and commitment.

Let's consider the thematic implications of Rashi's interpretation, for they are quite significant.

'WHY' BEFORE 'HOW'

Identifying Sefer Breishit as the 'sefer ha-brit' that Moshe reads in public (in 24:7) ties in beautifully with our discussion of the primary theme of Sefer Breishit. It should not surprise us that Chumash refers to Sefer Breishit as 'sefer ha-brit' - for this highlights the centrality of God's covenant with Avraham Avinu [i.e. **brit** mila & **brit** bein ha-btarim] as its primary theme.

But more significant is the very fact that God commands Moshe to teach Sefer Breishit to Bnei Yisrael **before** they receive the Ten Commandments and the remaining 'mitzvot' of the Torah. Considering that Sefer Breishit explains **how** and **why** Bnei Yisrael were first chosen, it is important that Bnei Yisrael must first understand **why**, i.e. *towards what **purpose*** - they are receiving the Torah, **before** they actually receive it. [This would imply that before one studies **how** to act as a Jew, it is important that he first understand **why** he was chosen.]

Finally, Rashi's interpretation (placing 24:1-11 before Matan Torah) adds tremendous significance to the nature of the three-day preparation for Ma'amad Har Sinai (see 19:10-16). Recall how chapter 19 described quite a 'repressive' atmosphere, consisting primarily of 'no's' [don't touch the mountain, don't come too close, wash your clothes, and stay away from your wives, etc.]. But if we weave the events in 24:1-11 into this three-day preparation, then what emerges is a far more festive and jubilant atmosphere, including:

* Torah study (see 24:3-4),
* A 'kiddish' i.e. offering (and eating) korbanot (see 24:5-6,11),
* A public ceremony [sprinkling the blood on everyone] - followed by public declaration of 'na'aseh ve-nishma' (see 24:7-8),
* The nation's leaders symbolically approach God (see 24:9-11).

[What we would call today a full-fledged 'shabbaton'!]

YIR'A & AHAVA

Despite the beauty of Rashi's approach, one basic (and obvious) question remains: What does the Torah gain by dividing this story of Ma'amad Har Sinai in half; telling only part of the story in chapter 19 and the remainder in chapter 24? Would it not have made more sense to describe all of these events together in chapter 19?

One could suggest that in doing so, the Torah differentiates between two important aspects of Ma'amad Har Sinai. Chapter 19, as we discussed last week, focuses on the **yir'a** [fear] perspective, the people's fear and the awe-inspiring nature of this event. In contrast, chapter 24 focuses on the **ahava** [love] perspective, God's special closeness with Bnei Yisrael, which allows them to 'see' Him (see 24:9-11) and generates a joyous event, as they join in a festive meal [offering **olot** & **shlamim** (which are eaten) / see 24:5-6,11].

To emphasize the importance of each aspect, the Torah presents each perspective separately, even though they both took place at the same time. Recording the 'fear' aspect' beforehand, stresses the importance of the fear of God ['yir'at shamayim'] and how it must be the primary prerequisite for receiving the Torah. [See Tehillim 111:10: "reishit chochma yir'at Hashem".]

By recording the 'ahava' aspect at the conclusion of its presentation of the mitzvot given at Har Sinai, the Torah emphasizes how the love of God (and hence our closeness to Him) is no less important, and remains the ultimate goal. Hence, this 'ahava' aspect is also isolated, but recorded at the conclusion of the entire unit to stress that keeping God's mitzvot can help us build a relationship of 'ahavat Hashem'.

This lesson remains no less important as we adhere to the laws of Matan Torah in our daily lives. It challenges us to integrate the values of both 'yir'at shamayim' and 'ahavat Hashem' into all our endeavors.

shabbat shalom,
menachem

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FOR FURTHER IYUN

A. See Ramban on 19:5, especially "al derech ha-**emet**..."! Relate each part of this Ramban to the above shiur.

B. See Shabbat 88a, regarding the machloket when the **dibrot** were given. Relate this sugya to the above shiur.

C. Based on the structure of the 'ko tomar' unit, which is followed by 'brit na'aseh ve-nishma' and where Bnei Yisrael build a **mizbeiach** and offer **olot** & **shlamim**, explain why the primary mitzva in the opening section (i.e. 20:21-23) is "mizbach adama ta'aseh li..." [Does this insight support Rashi or Ramban's interpretation?]

D. Chizkuni, following Rashi, also explains that the covenant in chapter 24 takes place **before** Matan Torah. However, he explains that **sefer ha-brit** (in 24:7) is the **tochacha** in Parshat Behar-Bechukotai, even though it is only recorded much later in Chumash (see Vayikra chapter 26). According to Chizkuni, the **sefer ha-brit** explains how the **land** will serve as a vehicle to either reward or punish Bnei Yisrael, depending upon their observance or neglect of the mitzvot they are about to receive. (This peirush also neatly explains why the phrase "ki li kol ha-aretz" appears in 19:5.)

E. Note that Rashi's interpretation provides us with an excellent example of his exegetic principle of 'ein mukdam u-me'uchar' / see shiur on Parshat Yitro. Because of the many textual and thematic parallels between chapters 19 & 24, Rashi prefers to change the chronological order of the 'parshiot' so as to arrive at a more insightful interpretation. In contrast, Ramban prefers to keep these parshiot in chronological order.]

Note as well that according to Rashi, the entire **Ko Tomar** unit including the 'mishpatim') was given to Moshe Rabeinu during his first forty days on Har Sinai (see Rashi 31:18).

PARSHAT MISHPATIM - shiur #2

A SPECIAL UNIT / AN EDUCATIONAL PROGRESSION

What's better - Chumash or Shulchan Aruch?

The question really isn't fair, but anyone who has studied both books realizes how different they are.

As Parshat Mishpatim contains a set of laws that sounds a bit like Shulchan Aruch [the Jewish Code of Law], this week's shiur will analyze their progression, to show how the Torah delivers its message through the manner of their presentation.

INTRODUCTION

In last week's shiur, we began our discussion of how the laws in Chumash are presented in groups (or 'units'). For example, in Parshat Yitro, we saw how the first 'ten' Commandments were given as part of Ma'amad Har Sinai. Afterward, we identified the next 'unit' of mitzvot - which we referred to as the 'ko tomar' unit, beginning in 20:19, and continuing until the end of chapter 23 (which comprises most of Parshat Mishpatim). Later on in Chumash we will find many additional 'units' of mitzvot, embedded within its various narratives.

Because Chumash presents its mitzvot in 'units', we would certainly expect that the **first** 'unit', i.e. the one that follows the Ten Commandments, to be special. In our shiur, we undertake an analysis of the internal structure of this "ko tomar" unit, in an attempt to understand why specifically these mitzvot are recorded at this point, and in this manner.

SUB-DIVIDING THE UNIT

At first glance, these three chapters appear to contain simply a random set of laws, from all types of categories - as it jumps back and forth from "bein adam la'makom" [laws between man & God] to "bein adam l'chaveiro" [laws between man and his fellow man (or society)]. On the other hand, there does seem to be some very logical internal structure within certain groups of these laws, such as the civil laws in chapter 21.

To help make sense out of the overall structure of this unit, we begin by noting how the laws that both open and close this unit fall under the category of "bein adam la'makom".

Let's explain.

Recall how this "ko tomar" unit began (at the end of Parshat Yitro) with four psukim that discuss various laws concerning idol worship and building a mizbeiach [altar] (see 20:20-23). Clearly, this short 'parshia' deals with laws between man & God, and more specifically - how to worship (or not worship) Him.

Similarly, at the end of this unit, we find another set of laws that are "bein adam la'makom" - explaining how we are expected to worship God on the three pilgrimage agricultural holidays (the "shalosh regalim" / see 23:13-19).

[We consider these psukim the last set of laws, for immediately afterward (i.e. from 23:20 till the end of chapter 23) we find several conditional promises that God makes concerning how He will help Bnei Yisrael conquer the land, but the law section of this unit definitely ends with 23:19.]

In this manner, we find that this lengthy set of laws in Parshat Mishpatim is enveloped by a matching set of laws (20:20-23 & 23:13-19) that discuss how to properly worship God.

Inside this 'sandwich' we will find numerous laws (i.e. from 21:1 thru 23:12), however almost all of them will fall under the category of "bein adam la'chaveiro" - between man and his fellow man (or society).

The following table summarizes this very basic sub-division of this "ko tomar" unit, which will set the framework for our next discussion:

PSUKIM	**TOPIC**
20:19-20:23	How to worship God via the 'mizbeiach'
21:01-23:12	A misc. assortment of civil laws
23:13-23:19	Worshiping God on the 3 pilgrimage holidays

23:20-23:33 --- God's promises re: entering the land

With this in mind, lets examine the internal structure of the "bein adam la'chaveiro" laws, that begin with the Mishpatim in 23:1 thru 23:12. As we will now show, this 'middle section' of civil laws will divide very neatly into two basic categories.

1) Case laws - that go before the "bet-din" [a Jewish court]
2) Absolute laws - that guide the behavior of the individual

THE MISHPATIM - CASE LAWS

Parshat Mishpatim begins with the laws of a Hebrew slave (see 21:2-11) and are followed by numerous 'case-type' civil laws dealing primarily with damages ["nezikin"'] that continue thru the middle of chapter 22. Their presentation develops in an organized, structured manner, progressing as follows:

21:12-27 - a person killing or injuring another [assault]
21:28-32 - a person's property killing or injuring another person
21:33-36 - a person's property damaging property of others
21:37-22:3 - a person stealing from another
22:4-5 - property damage to others caused by grazing or fire
22:6-14 - responsibility of "shomrim" watching property of others
22:15-16 - financial responsibility for a 'seducer'

Note how these various cases range from capital offense to accidental property damage.

THE 'KEY' WORD

As you most probably noticed, the 'key word' in this section is 'ki' [pun intended], which implies **if** or **when**. Note how most of the parshiot from 21:1-22:18 begin with the word 'ki' [or 'im' / if/ when] and even when it is not written, it is implicit. In other words, each of these 'mishpatim' begins with a certain **case** [if...] and is followed by the ruling [then...]. For example:

If a man hits his servant **then**... (see 21:20);
If an ox gores a man... **then** the ox must be stoned (21:28).

Basically, this section contains numerous examples of 'case-law,' upon which the Jewish court (**bet din**) arrives at its rulings. This is the basic meaning of a "mishpat" - a **case** where two people come to court - one person claiming damages from another - and the **shofet** (judge) must render a decision. In fact, these cases can only be judged by a court, and not by a private individual.

[As you review these cases, note how most of them fall under the category of "choshen mishpat" in the shulchan aruch.]

As our above table shows, this section of 'case-laws' (beginning with the word "ki") continues all the way until 22:16; after which we find an interesting transition. Note, that beginning with 22:17, we find three laws, written in a more imperative form, that do not begin with a specific 'case':

"A sorceress **shall not** be left alive. Anyone lying with an animal **shall be killed**, and one who sacrifices to [other] gods **shall be excommunicated**..." (see 22:17-19).

These laws don't begin with the word 'ki' for a very simple reason - there is no plaintiff coming to court to press charges! In all the cases until this point, the process of 'mishpat' is usually initiated because the plaintiff comes before the court. In these three cases, it is the court's responsibility to initiate the process (see Rashi & Rashbam & Ramban on 22:17!), i.e. to find the sorceress, or the person 'lying with the animal', etc. Therefore, even though these laws are presented in the 'imperative' format, they remain the responsibility of "bet-din".

These three cases are also quite different from the case-laws above, for they also fall under the category of "bein adam la'makom" [between God & man].

Most significant is the third instruction - "zoveyach la'elokim yo'cho'ram - bilti l'Hashem l'vado" - one who sacrifices to [other] gods shall be excommunicated..." - where once again we find a law concerning 'how to (or not to) worship God' - just as we find in the opening and closing sections that envelope these civil laws.

In this sense, these three laws will serve as a 'buffer' that leads us to the next category, where the laws will continue in the 'imperative' format, however, they will leave the realm of "bet-din" and enter the realm of ethical behavior. Let's explain:

THE ETHICAL LAWS

Note the abrupt change of format that takes place in the next law:

"You **shall not wrong** a **stranger** or oppress him, for you yourselves were strangers in the land of Egypt" (22:20).

Not only is this law written in the imperative format, it contains no punishment by "bet-din". Instead, it includes an incentive for why every Jew should keep this law - for we ourselves were also once strangers in the land of Egypt!

Note as well how this imperative format continues all the way until 23:10. In contrast to what we have found thus far, we now find a collection of **imperative**-style laws [i.e**. do**... or **don't**...], which appear to be beyond the realm of enforcement by **bet-din**. This section focuses on laws of individual behavior that serve as guidelines that will shape the type of society which God hopes to create within His special nation.

Towards the conclusion of this 'ethical' unit, we find a pasuk that seems to simply repeat the same verse that opened this unit:

"You **shall not oppress** a **stranger**, whereas you know the **feelings** of a stranger, for you yourselves were once strangers in the land of Egypt" (see 23:9).

[and compare it to the opening statement of this unit: "You **shall not wrong** a **stranger** or oppress him, for you were strangers in the land of Egypt" (see 22:20).

As your review the numerous laws that are 'enveloped' by these two 'matching' psukim, note how they are all written in the imperative form, and share a common theme of living by a higher ethical standard.

To prove this assertion, let's study the progression of topic from 22:20 thru 23:9:

* "You shall not mistreat any widow or orphan. If you do mistreat them, **I will heed their outcry**...."
* "When you lend money... if you take his garment as a pledge, you must return it by sunset... for if you don't, when he calls out to me, surely, **I will hear his cry**..." (see 22:20-26).

In contrast to the previous section (see 20:12 thru 22:16), where the court enforced the punishment - this section begins with a set of laws where God Himself threatens to enact punishment! As the court system cannot 'force' every member of society to treat the poor and needy with kindness, God Himself promises to 'intervene' should the 'less privileged' be mistreated.

Furthermore, it is specifically the stranger, the orphan, and widow who would least likely know how to take their case to court. As it is so easy to take advantage of these lower social classes, God Himself will punish those who take advantage.

BEING A 'GOOD CITIZEN'

The next four psukim (22:27-30) form a 'parshia', and at first glance appear to fall under the category of 'bein adam la'makom". However, in their context, it is also possible to understand them as laws dealing with the behavior of the individual within society, or stated more simply - being a good citizen. Let's explain how.

"Do not curse Elokim [either God or a judge / see 22:7]:, nor curse a leader of your people" (see 22:27).

This instruction 'not to curse your leaders' can be understood as a nice way of saying - respect your leadership. It would be difficult to develop a just society, should the people consistently curse and show no respect for their judges and political leaders.

The next law - "Do not delay to bring of the fullness of thy harvest, and the outflow of thy presses" (see 22:28) - could also fall under this category, as it refers to the obligation of every individual to tithe his produce. As this tithe is used to cover the salaries of civil servants (for example see Bamidbar 18:21 re: the salary of the Levi'im), this law could be paraphrased as a demand

that everyone must 'pay their taxes' - and on time; yet another example of 'good citizenship'.

Similarly, the next law:

"Your shall give Me your first-born sons. Likewise, [the first born] of your oxen & sheep..." (see 22:28-29) - was first given when Bnei Yisrael left Egypt (see Shmot 13:1-2,11-14).

Obviously, this commandment does not imply that we actually sacrifice our first born children; but rather it relates to the obligation of each family to dedicate their first-born son to the service of God. The purpose of this law was to assure that there would be an 'educator' (or 'civil servant') in each family - to teach the laws of the Torah.

Even though this 'family responsibility' was later transferred to the entire tribe of Levi (after chet ha-egel / see Devarim 10:8-9); at the time when the laws of Parshat Mishpatim were given - this was supposed to be the job of the first-born son. Similarly, the value of the 'first born' animals would also be dedicated to the Temple treasury (or to feed the workers).

If this understanding is correct, then this command serves as a reminder to each family to fulfill its responsibility to provide its share of 'civil servants' to officiate in the Mishkan and to serve as judges and educators (see Devarim 33:10).

[Re: viewing the first-born animals as a tax to compensate those civil servants - see Bamidbar 18:15-20!]

ACTING LIKE A 'MENSCH'

In the final pasuk of this 'parshia' we find a very general commandment to be not only a good citizen, but also to act like a 'mensch':

"And you shall be holy men unto Me; [an example] should you find the flesh that is torn of beasts in the field - do not eat it -feed it instead to the dogs" (22:30).

Even though the opening statement - to be holy men- is quite vague; the fuller meaning of this commandment is detailed in Parshat Kedoshim (see Vayikra chapter19). A quick glance of that chapter immediately points once again to the need to act in an ethical manner in all walks of life. [Note the numerous parallels between Vayikra chapter 19 and Shmot 22:20-33:10!]

The commandment 'not to eat the flesh of a torn animal' can be understood as an application of how to 'be holy', implying to act like a 'mensch', and not like gluten who would devour (like a dog) the meat of animal found dead in field.

In summary, we claim that this short section focuses on the need to be a 'good citizen', consonant with the general theme of ethical behavior - and incumbent upon a member of a society who claims to be representing God.

A HIGHER ETHIC

In chapter 23, this unit 'progresses' one step further, with several mitzvot that emphasize an even higher level of moral and ethical behavior.

The first three psukim discuss laws to ensure that the judicial system will not be misused - For example, not to plot false witness; to follow majority rule; and not to 'play favorites' in judgment (see 23:1-3).

[These laws could also be viewed as guidelines for the 'judges' who decide the laws in the first section, i.e. the civil 'case-laws' in 21:12-22:16.]

Next, we find two interesting laws that reflect the highest level of ethical behavior, which worded in a special manner.

* Returning a lost animal, even that of your enemy, to its owner ('hashavat aveida') (see 23:4);
* Helping your neighbor's animal (again, even your enemy) with its load ('azov ta'azov imo') (see 23:5);

The Torah does not simply command us to return a lost item, it describes an extreme case, where one must go out of his way to be 'extra nice' to a person whom he despises. What may be considered 'exemplary behavior' in a regular society - becomes required behavior for a nation who represents God.

Finally, this special section concludes with the famous dictum "mi-dvar **sheker** tirchak" - keeping one's distance from any form of dishonesty (see 23:7), followed by a warning not to take bribes - 've-**shochad** lo tikach' - (see 23:8).

As mentioned earlier, this section, describing the mitzvot of a higher ethical standard, closes with the verse "ve-ger lo tilchatz..." (see 23:9) - almost identical to its opening statement (see 22:20).

Despite the difficulty of their slavery in Egypt, Bnei Yisrael are expected to **learn** from that experience and create a society that shows extra sensitivity to the needs of the less fortunate. Specifically the Jewish nation - **because** we were once slaves - are commanded to learn from that experience, in order to become even **more** sensitive to the needs of others!

SHABBAT & THE HOLIDAYS

As we explained earlier, this 'ethical' section is followed by yet another set of mitzvot (see 23:10-19), which appears to focus on 'mitzvot bein adam la-Makom'. It includes the following mitzvot:

'Shmitta' - leaving the fields fallow every **seven** years;
'Shabbat' - resting one day out of every **seven** days;
'Shalosh regalim' - the three agricultural holidays:
'chag ha-matzot' - seven days eating matza
'chag ha-katzir' - wheat harvest (**seven** weeks later)
'chag ha-asif' - produce harvest (**seven** days).
(23:10-19)

Nonetheless, it should be noted how the laws of shmitta and shabbat are actually presented from the perspective of 'bein adam le-chavero'. The 'shmitta' cycle provides extra food for the poor and needy (see 23:11), while 'shabbat' provides a day of rest for the 'bondsman and stranger' (see 23:12). In this sense, these two laws form a beautiful transition from "bein adam la'chaveiro" section to the concluding "bein adam la'makom" section that 'closes' this entire unit.

At this point, we find a short summary pasuk that introduces the last section describing the pilgrimage 'holidays' (see 23:13-19). These 'shalosh regalim' are described as three times during the year when the entire nation gathers together 'in front of God' (i.e. at the Bet Ha-Mikdash) to thank Him for their harvest.

[One could suggest that this mitzvah of 'aliya la-regel' also influences the social development of the nation, for it provides the poor and needy with an opportunity to celebrate together with the more fortunate (see Devarim 16:11,14-16.)]

A 'DOUBLE' SANDWICH - TZEDAKA & MISHPAT

Let's return now to note the beautiful structure of this entire unit by studying the following table, where a * denotes laws "bein adam la'makom" and a # denotes laws "bein adam la'chaveiro".

To clarify this layered nature of this internal structure, in the following table we compare it to a 'sandwich' with two layers of 'meat', enveloped by 'bread',

* TOP - Laws re: idol worship and the 'mizbeiach' (20:19-20:23)
[i.e. how to worship God]

LAYER 1 - # The civil laws - 'case' laws for "bet-din" (21:1-22:16)
- i.e. laws that relate to MISHPAT - judgement

* BUFFER - short set of laws "bein adam la'makom" (22:17-19)

LAYER 2 - # The ethical laws -individual behavior (22:20-23:12)
- i.e. laws that relate to TZEDAKA - righteousness

* BOTTOM - Laws of the three pilgrimage holidays (23:13-19)
[again, how to properly worship God]

In other words, the few mitzvot that relate to how we are supposed to worship God (*) 'envelope' the numerous mitzvot that explain how God expects that we act (#). However, those mitzvot that govern our behavior also divide into two distinct groups. The first group (or layer) focuses on laws of justice that must be

enforced by the court system - i.e. MISHPAT; while the second group focuses on ethical behavior - i.e. TZEDKA or righteous behavior.

BACK TO AVRAHAM AVINU!

If your remember our shiurim on Sefer Breishit, this double layered structure - highlighting elements of both TZEDAKA & MISHPAT - should not surprise us. After all, God had chosen Avraham Avinu for this very purpose:

> "For Avraham shall surely become a great and mighty nation, and a blessing for all the nations of the earth. For I have known him IN ORDER that he may command his children and his household after him, that they may keep the way of God to do TZEDAKA & MISHPAT [righteousness and justice]..." (see Breishit 18:18-19, compare Breishit 12:1-3)

Now that Avraham Avinu's offspring have finally become a nation, and now prepare to enter the land - they enter a covenant at Har Sinai. Therefore, the very first set of detailed laws received at Sinai focus on how the nation of Israel is expected to keep and apply the values of "tzedaka & mishpat" - in order that this nation can accomplish its divine destiny.

AN EDUCATIONAL PROGRESSION

Before we conclude, we should note yet another sequence that takes place within these various subsections of laws. As you review these various sections, note how they follow a very meaningful educational progression:

I. THE FEAR OF MAN

The first section (21:1-22:19) contains civil laws regarding compensatory obligations, common to any civilized society (not unique to Am Yisrael). These case-type laws are enforced by **bet-din**. The fear of punishment by the courts ensures the compliance of the citizenry.

II. THE FEAR OF GOD

The next section (22:20-26) contains imperatives related to ethical behavior, emphasizing specifically consideration for the less fortunate members of society. Given the difficulty of enforcing this standard by the **bet-din**, God Himself assumes the responsibility of punishing violators in this regard.

III. LOVE FOR ONE'S FELLOW MAN

The final section of imperative civil laws (23:1-9) contains mitzvot relating to an even higher moral and ethical standard. In this section, the Torah does not mention any punishment. These mitzvot are preceded by the pasuk "ve-anshei **kodesh** tihiyun li" (22:30) and reflect the behavior of a "mamlechet kohanim ve-goy **kadosh**" (see 19:5-6). When the civil behavior of God's special nation is motivated not only by the fear of punishment, but also by a high ethical standard and a sense of subservience to God, the nation truly becomes a 'goy **kadosh**' - the purpose of Matan Torah (see 19:5-6!).

IV. THE LOVE OF GOD

After creating an ethical society, the nation is worthy of a special relationship with God, as reflected in the laws of shabbat, shmitta, and 'aliya la-regel' - 'being seen by God' on the three pilgrimage holidays (see 23:10-17).

This progression highlights the fact that a high standard of ethical behavior (II & III) alone does not suffice. A society must first anchor itself by assuring justice by establishing a court system that will enforce these most basic civil laws (I). Once this standard has been established, society can then strive to achieve a higher ethical level (II & III). Then, man is worthy to encounter and 'visit' God (IV).

ONE LAST PROMISE

Even though the 'mishpatim' and mitzvot end in 23:19, this lengthy section (that began back with 'ko tomar...' in 20:19) contains one last section - 23:20->33 - which appears as more of a **promise** than a set of laws. God tells Moshe to tell Bnei Yisrael that:

> "Behold, I am sending a **mal'ach** before you, to guide you and bring you to ... (the Promised Land). ... for if you obey him [God's 'mal'ach'] and do all that I say, I will be an enemy to your enemies and a foe to your foes. For My **mal'ach** will lead you and bring you to [the land of] the Amorites, Hittites, etc." (23:20-23). [See also 23:27-31!]

This conclusion points to the **purpose** of the entire unit. By accepting these laws, Bnei Yisrael will shape their character as God's special nation. Hence, **if** they obey these rules, **then** God will assist them in the conquest of the Land.

Considering that Bnei Yisrael are on their way to conquer and inherit the Land, this section (23:20-33) forms an appropriate conclusion for this entire unit. Should they follow these laws, He will help them conquer that land, where these laws will help facilitate their becoming God's special nation.

BACK TO BRIT SINAI

This interpretation can provide us with a beautiful explanation for why Bnei Yisrael receive specifically this set of mitzvot immediately after the Ten Commandments.

Recall God's original proposal to Bnei Yisrael before Ma'amad Har Sinai - "should they obey Me and keep My covenant... then they will become a - mamlechet kohanim ve-goy kadosh" (see Shmot 19:5-6). After the people accept this proposal (see 19:8), they receive the Ten Commandments, followed by the laws of the "ko tomar" unit.

This can explain why Bnei Yisrael receive specifically these laws (of the "ko tomar unit") at this time. As these laws will govern the ethical behavior of every individual in Am Yisrael and build the moral fabric of its society, they become the 'recipe' that will transform this nation into a "mamlechet kohanim ve-goy kadosh".

Furthermore, they emphasize how laws that focus on our special relationship with God, especially in relation to how we worship him - such as the laws of the holidays, are only meaningful when rooted in a society that acts in an exemplary fashion.

Because these guidelines for individual behavior are 'enveloped' by details of how to properly worship God, we can essentially conclude that this entire unit discusses how the nation of Israel is expected to worship God - for the manner by which we treat our fellow man stands at the center of our relationship with God.

shabbat shalom,
menachem

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FOR FURTHER IYUN

A. NISHMA VE-NA'ASEH!

Based on this interpretation, we can suggest a very simple explanation for why Bnei Yisrael declare '**na'aseh** ve-**nishma'** at the ceremony at Har Sinai (as see 24:7). [According to Ramban's approach that we keep 24:1-11 in its chronological order.]

If indeed **sefer** ha-**brit** includes the unit from 20:19-23:33, then God's promise to help Bnei Yisrael conquer the land should they listen to Him (23:20-23:23) forms the most basic statement of this **covenant**:

> "Ki im **shamo'a tishma** be-kolo, **ve-a'sita** kol asher adaber - For **if** you **listen** to what He [the **mal'ach**] says, and **do** whatever I will speak... **then** I will help you defeat your enemies..." (see 23:21-22).

One could suggest that it is in response to this phrase that Bnei Yisrael declare:

> **na'aseh** - in response to: ve-**asita** kol asher adaber;
> ve-**nishma** - in response to: im **shamo'a tishma** be-kolo.
> [Carefully read the middle section of Ramban's peirush to 24:3 where he alludes to this interpretation.

[Note that even according to Rashi's interpretation that sefer ha-brit in 24:7 includes the laws at **Mara**, the final words of God's charge at **Mara** (see 15:26) could provide the background for a similar explanation. One could suggest that Bnei Yisrael respond by saying **na'aseh** to ve-hayashar be-einav **ta'aseh** and **nishma** to "im shamo'a tishma..."! Of course, this could also relate to God's proposal in 19:5-6.]

B. Regarding to the order of NA'ASEH ve-NISHMA:

According to our explanation above, Bnei Yisrael should have said this in the opposite order, i.e. **nishma** ve-**na'aseh**. Relate this to Chazal's question in the Midrash - "lama hikdimu na'aseh le-nishma", which applauds Bnei Yisrael for **first** accepting the laws which they haven't yet heard. [Relate to "et asher **adaber**"!]

C. SOUND BYTES

Many of the mitzvot in Parshat Mishpatim from 22:26-23:19 could be viewed as 'sound-bytes' for entire 'parshiot' that expound on these mitzvot in Sefer Vayikra and Sefer Devarim.

1. Attempt to find examples, e.g. 23:10 to Vayikra 25:1-8; 23:14 to Devarim 16:1-17.
2. Use this to explain the nature of Parshat Mishpatim.
3. How does this enhance our understanding of the ceremony in perek 24? Relate to 'sefer ha-brit'.
4. Based on the above shiur, explain why Chazal interpret the law of "va-avodo le-olam" (21:6) - when an 'eved ivri' agrees to work 'forever' - as referring to the end of the seven cycles of shmitta, i.e. the 'yovel' year - see Rashi 21:6 and Vayikra 25:8-11.

D. AVOT & TOLADOT

We mentioned in the shiur that the mitzvot in Mishpatim can be understood as 'toladot' of the Ten Commandments. See Ibn Ezra's observation of this point. See also Abravanel.

1. Attempt to find examples of dibrot V->X within the civil laws.
2. Explain why the laws concerning the mizbeiach should be considered toladot of "lo tisa et shem Hashem Elokecha la-shav."
3. How does 'shem Hashem' relate to the concept of mizbeiach? Relate to Breishit 12:8, 13:4, etc.
4. How does 23:20-22 relate to this same idea of 'shem Hashem'? - see shiur below

THE 'TOLADOT' OF THE 'DIBROT' [a mini shiur]

In the following mini-shiur, we discuss once again the progression of mitzvot in the "ko tomar" unit, but this time from a different perspective.

Just as we have shown how these mitzvot follow an 'educational progression,' we will now show how (and why) they follow ('more or less') according to the order of the Ten Commandments.

Let's begin by showing how the opening section of mitzvot in this unit (i.e. 20:19-23 / the 'bein adam la-Makom' mitzvot) can be viewed as 'toladot' (sub-categories) of the first three Commandments:

*1. 20:19
"You have seen how I have spoken to you from heaven" - thus emphasizing belief in God's **hitgalut** at Har Sinai. This could be considered parallel to the first 'dibur' - "Anochi Hashem Elokecha asher hotzeiticha..."

*2. 20:20
"Don't make [with] Me gods of gold and silver..." - This prohibition of idol worship is obviously parallel to the second 'dibur': "lo yihiyeh lecha..."

*3. 20:21-23
"An earthen mizbeiach you shall make for Me...." - Even though this parallel is not as obvious, this commandment concerning how to build a mizbeiach may be compared to the third 'dibur': "lo tisa et **shem**..." - not to mention God's Name in vain. The parallel can be based on our study of Sefer Breishit where we saw how the mizbeiach forms an avenue by which Avraham declared God's Name to make it known to others. [See Breishit 12:8 and 13:4 and Ramban on 12:8.]

As Parshat Mishpatim continues this "ko tomar" unit, we can continue to find additional parallels to the remaining dibrot. Just as we found 'toladot' of the first three 'dibrot', so do we find 'toladot' of the fourth commandment - i.e. 'shabbat'. In fact, both the opening and closing sections of the mitzvot relate to shabbat. The opening mitzva, the law of a Hebrew servant (21:1-6), is based on the concept of six years of 'work' followed by 'rest' (=freedom) in the seventh year. The closing mitzvot of 'shmitta', shabbat, and 'aliya la-regel' (23:10-19), are similarly based on a seven-day or seven-year cycle.

In between these two 'toladot' of shabbat, we find primarily 'mitzvot bein adam le-chavero' (21:1->23:9), which can be considered 'toladot' of the fifth through tenth Commandments.

The final section, describing God's promise to help Bnei Yisrael conquer the land should they keep these mitzvot, continues this pattern in descending order:

23:20-23 The **mal'ach** with "shmi be-kirbo" -> III. "lo tisa"
23:24 - Not to worship their idols -> II. - "avoda zara"
23:25 - Worshipping God and its reward... -> I. Anochi

This structure, by which the 'mitzvot bein adam la-Makom' that govern our relationship with God (I->IV) serve as 'bookends' enclosing the **mishpatim** [the civil laws and ethical standards regarding one's relationship to fellow men (V-X)], underscores an important tenet of Judaism. Unlike pagan religions, man's relationship with other people constitutes an integral part of his unique relationship with God.

YITRO / MISHPATIM - A CHIASTIC STRUCTURE

The following table illustrates how this progression of the mitzvot according to the **dibrot** helps form a chiastic structure, which encompasses the entire unit from Shmot chapters 19->24.

Note the chiastic A-B-C-D-C-B-A structure that emerges:

A. **Brit** & the **dibrot** at **Har Sinai** (19:1-20:18)
| B. Mitzvot - I, II, III (20:19-23) ['bein adam la-Makom']
| | C. Eved Ivri (IV) [21:1-> 'bein adam le-chavero']
| | | D. Misc. civil laws (V-X) / causative & imperative
| | C. Shmitta, shabbat, regalim (IV)
| B. Mitzvot - III, II, I (23:20-33) ["bein adam la'makom"]
A. The 'Brit' of 'na'aseh ve-nishma' at **Har Sinai** and Moshe's ascent to receive the 'luchot' containing the 'dibrot'.

A chiastic structure (common in Chumash) usually points to a common theme and purpose of its contents. In our case, that theme is clearly 'Ma'amad Har Sinai'. This unit of 'Ma'amad Har Sinai' (Shmot 19->24) continues the theme of the first unit of Sefer Shmot (1->18), the story of Yetziat Mitzrayim.

We conclude our shiur by relating this structure to the overall theme of Sefer Shmot, as discussed by Ramban in his introduction to the sefer.

As we explained, Yetziat Mitzrayim (our redemption from Egypt) constituted the **first** stage in God's fulfillment of **brit avot**. Now, at Ma'amad Har Sinai, Bnei Yisrael enter a **second** stage, as they collectively accept God's covenant and receive the Torah (**brit Sinai**). These laws, especially those of Parshat Mishpatim, will help form their character as God's special nation - in order that they can fulfill the **final** stage of 'brit Avot' - the inheritance of the Promised Land and the establishment of that nation.