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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.

Devrei Torah are now Available for Download (normally by noon on Fridays) from www.PotomacTorah.org. Thanks to Bill Landau for hosting the Devrei Torah.

LEARNING TO LIVE WITH COVID-19: PANEL DISCUSSION

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After the dramatic revelation at Har Sinai, with sound and light effects that terrified B'Nai Yisrael, the Torah immediately presents what Rabbi David Fohrman describes as the most anti-climatic parsha in the Torah – a "law school" class with four detailed chapters containing 53 mitzvot in rapid succession. While it is easy to become lost among page after page of civil laws, the Ramban says that the mitzvot in Mishpatim include and elaborate on the Aseret Dibrot (Ten Commandments). The Sfat Emet describes these mitzvot as the clothing for the values that stand behind the Aseret Dibrot. As Rosh Yeshiva Rabbi Dov Linzer expresses it, the Mishna Brurah (code of halacha by the Chofetz Chaim) is only the beginning of living as a Torah Jew. We must live our lives according to these Torah values to fulfill God's promise to Avraham Avinu, that his descendants would be a nation of prophets, one that would show the other nations of the world how to live under and connect with our Creator.

Many of the specific laws in Mishpatim connect back to incidents in Jewish history (usually using the same words from the earlier incidents and the mitzvah). For example, the first mitzvah discusses obligations of one who purchases a Jewish slave (Eved Ivri). The only person in the Torah called an Eved Ivri is Yosef, in the home of Potiphar. Many of the specific laws in Mishpatim relate back to incidents during the lives of Yosef and his brothers, as well as Yaakov and Esav. (I gave more examples in my introduction two years ago.)

Rav Kook also asks why the Torah seems to look favorably on slavery. Rabbi Fohrman examines the case of a Jewish girl sold into slavery. The intent and practical result of this law is that Jewish girls from poor families would have a way to live with a family from a higher social and wealth class. The master of such girls would educate them and would have obligations not to give them difficult chores. The intent is to help the poor girls find husbands from the master's family or from some other family in his circle. Suppose a girl does not please or find a worthy husband. In such cases, the father could purchase the girl back before the end of six years of service, for a pro-rated portion of the original sales price, or he must set her free when she turns twelve years old. This institution in fact provides a way for girls from poor families to work their way up to a higher economic status.

Jewish male slaves are valuable capital assets for their masters. As Rav Kook observes, the master must treat his slaves as members of his family. An economist adds that one must treat a slave or free worker well to keep him in top condition and thereby maximize his value as a worker over his six years of service. An economist observes that happy workers are more productive than discouraged or unhappy workers (slaves or free workers). The Torah places so many restrictions on how to treat slaves that a common saying is that a slave owner would acquire a master when purchasing a slave. Rav

Kook also observes that the subhuman treatment of slaves starting in the Middle Ages and continuing for centuries after shows the abuses of this institution when outside the control of Torah law.

After a long section discussing the laws of damages (subject to enforcement by a bet din, the Torah turns to a section of ethical laws, where the enforcement comes from God. This section opens and closes with statements that we must treat strangers (foreigners) properly, because we were strangers in Egypt (22:20-23; 23:9). These statements also go back to incidents in Jewish history, specifically Sarah and Avraham's treatment of her slave, Hagar (which is Hebrew for Ha Ger, or the stranger). Sarah and Hagar had a difficult relationship, with Hagar belittling Sarah over her inability to have a child, and Sarah mistreating Hagar until she finally had Avraham bar her from the house. Later, the Jews spent more than two hundred years living in Egypt, approximately half of those years as slaves. All the adults present at Har Sinai would vividly remember living as slaves, although at times they act as if life was not as bad in Egypt as in the desert.

The legal section following Aseret Dibrot starts and ends with a brief discussion of the proper way to worship Hashem (20:19-23; 232:14-19). We may not use any hewn object to build an alter, because iron (often used to shorten life) is not appropriate to use to cover an alter used to daven to He who extends life. A place of worship also must not contain any graven image. Moreover, all Jews were to travel to God's special place for the three moedim (festival holy days) to worship together. These bookends indicate that the laws in Mishpatim directly illustrate the proper way to worship God and to live our lives. This law school class is more than a discussion of Mishna Brurah – it is elaboration of the Torah values of Aseret Dibrot necessary to fulfill God's promise to Avraham Avinu of the role that we, his descendants, must embody to guide the world to being worthy of living in God's world.

My beloved Rebbe, Rabbi Leonard Cahan, z"l, taught me Torah and Jewish history for nearly fifty years. I first met to talk with him when I was a graduate student in economics and disagreed with his discussion of economics during one of his discussions. Our values were very similar, but we often disagreed which policies were better or worse ways to achieve desired results. (In those days, Democrats and Republicans could have civilized discussion with each other.) This beginning discussion led to nearly fifty years when I looked to my Rebbe to help learn more about Judaism, Jewish history, issues as a father, and so much more. To summarize what I learned from Rabbi Cahan over fifty years: the basis of positive discussion is the first Commandment, Hashem is our God – everything else follows.

Shabbat Shalom; Hodesh Tov,

Hannah & Alan

Much of the inspiration for my weekly Dvar Torah message comes from the insights of Rabbi David Fohrman and his team of scholars at www.alephbeta.org. Please join me in supporting this wonderful organization, which has increased its scholarly work during the pandemic, despite many of its supporters having to cut back on their donations.

Please daven for a Refuah Shlemah for Menachem Mendel ben Chana, Eli ben Hanina, Yoram HaKohen ben Shoshana, Gedalya ben Sarah, 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, Ramesh bat Heshmat, Rivka Chaya bat Leah, Zissel Bat Mazal, Chana Bracha bas Rochel Leah, Leah Fruma bat Musa Devorah, Hinda Behla bat Chaya Leah, Nechama bas Tikva Rachel, Miriam Chava bat Yachid, and Ruth bat Sarah, all of whom greatly need our prayers.

Hannah & Alan

Drasha: Mishpatim: Facing the Enemy

by Rabbi Mordechai Kamenetzky © 1996

[Please remember Mordechai ben Chaya for a Mishebarach!]

Receiving the Ten Commandments may have been the pinnacle of the Jewish experience, but by no means did Judaism end there. In this week's portion the Torah details a myriad of pecuniary laws, which include torts and damage law, as well as the laws of physical injury and impairment compensation. A nation that has just emerged from a brutal enslavement surely needs a strict code to discipline their freedom. But what bothers me is the order of the laws that are given this week. The first commandments, in a set of more than 50 intricate laws detailing almost every aspect of life's complexities, concern the laws of servitude. Parshas Mishpatim begins with the words, "when you will acquire a Jewish servant, he shall serve six years and on the seventh he shall go free." (Exodus 16-1)

It is astounding. The Jews just spent the last 210 years as slaves. Why would they even entertain thoughts of taking servants? Shouldn't the first laws dictate compassion for other humans, thus enforcing total equality of an entire, newly liberated nation? Of all the laws dictated to a newly liberated people, shouldn't the concepts of masters and servants be loath to them? Why are those laws given first?

Shalom had never left the small hamlet in Yemen and finally was sent a ticket to Israel by his cousin Moshe. The airplane ride, his first experience with any technology, was absolutely frightening. Not only was it the first time he had seen an airplane, it was the first time he had even seen steps! Upon his arrival at Ben-Gurion airport, the mad rush of taxis truly terrified Shalom, but his cousin Moshe, who lived on a small settlement not far from the Lod train station, eased his fears by sending a driver to pick Shalom up from the airport.

The driver dropped off the dazed immigrant near the train station and gave him directions to the farm. "Walk beside the train tracks for about a mile. You can't miss it," he exclaimed. Shalom, who had never seen train tracks in his life and had never even seen a train, chose to walk right between the two iron tracks. After about five minutes he saw a giant machine bearing down directly upon him.

"Toot toot!" the train whistled. The conductor waved frantically at Shalom as he tried to stop the mammoth machine. Shalom froze as he stood aghast at this marvelous site. "Toot toot!" went the whistle once more. The train could not stop! At the last moment, Shalom quickly jumped out of the way and the train hurtled by, missing him by a hair. Shalom was thrown by the rush of air that accompanied the speeding train. As he picked himself up, all he could see was a enormous black beast fleeing down the track, mocking him with a shrill, "toot toot."

Bruised and shaken he hobbled the rest of the way along the tracks until he arrived at his cousin's farm.

Moshe saw his cousin, Shalom and could not have imagined what happened to him. But Moshe figured, there was time to talk over a glass of hot tea. He put up a shiny black kettle to boil on the stove, but no sooner had the kettle began to whistle when poor Shalom jumped from his chair and began to shout. He grabbed a broom that stood in the corner of the kitchen and swung wildly at the whistling teapot smashing it with all his might.

"Believe me," he yelled, "I know! You have to destroy these monsters while they are still young!"

The Torah understood the Jewish nation's feelings toward its own experience. Slavery is loathsome and reprehensible. The impact of that experience could have shaped an unhealthy attitude toward servitude even in a humane and benevolent environment. Therefore the Torah immediately directed its very humanitarian laws of servitude — clearly and openly. Six years of service and no more. A servant can never be humiliated or degraded. In fact, **the rules of Jewish servitude are so humane that the Talmud surmises that "whoever owns a servant has actually acquired a master**. If there is only one pillow in the home — the master must to give it to his servant!"

So instead of shirking from the difficult task of detailing the laws of servitude or pushing them to a back-burner, the Torah discusses those laws first — without any apologies.

Because in an imperfect world there are imperfect situations. People steal. They owe money. They must work for others to pay off debt or money they have swindled. But when the problems and injustices of life are dealt with in a Torah way, the imperfect world can get a little closer to perfection.

Good Shabbos!

If the Medium Is the Message, What's the Message?

by Rabbi Dov Linzer, Rosh HaYeshiva, Yeshivat Chovevei Torah © 2021

When the Children of Israel stood at the foot of Mt. Sinai, they famously declared "נַעֲשֶׂה וְנִשְׁמָע – na'aseh ve'nishma – We will do and we will listen." (Exodus 24:7). This phrase appears at the end of parshat Mishpatim, after all the laws that followed the Ten Commandments. And yet the Rabbis place it in the middle of Yitro, right before the giving of these commandments. For the Rabbis, the word nishma, we will hear, is meant to signify "we will hear the details of the mitzvot." The greatness of na'aseh vi'nishma is that Bnei Yisrael committed to doing the mitzvot even before they knew what they would be. They were prepared to sign a blank check to commit to fulfilling the mitzvot.

Given the actual placement of this phrase after they had heard all the mitzvot following the events of Mt. Sinai, it is not possible to explain nishma to mean that "we will hear the specifics" later. A possible alternate explanation is that we asserted that we would first commit to doing the mitzvot, and only afterwards to try to make sense of them. To ask why God had commanded them so as to allow us to connect and relate to them in a deeper way.

Sfas Emes takes this approach one step further. Nishma, he states, is a desire to understand the mitzvot. But not for our sake, so we can relate to them better. It is for God's sake and the Torah's sake. Mitzvot are a concretization – his word is "clothing" – for the values that stand behind them. Let us suppose that kashrut is about a distinctive way of life and self-control of our appetitive desires. Those are the deeper values that the Torah cares about. The specific and concrete way they translate is through the keeping of kashrut.

As religious Jews, we are obligated to attend to the nishma alongside the na'aseh. Our life should not just be one of observing the detailed halakhot. We should not think that just because we look everything up in the Mishneh Brurah that we have fulfilled our obligations. No. A religious life does not end with observance, with na'aseh. It must continue on to understanding what are the Torah values and living our lives accordingly. It needs to also be one of nishma.

And yet, na'aseh must come first. If we start with nishma, with the values, then we will see the mitzvot as just a means to an end, and they will become secondary and negotiable. We need to have an a priori commitment to na'aseh. If we proceed from there to nishma, our lives will be full religious lives – one anchored in mitzvot and striving to understand and live according to their values.

The concept of commandedness preceding engagement in the values can be seen by looking at the opening and closing of this week's parsha. In Yitro, we had pure commandedness: God's thundering voice and the people quaking in fear. In contrast, Mishpatim opens with" "וְאֵלֶּה הַמִּשְׁ פָּטִים אֲשֶׁ ר תָּשִׂים לִפְנֵיהֶם – And these are the laws that you shall present to them." Present it to them for their approval. Let them review them and choose to freely accept them or not.

And so, after all the laws are given, Moshe writes them down in a book of brit, of covenant, and presents this book to Bnei Yisrael for their acceptance. It is at this moment that they say naaseh vi'nishma, after which Moshe ritualizes the covenant by sprinkling blood on the altar – representing God – and the people.

Covenant means partnership. What makes the partnership possible is the foundation of na'aseh. We understand that this is not an equal partnership. God is the commander, and we are the commanded. And we will do regardless. Na'aseh. But with that commitment, partnership is possible. We can now engage the nishma, bring our best human understanding to what the Torah values are, and our best understanding of how to apply them to halakha and mitzvot, and our best understanding how to realize them in our lives. This is what Torah she'ba'al peh means – partnering with God in the interpretation and application of halakha. It is the partnering of nismah made possible through na'aseh.

As noted, a commitment to na'aseh prevents an overemphasis on nishma that would lead a person away from a life of mitzvot. But there might be something here beyond simple a priori commitment. There might be a deeper way in which the nishma is embedded within the na'aseh.
The Canadian philosopher, Marshall McLuhan, was famous for coining the phrase that the "medium is the message," that the same message can change radically based on the medium through which it is conveyed. A story told through a book is very different from the same story told through a movie. The medium shapes our understanding of the narrative and the inner life and dynamics of the characters.

The same, it can be said, is true regarding the mitzvot (the medium) and the values that lie behind them (the message). The particular way that we affirm that God created the world and rested on the seventh day, and that God took us out of Egypt, is through the halakhic observance of Shabbat. This is very different than, say, the way a Christian might ritualize the same message. Because the media are different, the very message is profoundly different as well.

A message does not live in the abstract. The meaning of Shabbat is embedded in and expressed through the observing the 39 forbidden categories of labor and the associated Rabbinic restrictions; through the making Kiddush, Ha-Motzi, and Havdalah; and through the singing of Shabbat zemirot, and – before the age of COVID – going to shul and getting together with friends. If we attend to the message, the nishma, then the medium becomes the message. Na'aseh alone is an empty ritual, a medium with no message. Nishma alone is abstract and unembodied meaning. It is their integration which can create a life of embodied – and specific and particular – meaning.

Let us always start with a commitment to na'aseh — to Torah and mitzvot that we do because God has commanded it to us. And let us move from there to engage the nishma, to become partners with God in understanding the values of the Torah, in seeing them embedded in our life of observance, and in bringing these values to all facets of our lives. For when we take these values and apply them to our lives, we act in partnership with God, and deepen the connection between God and humanity.

Shabbat Shalom!

Mishpatim: Better than the Law

by Rabbi Mordechai Rhine* © 2021 Teach 613

The Parsha of Mishpatim is associated with financial law. Indeed, the translation of the word "Mishpatim" is "Judgement." Just as the Torah has sacred laws of ritual and observance, so the laws of finances are sacred. When milk and meat utensils get mixed, for example, we pose the question to an authority, and receive a Torah answer as to whether the utensil must be koshered or discarded. Similarly, when there is a disagreement of a financial nature between Jews, we pose a question, and receive a Torah answer, as to who must pay whom, and how much.

There is however a unique distinction regarding financial disagreements. Sometimes it is called "Pishara – compromise," sometimes it is called "Lifnim Mishuras Hadin -- beyond the letter of the law." No matter what we call it, there is a sacred Torah expectation that we take the complaints and perspectives of our fellow Jew seriously, even if we disagree, and we truly feel that he will not win in court. In fact, we are told, "Yerushalayim was destroyed because they conducted themselves according to the strict letter of the law and did not act beyond what was strictly required." (Talmud, Baba Metzia 30b) That is to say, that they did not take their fellow Jew's perspective into account. They did not act with benevolence.

Remarkably, we find the importance of this approach codified in Shulchan Aruch.

"It is a Mitzva to offer litigants to compromise and work things through together rather than be subjected to the Law. If they insist on a court case, the judges should proceed. But if the litigants are willing to switch to compromise at any time, they are encouraged to do so. This is true even if the judges have already reached a conclusion of how the money will be awarded, so long as they have not actually issued the ruling." (Choshen Mishpat 12:2)

The directive here is quite surprising. Once the judges have decided who deserves the money, isn't it tantamount to theft not to reveal that information and allow the winning party to receive the financial award that he deserves? The judges will

be watching as he strikes a compromise deal because he is afraid that the ruling might not be in his favor. Why would we not inform him that he deserves to win?

The Simah explains that in a greater sense, when you do compromise, both litigants emerge as winners. “It is worth it to give in a bit, so as to retain peaceful relations.” A compromise means that “I think you are wrong, but I hear you, and I appreciate your point of view.” That powerful act of brotherhood transcends the value of the money in question and is the charge that the Torah places upon us by calling for us to act beyond the letter of the law.

The financial laws of the Torah are quite unique. In the laws of Shabbos, Kashrus, Shatnes, and so much more, we do not necessarily ask, “So how does this all make you feel?” But in financial matters we are encouraged to address, not only the facts and the law, but also the feelings and the perspectives surrounding the case. The claims on one side may not be actionable. But they should still be addressed. Expressions such as, “To fulfill your heavenly obligation,” or, “He is entitled to have complaints,” are expressions common in Jewish financial law, even when a particular claim is not strong enough to be enforced.

Mediation is the system in our time which is most similar to what the Torah is expecting of us. Questions like, “So how did that make you feel?” may cut to the heart of the matter better than focusing on proofs and litigation. Allowing a person who feels wronged to be heard and understood might well be less expensive and bring about better resolution. But to do so means that we give something greater than money to the person we disagree with. We give our time; we give our attention; we give our heart to appreciate his or her perspective, even as we disagree.

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A Thinking Judaism: Thoughts for Parashat Mishpatim

by Rabbi Marc D. Angel *

This week's Torah portion begins with God commanding Moses : "And these are the ordinances that you shall set before them." Rashi comments that God instructed Moses not to teach the Israelites by rote, but to explain the reasons for the laws. If the people had the opportunity to study the reasons behind the laws, they would more likely internalize and fulfill them.

Rashi's comments relate to "mishpatim", those ordinances that are apparent to reason and common sense. But what about "hukkim", laws whose reasons are not readily apparent? Was Moses expected to offer reasons and explanations for these ceremonial, ritual laws? Or was he to state the commandments and have the Israelites obey them even if they did not understand the underlying reasons for them?

In his "Guide for the Perplexed," Rambam devoted serious discussion to the reasons for mitzvoth. He believed that since God is all-wise, all of the mitzvoth contain divine wisdom. God's commandments aim at perfecting us, inculcating proper beliefs, improving society. God would not issue commands in an arbitrary, irrational manner. Rambam writes: "There is a group of human beings who consider it a grievous thing that causes should be given for any law; what would please them most is that the intellect would not find a meaning for the commandments and prohibitions (book 3, chapter 31)." He refers to the sickness in the souls of such people, who prefer to observe commandments blindly rather than to imagine that God had reasons for giving these commandments. Rambam insists: "Every commandment from among these 613 commandments exists either with a view to communicating a correct opinion, or to putting an end to an unhealthy opinion, or to communicating a rule of justice, or to warding off an injustice, or to endowing men with a noble moral quality, or to warning them against an evil moral quality."

Rambam was displeased with those who thought that the Torah's teachings should be accepted blindly and unthinkingly. This tendency of mind leads inexorably to a superficial view of religion, even to superstition. A mind that is trained to accept information without analyzing and questioning it, is a mind that can be controlled by demagogues.

Rabbi Hayyim Hirschensohn, an important rabbinic figure of the early 20th century, offered a fascinating interpretation as to why the Torah often uses the word “leimor” e.g. and God spoke to Moses “leimor” (saying). The Torah added this

word to indicate that God did not want the words of Torah to be given in an absolute fixed form, but rather to be subject to discussion and explanation. The word "leimor" is, in a sense, an invitation to participate in the analysis of the text. Instead of demanding blind obedience, God invited all students of Torah to use their rational faculties to try to determine truth.

A thinking Judaism is an intellectual and spiritual adventure that elevates us as Jews and as human beings.
* Angel for Shabbat; Institute for Jewish Ideas and Ideals, https://www.jewishideas.org/thinking-judaism-thoughts-parashat-mishpatim **The Institute for Jewish Ideas and Ideals has experienced a significant drop in donations during the pandemic. The Institute needs our help to maintain and strengthen our Institute. Each gift, large or small, is a vote for an intellectually vibrant, compassionate, inclusive Orthodox Judaism. You may contribute on our website jewishideas.org or you may send your check to Institute for Jewish Ideas and Ideals, 2 West 70th Street, New York, NY 10023. Ed.: Please join me in helping the Instutite for Jewish Ideas and Ideals at this time**.

Remembering Abraham Lincoln: A Blog by Rabbi Marc D. Angel

By Rabbi Marc D. Angel *****

Until 1968, Americans celebrated February 12 as Abraham Lincoln's birthday and February 22 as George Washington's birthday. These commemorations were then replaced with Presidents' Day on the third Monday of February. This was widely perceived as a downgrading of American veneration of Lincoln and Washington.

With the growing pressures for egalitarianism and multiculturalism, it was to be expected that great national heroes be cut down to size. After all, they were flawed human beings, not much better or different from ourselves.

In his perceptive book, "Abraham Lincoln in the Post-Heroic Era," Dr. Barry Schwartz traces the dramatic drop in Lincoln's prestige, especially since the 1960s. He writes: "Ours is an age ready to live without triumphal doctrine, an age in which absolutes are local and private rather than national, a post-heroic age in which national greatness is the epitome of the naive and outmoded." (p. 191). In the post-heroic era, it has become fashionable to focus on the flaws of American society and the evils of American history. Our heroes have now tended to be athletes and entertainers rather than singularly great political figures. Indeed, to identify a public figure as "great" is to invite a barrage of criticism from the politically correct opposition, stressing that person's numerous sins and shortcomings.

Those of us who spent our childhoods before the mid to late 1960s are still the biggest fans of Lincoln. Those whose childhoods were in the late 1960s and later were less likely to study about the great Abraham Lincoln that we knew: the common man born in a log cabin who went on to become one of America's great Presidents; the man of homespun wit and wisdom; the President who saved the Union; the President who emancipated the slaves; the President who was deeply religious in his own special way. As children, we learned not just to respect Lincoln, but to see in him a quality of excellence to which we ought to aspire. Lincoln's greatness was an inspiration; he represented the greatness of America and the American dream.

We need to remind ourselves: Greatness does not entail having all the virtues and strengths; greatness does not depend on external pomp and glory. Greatness, like the eternal light in our synagogues, needs to be steady, to give light, to inspire from generation to generation. It is futile to argue that Abraham Lincoln--or any human being--was absolutely perfect and without shortcomings. Yet, this does not negate the possibility of human greatness, any more than it would be to negate the greatness of the eternal light because it was not a larger, stronger light. A great human being is one whose life offers a steady light and inspiration to the generations, whose words and deeds have had profound positive impact on others, whose existence has helped transform our world into a better place.

Abraham Lincoln was a great man with a lasting legacy to his country and to the world. His spirit is well captured in the closing words of his second inaugural address, delivered on March 4, 1865: "With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan--to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations."

It is a pity that Presidents' Day is simply treated as a day off from school or work; or a day for special sales. Wouldn't it be far more valuable for our society if children actually stayed in school and learned about Washington, Lincoln and other great Presidents? Wouldn't it be more sensible for all Americans to spend some time during the day to learn about, read about, think about the Presidents who helped make the United States a bastion of liberty? To squander the significance of Presidents' Day is to further erode respect and appreciation of the Presidents...and the highest values of American life..

* https://www.jewishideas.org/blog/remembering-abraham-lincoln-blog-rabbi-marc-d-angel

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Parshas Mishpatim – The Identity of a Jew

by Rabbi Yehoshua Singer*

Following the giving of the Torah at Sinai and the founding moments of the Jewish people as a nation, Moshe is instructed to begin teaching the Torah to the Jewish people in detail. The first verse in Mishpatim states "These are the laws you shall place before them". The Gemara in Eruvin 54b expounds that Hashem is instructing Moshe to place Torah before them that they should see and understand the laws as clearly as a table laid out before them ready to eat. (Eruvin 54b) Rash"i explains that this means that Moshe could not satisfy himself with teaching the concepts and principles until they knew the practical laws. Rather, he had to be sure that they understood the meaning and reasoning of the laws and had a full understanding, metaphorically seeing it clearly before them. (Shemos 21:1 *d"h "asher tasim lifneihem"*)

Moshe as the leader of the nation was personally responsible to ensure that Torah knowledge became entrenched in the Jewish people. Not only was he to provide the people with Torah knowledge, but he was to ensure that the people studied and mastered Torah. He had to ensure that Torah philosophy, knowledge and reasoning became an integral part of the Jewish people. This was a tall order and a great task for Moshe to achieve. Yet, if we look further at the Gemara in Eruvin we see that this responsibility went even further.

The Gemara quotes Rabbi Akiva, who says that we see from this verse that any teacher is obligated to teach his student until his student understands, and to teach his student the full meaning and concept of the law. Rabbi Akiva understood that Moshe's responsibility was not only to ensure that the Jewish nation as a whole should know Torah, but rather that each and every individual should know Torah. Hashem was instructing Moshe to take personal responsibility as the leader of the Jewish people to ensure that each and every member was given a mastery of Torah knowledge, philosophy and practice.

This seems difficult to understand. Moshe certainly had many responsibilities as the leader of the nation. While, it can be understood that Moshe was responsible for the dissemination of Torah in a general sense, we would not expect the individual students to be Moshe's responsibility. Why would it not suffice for Moshe to make Torah available for the masses, and focus on ensuring that the leadership of the nation should know Torah thoroughly? Let each leader then teach their students. How could Moshe be responsible to worry over the details of so many individuals, while leading a nation through the desert?

Perhaps Rabbi Akiva is teaching us here the essence of what it means to be a Jew. Rav Chaim Volozhin explains in Nefesh Hachaim that Torah learning is the most direct means of experiencing and developing a relationship with Hashem. To have a real relationship with someone else, you need to understand the other person and understand how they interrelate with you. Torah study is our window into understanding Hashem and how He relates with us. It is the core of our connection with Him.

This connection and the relationship with Hashem that ensues is the identity of the Jewish people. As Hashem said prior to giving us the Torah – we were to become 'a treasured nation to G-d". (Shemos 19:5) Rabbi Akiva that a Jewish nation is comprised of individuals with real, personal relationships with G-d. Moreover, G-d desires that relationship with each and every Jew, and is commanding Moshe – as the leader of the Jewish people – to ensure that each Jew develops this identity. Each and every Jew must be taught Torah in its full measure. As Rash"i tells us prior to the giving of the Torah – if even one Jew is missing, to Hashem that is as though a multitude is missing. (Shemos 19:21 *d"h "v'nafal mimenu rav"*) Each individual is precious to Hashem, and Hashem wants to each of us to connect with Him in a real and meaningful relationship of mutual understanding through Torah. Study of Torah is the essence of the Jewish people.

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Bitcoin and Defi: The Answer to Robinhood?

by Rabbi Moshe Rube*

A shochet (Jewish ritual slaughterer) told Rabbi Yisroel Salanter (1810-1883) that he wanted to leave the kosher meat industry to go into sales. When Rabbi Salanter asked why, the shochet responded, "It's just too much pressure. Every day I'm terrified that I'll make a mistake in my slaughtering and accidentally give non-kosher meat to a Jew." Rabbi Salanter replied, "But you're not nervous about going into sales!? Eating kosher is just one mitzvah. But in business there are dozens of mitzvot that govern how we behave in business plus all kinds of extra ethical guidelines. Are you not afraid of violating them?"

A fun thing about being Jewish is that the Torah also provides a sacred framework for civil law; not just for ritual or psychospiritual experiences. Parshat Mishpatim comes right after the giving of the Torah as part of the package deal with The 10 Commandments. The same God who we pray to in shul encompasses the marketplace and stock exchanges.

So what would God's monetary law say about the Gamestop and Robinhood debacle? Last week we discussed some spiritual implications, but what about the hardcore, knees to the ground, fiscal policy?

Let's first state an objective fact. Robinhood stopped the free flow of stocks by prohibiting Gamestop purchases to its wide user base.

They say it was to protect the market from volatility and their critics say it was to protect hedge funds. We're not judging the moral or American legal implications now. Our only objective in this email is to find a halachic framework through which we can analyze the situation.

Is regulation or interference in free markets ever warranted in Jewish law?

The Talmud in Tractate Bava Basra 89a records an argument and a contentious story between two rabbis:

The Sages taught that the phrase: “You shall not have faulty measures ” teaches that the court appoints market inspectors to supervise the accuracy of measures. The Gemara infers: **But the court does not appoint market inspectors for supervising market prices.** The Gemara relates: The house of the Nasi appointed market inspectors for supervising both measures and prices. **Shmuel said to his student, the Sage Karna: Go out and teach them that one appoints market inspectors for supervising measures but one does not appoint market inspectors for prices.**

Karna (did not listen to Shmuel) and went out and taught them that one appoints market inspectors for supervising both measures and prices. Shmuel, hearing what he had done, said to him: What is your name? He replied: Karna. Shmuel said: Let a horn [karna] emerge in his eye. A horn, i.e., a growth of flesh, emerged in his eye. The Gemara asks: And Karna, in accordance with whose opinion did he hold, which led him to disregard his teacher’s statement? **He held in accordance with that which Rami the Son of Hama says that Rabbi Yitzchak says: One appoints market inspectors for supervising both measures and prices, due to swindlers.**

Rashi explains that one example of "swindlers" is the practice of selling something for a cheap price to drive competitors out of business and then raise the prices when they are the only game in town. In other words, price gouging.

The later halachists discuss limits though to Beit Din's (Jewish court's) power to regulate. Rabbi Yaakov Ben Asher (1269-1343) says this power only applies to things that are essential items not luxury items. They can stop price gouging on food but not jewelry.

How about masks? The U.S. government stepped in to stop mask price gouging at the beginning of the pandemic so maybe they considered them essential items.

So Beit Din does have the power to regulate but it's not unlimited and they only step in when they absolutely have to. As we can see, Karna made only the most limited allowance for Beit Din to get involved and Shmuel was really upset when he found out that Karna disobeyed him. Tinkering with the free market is a risky proposition and should be done only with the intention of thwarting those who would use the free market's own rules to destroy the benefits that a free market is supposed to give (like lower prices due to competition).
So how would this apply to Robinhood? The question here doubles in complexity because Robinhood is a private company that serves as a middleman for people to buy stock. Because they are private, they can make their own rules. Is it even possible for financial regulators to prohibit a company from having a rule that they can stop trading? Would Robinhood's actions be included under the "swindlers" category in the Talmud? And are stocks luxury items or essential items? People do rely on them en masse in our time to provide for their financial future so maybe they are essential nowadays.

Or perhaps the free market will sort itself out on this one. Maybe people will abandon Robinhood for a different app. Private companies will then see how bad stopping trading is for business and they won't do it anymore.

With all the complexities of when and how to regulate centralized markets, it's no wonder cryptocurrency and Defi or decentralized finance has made headwaves in recent years and weeks. It's a market run by a computer system called blockchain and "smart contracts" that are unleashed by developers into the system. Once the contracts have been released there is no more human input. Most importantly, there's no middlemen or centralized system through which you operate that would stop the exchange. The blockchain keeps accounts of the transactions, contracts, and bitcoin so no banks or apps have to. I'm oversimplifying but suffice to say that price gouging cannot happen unless someone wrote it to begin with in their smart contract which is unlikely.

What will halacha's response be to bitcoin? If money is decentralized, does it even count as money? Can you sell your chametz for bitcoin? What role can or should a Jewish, Torah-following, civil court play in the cryptomarket i.e. a market that rejects regulation much more forcefully than a human market? These are questions that our generation of Torah scholars will have to deal with.

Happy Shabbat Mishpatim and Shekalim!

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Rav Kook Torah
Mishpatim: Slavery in the Torah

The Torah portion of Mishpatim deals primarily with laws governing society — personal damages, lending money and articles, manslaughter, kidnapping, and so on. Overall, they fit in well with a modern sense of justice. The laws dealing with slaves, however, are difficult for us to digest.

- Why does the Torah distinguish between a mortally wounded slave who dies immediately, and one who lingers for a day or two?
- Is a slave truly “his master’s property”?
- In general, does the Torah look favorably on the institution of slavery?

His Master’s Property

Slavery, Rav Kook explained, is like any other natural phenomenon. It can be used properly and responsibly, or it can be abused. As long as some people are wealthy and powerful, while others are poor and weak, the wealthy will hire out the poor to do their labor and will control them. This is the basis of natural servitude, which exists even if slavery as a formal institution is outlawed.

For example, coal miners are de facto slaves to their employer, and in some ways worse off than legal slaves. The mine owner often cares more about his profits than his workers. He allows his miners to work without proper light and ventilation, in poorly built mines. The owner is not perturbed that his workers’ lives are shortened due to their abysmal

working conditions. He is not overly troubled that the mine may collapse, burying alive thousands of miners — he can always hire more.

Yet, if these miners were his legal slaves for whom he paid good money, then the owner would look out for their lives and welfare just as he watches over his machines, animals, and the rest of his property. For this reason, the Torah emphasizes that a slave is his master's property. **When it is in the master's self-interest to look after his slave's welfare, the servant can expect a better, more secure future.**

Why does the Torah distinguish between a slave who dies immediately after being struck by his master, and one who lingers for a day? The verse specifically mentions that the master struck with a rod, an indication that his intention was not to harm the slave, but to discipline him. If the slave dies due to mistreatment at the hands of his master, we take into account the natural concern that all people have for their possessions. The Torah rules that no death penalty is incurred, "since he is his master's property." In these circumstances, intentional murder becomes improbable, and the Torah looks for an additional factor — a non-immediate death — to indicate that the death was accidental. The Torah stresses that the goal is to serve justice, not to avenge. Thus the unusual phrasing, "his death shall not be avenged."

The Institution of Slavery

The legalized slavery of the **Torah only comes to correct certain potential pitfalls of the natural phenomenon of slavery. As long as slavery exists, the Torah legislated laws to protect slaves from abuse and mistreatment. If an owner knocked out his slave's tooth, or caused the loss of any other limb, the slave went free. An owner who killed his slave was executed, like any other murderer.**

Since the destruction of the Temple, however, the Torah's positive influence upon general society has greatly weakened. The darkness of the Middle Ages severely corrupted natural forms of life, transforming slavery into a monstrous institution. Instead of protecting the weak by giving them the security of property, slavery became such a horror that humanity decided it needed to be permanently outlawed.

The Torah's form of servitude must be set aside, until the era when, once again, "Torah will go forth from Zion." At that time, servitude will provide not only financial security, but also moral and spiritual mentorship.

When the heart has once again become a sensitive vessel of integrity and compassion, it is fitting that the morally deficient should be taken under the wings of those righteous and wise.

(Gold from the Land of Israel, pp, 139-141. Adapted from Igrot HaRe'iyah vol. I, Letter 89, pp. 95-98.)
http://www.ravkooktorah.org/MISHPATM58.htm Emphasis added.

The Power of Empathy (Mishpatim 5778)

By Lord Rabbi Jonathan Sacks, z"l, Former Chief Rabbi of the U.K.*

William Ury, founder of the Harvard Program of Negotiation, tells a marvellous story in one of his books.[1] A young American, living in Japan to study aikido, was sitting one afternoon in a train in the suburbs of Tokyo. The carriage was half empty. There were some mothers with children, and elderly people going shopping.

Then at one of the stations, the doors opened, and a man staggered into the carriage, shouting, drunk, dirty, and aggressive. He started cursing the people, and lunged at a woman holding a baby. The blow hit her and sent her into the lap of an elderly couple. They jumped up and ran to the other end of the carriage. This angered the drunk, who went after them, grabbing a metal pole and trying to wrench it out of its socket. It was a dangerous situation, and the young student readied himself for a fight.

Before he could do so, however, a small, elderly man in his seventies, dressed in a kimono, shouted "Hey" to the drunk in a friendly manner. "Come here and talk to me." The drunk came over, as if in a trance. "Why should I talk to you?" he said. "What have you been drinking?" asked the old man. "Sake," he said, "and it's none of your business!"

“Oh that’s wonderful,” said the old man. “You see, I love sake too. Every night, me and my wife (she’s 76, you know), we warm up a little bottle of sake and take it out into the garden and we sit on an old wooden bench. We watch the sun go down, and we look to see how our persimmon tree is doing. My great-grandfather planted that tree …”

As he continued talking, gradually the drunk’s face began to soften and his fists slowly unclenched. “Yes,” he said, “I love persimmons too.” “And I’m sure,” said the old man, smiling, “you have a wonderful wife.”
“No,” replied the drunk. “My wife died.” Gently, he began to sob. “I don’t got no wife. I don’t got no home. I don’t got no job. I’m so ashamed of myself.” Tears rolled down his cheeks.

As the train arrived at the student’s stop and he was leaving the train, he heard the old man sighing sympathetically, “My, my. This is a difficult predicament indeed. Sit down here and tell me about it.” In the last glimpse he saw of them, the drunk was sitting with his head in the old man’s lap. The man was softly stroking his hair.

What he had sought to achieve by muscle, the old man had achieved with kind words. [emphasis added]

A story like this illustrates the power of empathy, of seeing the world through someone else’s eyes, entering into their feelings, and of acting in such a way as to let them know that they are understood, that they are heard, that they matter.[2]

If there is one command above all others that speaks of the power and significance of empathy it is the line in this week’s parsha:

> *“You shall not oppress a stranger, for you know the heart of a stranger: You were strangers in the land of Egypt”* (Ex. 23:9).

Why this command? The need for empathy surely extends way beyond strangers. It applies to marriage partners, parents and children, neighbours, colleagues at work and so on. Empathy is essential to human interaction generally. Why then invoke it specifically about strangers?

The answer is that “empathy is strongest in groups where people identify with each other: family, friends, clubs, gangs, religions or races.”[3] The corollary to this is that the stronger the bond within the group, the sharper the suspicion and fear of those outside the group. It is easy to “love your neighbour as yourself.” It is very hard indeed to love, or even feel empathy for, a stranger. As primatologist Frans de Waal puts it:

> *We’ve evolved to hate our enemies, to ignore people we barely know, and to distrust anybody who doesn’t look like us. Even if we are largely cooperative within our communities, we become almost a different animal in our treatment of strangers.*[4]

Fear of the one-not-like-us is capable of disabling the empathy response. That is why this specific command is so life-changing. Not only does it tell us to empathise with the stranger because you know what it feels like to be in his or her place. It even hints that this was part of the purpose of the Israelites’ exile in Egypt in the first place. It is as if God had said, your sufferings have taught you something of immense importance. You have been oppressed; therefore come to the rescue of the oppressed, whoever they are. You have suffered; therefore you shall become the people who are there to offer help when others are suffering.

And so it has proved to be. There were Jews helping Gandhi in his struggle for Indian independence; Martin Luther King in his efforts for civil rights for African Americans; Nelson Mandela in his campaign to end apartheid in South Africa. An Israeli medical team is usually one of the first to arrive whenever and wherever there is a natural disaster today. The religious response to suffering is to use it to enter into the mindset of others who suffer. That is why I found so often that it was the Holocaust survivors in our community who identified most strongly with the victims of ethnic war in Bosnia, Rwanda, Kosovo and Darfur.

I have argued, in Not in God’s Name, that empathy is structured into the way the Torah tells certain stories – about Hagar and Ishmael when they are sent away into the desert, about Esau when he enters his father’s presence to receive his blessing only to find that Jacob has taken it, and about Leah’s feelings when she realises that Jacob loves Rachel more. These stories force us into recognising the humanity of the other, the seemingly unloved, unchosen, rejected.

Indeed, it may be that this is why the Torah tells us these stories in the first place. The Torah is essentially a book of law. Why then contain narrative at all? Because law without empathy equals justice without compassion. Rashi tells us that "Originally God planned to create the world through the attribute of justice but saw that it could not survive on that basis alone. Therefore He prefaced it with the attribute of compassion, joined with that of justice."[5] That is how God acts and how He wants us to act. Narrative is the most powerful way in which we enter imaginatively into the inner world of other people.

Empathy is not a lightweight, touchy-feely, add-on extra to the moral life. It is an essential element in conflict resolution. People who have suffered pain often respond by inflicting pain on others. The result is violence, sometimes emotional, sometimes physical, at times directed against individuals, at others, against whole groups. The only genuine, non-violent alternative is to enter into the pain of the other in such a way as to ensure that the other knows that he, she or they have been understood, their humanity recognised and their dignity affirmed.

Not everyone can do what the elderly Japanese man did, and certainly not everyone should try disarming a potentially dangerous individual that way. But active empathy is life-changing, not only for you but for the people with whom you interact. Instead of responding with anger to someone else's anger, try to understand where the anger might be coming from. In general, if you seek to change anyone's behaviour, you have to enter into their mindset, see the world through their eyes and try to feel what they are feeling, and then say the word or do the deed that speaks to their emotions, not yours. It's not easy. Very few people do this. Those who do, change the world.

FOOTNOTES:

[1] Adapted from William Ury, The Power of a Positive No, Hodder Mobius, 2007, 77-80.

[2] Two good recent books on the subject are Roman Krznaric, Empathy, Rider Books, 2015, and Peter Bazalgette, The Empathy Instinct, John Murray, 2017. See also Simon Baron-Cohen's fascinating book, The Essential Difference, London, Penguin, 2004, on why women tend to be better at this than men.

[3] Bazalgette, 7.

[4] Frans de Waal, 'The Evolution of Empathy,' in Keltner, Marsh and Smith (eds), The Compassionate Instinct: the Science of Human Goodness, New York, Norton, 2010, 23.

[5] Rashi to Gen. 1:1.
* Note: because Likutei Torah and the Internet Parsha Sheet, both attached by E-mail, normally include the two most recent Devrei Torah by Rabbi Sacks, I have selected an earlier Dvar. Emphasis added. *See* https://rabbisacks.org/power-empathy-mishpatim-5778/

Divinity Is in the Details: An Essay on Parshat Mishpatim

By Adin Even-Israel (Steinsaltz) ***** © Chabad 2021

After Sinai

It has been said that the most puzzling thing about Parshat Mishpatim is the parshah itself. This is the first parshah after the revelation at Sinai, and we might have expected that after this revelation the Torah would concern itself with lofty, spiritual matters. Instead, the Torah immediately concerns itself with legalities, including laws of servants and maidservants, cases of one man striking another, and capital punishment.

To be sure, Parshat Mishpatim is of enormous halachic value. It is the Torah's gift to the yeshiva world. The parshah contains a significant percentage of the major halachic sources for large swaths of Seder Nezikin and quite a few other parts of the Talmud. What is more, the Talmud says of civil law, which the parshah deals with, that "no branch of the Torah surpasses them, for they are like a never-failing spring."1 Nevertheless, after all this praise for the parshah and its content, it is still surprising to find such content immediately following the spiritual climax of Sinai.

Toward the end of the parshah, the concern with legal matters ends, and the Torah once again returns to lofty matters. Moses and the nation's elders ascend the mountain, and the Torah describes an exalted scene: "They beheld a vision of the G d of Israel, and under His feet was something like a sapphire brick."2

Parshat Mishpatim is of enormous halakhic value. It is the Torah's gift to the yeshiva world

The Torah continues in the same vein at the beginning of Parshat Terumah, in the command to build the Tabernacle – "They shall make Me a sanctuary, and I will dwell in their midst"3 – where the subject is the Shechinah dwelling among the People of Israel. The construction of the Tabernacle is related to the revelation at Sinai, another aspect of the same event that began to unfold there. In our first meeting with G d at Sinai, we transcended the human level in preparation for the encounter with G d outside, in the wide open expanse surrounding Mount Sinai. The section on the Tabernacle, then, is the natural continuation of this encounter. After G d reveals Himself at Sinai, He then desires to reside among us. As a result, we build Him a house, a place for Him to dwell.

This relationship can also be seen in Solomon's prayer at the dedication of the First Temple. On the one hand, Solomon says, "G d has chosen to dwell in a thick cloud"4 and "Even the heavens and highest reaches cannot contain You;"5 and on the other hand, "I have built for You a residence, a place for You to dwell in forever."6 These two aspects – G d's transcendence and His immanence, His presence with us in our world – are essentially connected, and the same kind of connection exists between the giving of the Torah and the building of the Tabernacle.

Thus, the end of Parshat Mishpatim and the beginning of the parshah that follows it are the natural continuation of the revelation at Sinai. By contrast, what we find throughout most of this parshah are earthly matters – laws and ordinances – which seem out of place.

What we find throughout most of this parshah are earthly matters – laws and ordinances – which seem out of place

To be sure, even after the exalted experience at Mount Sinai, there was a need to deal with various laws, a need that was perhaps quite pressing. It is reasonable to assume that even the day after the revelation at Sinai, various practical questions began to arise that had to be answered, even if they were relatively insignificant. However, an examination of Parshat Mishpatim reveals that it mostly deals with matters that, though practical, nevertheless do not generally come up in the reality of life in the wilderness. The simple fact that the People of Israel were nourished by the manna rendered many of the laws of Parshat Mishpatim irrelevant. The economic reality underlying the laws in the parshah became applicable only later, when the People of Israel entered the Land. The context of Parshat Mishpatim is obviously that of a people dwelling in its own land, leading a normal life, having servants and maidservants, cultivating fields and vineyards. Parshat Mishpatim seems like it was thrust into the middle of a continuous unit to which it is entirely unrelated.

Why, then, were these laws given such a prominent position, right after the revelation at Sinai?

The fundamental ideas of the Torah

The answer is implicit in the question, and the message is simple: After the exalted revelation at Sinai, the most important laws for the People of Israel to learn – before the laws of korbanot, before the laws of the Sanctuary, and even before "Shema Yisrael," – are the most detailed and earthly matters, like how to treat one's servant or one's donkey.

In this sense, when G d says, "These are the ordinances that you shall set before them,"7 this is a profound statement: It is precisely these things that are the fundamental ideas of the Torah. In the world order established by the Torah, the momentous experience of the giving of the Torah is followed by something that is no less important: Parshat Mishpatim. To put them on equal footing may seem radical, but the Torah does exactly this – overtly and deliberately.

The question that now remains is more pointed, and it focuses on the reason behind the matter: Why is such great importance attached to this parshah?

One answer is that our lives, for better or for worse, do not take place in the Temple and do not revolve around the various daily korbanot. We live at home and in the marketplace, in the field and in the vineyard, with all the small details and problems that this life entails. Because this is the reality of our lives, these are the issues that the parshah deals with.

By their very nature, our lives entail all sorts of disturbances and problems, which is why the fundamental ideas of the Torah relate precisely to these aspects of life

It is no accident that the content of Parshat Mishpatim relates much more closely to the laws of Bava Kamma than to those of Bava Metzia. The parshah deals much more with man's failings than with the legal aspects of the ordinary course of life. The parshah does not describe a pastoral, tranquil existence but an existence fraught with all sorts of troubles and problems: theft, violent crime, arguments, and confrontations. These are all unfortunate aspects of our lives as human beings. By their very nature, our lives entail all sorts of disturbances and problems, which is why the fundamental ideas of the Torah relate precisely to these aspects of life.

It says in the Talmud that the Torah was given with both general rules and specific details8. Indeed, the Torah can usually be divided into parts that deal with broad pronouncements of legal principles and parts that deal with how these principles play out in practice. But the truth is that although the Torah does devote much of its attention to larger questions, the basic principles of our belief system lie in the small details, and not in the few explicit articulations of our major tenets.

If our sages – whether in our own time or in previous generations – were charged with writing the Torah from scratch, it would no doubt include much more information on spirituality and the larger questions of life. However, the Torah is not built that way. In saying, "These are the ordinances that you shall set before them,"9 the Torah gives primacy to the details, leaving the exalted and lofty matters for certain special occasions and places. Why? Because the Torah itself is characterized by those same dry ordinances that deal with life's details.

This basic characterization has implications in other areas as well and is crucial for understanding the whole orientation of the Jewish world. In a nutshell, Judaism takes the slogan, "the end justifies the means," and turns it on its head. For us, the means justify the end. The detailed and minute laws are more important to us than the lofty aims.

All of Jewish life is built on the existence of finely delineated laws and instructions and with few clearly articulated lofty goals. The Torah repeatedly uses specific examples to emphasize the right thing to do in various situations, rarely including broad explanations of the theory behind the laws – those can be left for another time. As the Talmud says, "'This day [you are] to do them'10, but only tomorrow will you receive their reward."11 If a person wants to know why a law is a certain way, he will have to wait. He may have to wait 120 years, or perhaps 6,000 years – it does not matter, because that is not what the Torah and Jewish life are about.

Put differently, the Torah's questions are "how" questions: How should one act in such a case? How does one fulfill this law? In contrast, questions of "why?" or "what for?" are not emphasized in the Torah and appear only rarely. The Torah deals with the method – the technique and the details by which things are done – but not nearly as much with the larger, teleological questions.

In a nutshell, Judaism takes the slogan, "the end justifies the means," and turns it on its head

To be sure, from the Torah's overall framework, which includes detailed laws as well as theoretical elements, we ultimately try to move from the details to the general principles, to infer the answers to the questions of "why" and "what for" as well. But in the Torah itself, there is only a long list of laws: "These are the ordinances." The details, with all their subtleties and nuances, are the main focus of the Torah. Even when the laws are assigned a reason, an explicit rationale, this explanation appears only as an addendum to the main element, a mere afterthought.

Obviously, none of this is meant to criticize the Torah's methodology or to take away from its majesty, but only to explain that the Torah sees things in a way that is often different from our usual way of thinking. The Torah is not a philosophical text that finds grandeur in metaphysical treatises. Rather, the Torah finds majesty precisely in the worldliness and in the details. At Sinai, we look up, toward the heavens above, toward the lofty, uplifting things. But immediately thereafter our view tilts downward, to the earthly, crude matter and, perhaps surprisingly, we are able to see holiness there as well.

In this respect, the revelation at Sinai and Parshat Mishpatim are actually one unit with two interconnected parts that deal with the same basic question: Where is majesty? Is it found in heaven alone, or perhaps elsewhere as well?

Where can G d be found?

In a certain respect, the contraction that manifests itself in Parshat Mishpatim exists in the nature of the world as well. In our lives, the most profound and uplifting things are found precisely in the mundane details of the daily routine.

However, in the Torah we find a more radical statement, one that is more extreme in its implications, regarding the profound question of where G d can be found. The Talmud says that “The Holy One, Blessed Be He, has no [place] in this world but the four cubits of halacha.”12 Leaving aside the question of whether “four cubits of halacha” refer to the beit midrash or if there is a broader meaning, this is still a radical statement. We are used to raising our eyes heavenward when speaking of G d, but the truth is that He is found in the small, insignificant, and seemingly unimportant minutiae of halacha.

Our world, with its insignificance, with all its problems, contains within it the model that reflects the most exalted matters of all. This is what our sages meant when they said, “Wherever you find the majesty of The Holy One, Blessed Be He, there you find His humility.”13 G d’s majesty can be found precisely in the small, earthly matters. The Talmud discusses the verse, “I dwell with the broken and the lowly in spirit,”14 explaining that G d does not raise up the broken person so that he may be with Him, but comes down to the broken person and resides together with him15.

This explains not only the question of the “four cubits of halacha” but also the question of the Temple. King Solomon mentions this problem in his prayer: “Will G d really dwell on earth? Even the heavens and highest heavens cannot contain You, how much less this House that I have built!.”16 But this is the essence of the Temple, where G d contracts Himself, as it were, into a limited space. G d does not reveal Himself in the wide open expanses of the outdoors; He wants to enter this small house. He abandons the heavens and goes to reside in the Temple, to engage with His people in the four cubits of halacha, to discuss what the law is if a person knocks out a Hebrew servant’s tooth, or if a person’s ox gores his neighbor’s cow.

Contrary to our expectations, the most exalted things can be found not above, but below

All of this leads to only one conclusion: Contrary to our expectations, the most exalted things can be found not above, but below. As we read in Psalms, “G d is exalted above all nations, His glory is upon the heavens. Who is like G d our Lord, who is enthroned on high, who sees what is below, in heaven and on earth?.”17 The other nations believe in G d as well, but they take the opposite perspective. They say that “G d is exalted above all nations” only when “His glory is upon the heavens.” For the other nations, G d’s dwelling place is in heaven, and He remains there. In contrast, Israel says, “Who is like G d our Lord, who is enthroned on high?” G d is higher than the nations think, higher than the heavens, and that is precisely why He “sees what is below, in heaven and on earth”; He can reveal Himself equally in heaven and on earth, even in the smallest earthly details.

After the exalted experience at Sinai, after the people look heavenward and see the thunder and the lightning and the smoke, comes the real revelation, the one that truly touches upon the most exalted of all. Parshat Mishpatim demonstrates that exaltedness may be found in all of its many esoteric details, details that transcend the generation of the wilderness to impact upon the most distant generations, even to this day.

FOOTNOTES:

1. Berachot 63b.
2. Ex. 24:10.
3. Ex. 25:8.
4. I Kings 8:12.
5. 8:27.
6. 8:13.
7. Ex. 21:1.
8. Chagiga 6b.

9. Ex. 21:1.

10. Deut. 7:11.

11. Eiruvin 22a.

12. Berachot 8a.
13. Megilah 31a.

14. Is. 57:15.

15. Sotah 5a.

16. I Kings 8:27.

17. 113:4–6..

* Rabbi Adin Even-Israel (Steinsaltz) (1937-2020), one of the leading rabbis of this century and author of many books, was best known for his monumental translation of and commentary on the Talmud.

https://www.chabad.org/parshah/article_cdo/aid/5008211/jewish/Divinity-Is-in-the-Details.htm

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Mishpatim: Help Your Body Help Your Soul

By Rabbi Moshe Wisnefsky

When you see your enemy's donkey crouching under its load…you must help [him]: (Exodus 23:5)

G-d gave us the Torah and its commandments for the benefit of our bodies as well as our souls. Nonetheless, since the body (our beast of burden, or "donkey") naturally seeks its own comfort, it is likely to consider the study of G-d's Torah and the fulfillment of His commandments a burden. It may rebel ("crouch"), positioning itself as the soul's "enemy." Therefore, since for most of us, our body's voice is louder than our soul's, we are likely to initially view the Torah as an oppressive burden.

This only means, however, that we have not yet integrated the Torah into our lives. Rabbi Yisrael Ba'al Shem Tov, the founder of Chasidism, taught that we should not despise the body because of its natural attitude. Rather, we should work with it, strengthening its health while "educating" it to realize that accepting the Torah's dictates is in its own best interest. Once we realize that G-d's Torah and His commandments are the truest source of life, our bodies will view them as a gift, joining our souls enthusiastically in their fulfillment.

— from Daily Wisdom #1

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Covenant and Conversation
Rabbi Jonathan Sacks, z"l

Vision and Details

Our parsha takes us through a bewildering transition. Up until now, the book of Shemot has carried us along with the sweep and drama of the narrative: the Israelites' enslavement, their hope for freedom, the plagues, Pharaoh's obstinacy, their escape into the desert, the crossing of the Red Sea, the journey to Mount Sinai and the great covenant with God.

Suddenly, we now find ourselves faced with a different kind of literature altogether: a law code covering a bewildering variety of topics, from responsibility for damages to protection of property, to laws of justice, to Shabbat and the festivals. Why here? Why not continue the story, leading up to the next great drama, the sin of the Golden Calf? Why interrupt the flow? And what does this have to do with leadership?

The answer is this: great leaders, be they CEOs or simply parents, have the ability to connect a large vision with highly specific details. Without the vision, the details are merely tiresome. There is a well-known story of three workers who are employed cutting blocks of stone. When asked what they are doing, one says, "Cutting stone," the second says, "Earning a living," the third says, "Building a palace." Those who have the larger picture take more pride in their labour, and work harder and better. Great leaders communicate a vision.

But they are also meticulous, even perfectionists, when it comes to the details. Thomas Edison famously said, "Genius is one percent inspiration, ninety-nine percent perspiration." It is attention to detail that separates the great artists, poets, composers, filmmakers, politicians and heads of corporations from the merely average. Anyone who has read Walter Isaacson's biography of the late Steve Jobs knows that he had an attention to detail bordering on the obsessive. He insisted, for example, that all Apple stores should have glass staircases. When he was told that there was no glass strong enough, he insisted that it be invented, which is what happened (he held the patent).

The genius of the Torah was to apply this principle to society as a whole. The Israelites had come through a transformative series of events. Moses knew there had been nothing like it before. He also knew, from God, that none of it was accidental or incidental. The Israelites had experienced slavery to make them cherish freedom. They had suffered, so that they would know what it feels like to be on the wrong side of tyrannical power. At Mount Sinai, God, through Moses, had given them a mission statement: to become "a Kingdom of Priests and a holy nation," under the sovereignty of God alone. They were to create a society built on principles of justice, human dignity and respect for life.

But neither historical events nor abstract ideals – not even the broad principles of the Ten Commandments – are sufficient to sustain a society in the long run. Hence the remarkable project of the Torah: to translate historical experience into detailed legislation, so that the Israelites would live what they had learned on a daily basis, weaving it into the very texture of their social life. In the parsha of Mishpatim, vision becomes detail, and narrative becomes law.

So, for example: "If you buy a Hebrew servant, he is to serve you for six years. But in the seventh year, he shall go free, without paying anything" (Ex. 21:2-3). At a stroke, in this law, slavery is transformed from a condition of birth to a temporary circumstance – from who you are to what, for the time being, you do. Slavery, the bitter experience of the Israelites in Egypt, could not be abolished overnight. It was not abolished even in the United States until the 1860s, and even then, not without a devastating civil war. But this opening law of our parsha is the start of that long journey.

Likewise the law that "Anyone who beats their male or female slave with a rod must be punished if the slave dies as a direct result." (Ex. 21:20) A slave is not mere property. They each have a right to life.

Similarly the law of Shabbat that states: "Six days do your work, but on the seventh day do not work, so that your ox and your donkey may rest, and so that the slave born in your household and the foreigner living among you may be refreshed." (Ex. 23:12) One day in seven slaves were to breathe the air of freedom. All three laws prepared the way for the abolition of slavery, even though it would take more than three thousand years.

There are two laws that have to do with the Israelites' experience of being an oppressed minority: "Do not mistreat or oppress a stranger, for you were strangers in Egypt." (Ex. 22:21) and "Do not oppress a stranger; you yourselves know how it feels to be foreigners, because you were foreigners in Egypt. (Ex. 23:9)

And there are laws that evoke other aspects of the people's experience in Egypt, such as, "Do not take advantage of the widow or the fatherless. If you do and they cry out to me, I will certainly hear their cry" (Ex. 22:21-22). This recalls the episode at the beginning of the Exodus, "The Israelites groaned in their slavery and cried out, and their cry for help because of their slavery went up to God. God heard their groaning, and He remembered His covenant with Abraham, with Isaac and with Jacob. So God looked on the Israelites and was concerned about them." (Ex. 2:23-25)

In a famous article written in the 1980s, Yale law professor Robert Cover wrote about "Nomos and Narrative."[1] By this he meant that beneath the laws of any given society is a nomos, that is, a vision of an ideal social order that the law is intended to create. And behind every nomos is a narrative, that is, a story about why the shapers and visionaries of that society or group came to have that specific vision of the ideal order they sought to build.

Cover's examples are largely taken from the Torah, and the truth is that his analysis sounds less like a description of law as such than a description of that unique phenomenon we know as Torah. The word "Torah" is untranslatable because it means several different things that only appear together in the book that bears that name.

Torah means "law." But it also means "teaching, instruction, guidance," or more generally, "direction". It is also the generic name for the five books, from Genesis to Deuteronomy, that comprise both narrative and law.

In general, law and narrative are two distinct literary genres that have very little overlap. Most books of law do not contain narratives, and most narratives do not contain law. Besides which, as Cover himself notes, even if

people in Britain or America today know the history behind a given law, there is no canonical text that brings the two together. In any case in most societies there are many different ways of telling the story. Besides which, most laws are enacted without a statement of why they came to be, what they were intended to achieve, and what historical experience led to their enactment.

So the Torah is a unique combination of nomos and narrative, history and law, the formative experiences of a nation and the way that nation sought to live its collective life so as never to forget the lessons it learned along the way. It brings together vision and detail in a way that has never been surpassed.

That is how we must lead if we want people to come with us, giving of their best. There must be a vision to inspire us, telling us why we should do what we are asked to do. There must be a narrative: this is what happened, this is who we are and this is why the vision is so important to us. Then there must be the law, the code, the fastidious attention to detail, that allow us to translate vision into reality and turn the pain of the past into the blessings of the future. That extraordinary combination, to be found in almost no other law code, is what gives Torah its enduring power. It is a model for all who seek to lead people to greatness.

[1] Robert Cover, "Nomos and Narrative," Foreword to the Supreme Court 1982 Term, Yale Faculty Scholarship Series, Paper 2705, 1983. The paper can be found at http://digitalcommons.law.yale.edu/fss_papers/2705.

Shabbat Shalom: Rabbi Shlomo Riskin

"When [Hebrew: 'im'] you lend money to My people, to the poor person with you, you shall not behave toward him as a lender; you shall not impose interest upon him." (Ex. 22:24)

How can we ensure that Jewish ideals—such as protecting the downtrodden and most vulnerable people in our society—emerge from the abstract and find expression in our daily lives? Our weekly portion, Mishpatim, in addressing the issue of lending, provides an insight to this question, and sheds light on the core Biblical values of compassion and empathy.

The verse cited above raises several questions. First, in stating the prohibition on charging interest, why does the Torah employ a word—im—that usually means if? Our Sages note that the use of "im" in this verse is one of just three instances in the entire Torah in which the word means when instead of if [Midrash Tanhuma]. What is the significance of this exceptional usage of the word?

Moreover, why does the verse seem to repeat itself ("to My people, to the poor person with you")? Seemingly, just one of these phrases would have been sufficient to teach the lesson.

Additionally, "you shall not behave toward him as a lender," says the Torah. Why is this so? Our Sages teach that not only is it forbidden for the creditor to remind the debtor of the loan, but that the creditor must go out of his way not to cause the debtor embarrassment [ibid.]. If, for example, the creditor sees the debtor walking towards him, it is incumbent upon the creditor to change direction. Why not remind the debtor that the loan must be repaid? After all, the debtor took money from the creditor, did he not?

Finally, why is there a specific prohibition against charging interest at all? With respect to the reason for the prohibition against interest, Maimonides goes so far as to codify: "Anyone who writes a contract with an interest charge is writing and causing witnesses to testify that he denies the Lord God of Israel…and is denying the exodus from Egypt." [Laws of Lenders and Borrowers, 4:7] Why the hyperbole? After all, there is no prohibition against charging rent for the use of my house! Why should there be a prohibition against charging rent for the use of my excess funds?

A key lesson from our Sages provides the philosophical underpinnings of the answers to these questions. They teach that a person must view himself as if he were the poor person in need of support. We easily deceive ourselves that we are immune from the fate of poverty, a regrettable attitude that can harden us to the real needs of those seeking assistance.

I must look at the indigent as if he were I, with the thought that I, but for the grace of God, could be he.

Rabbi Hayyim ibn Attar, in a brilliant illumination, beautifully explains this passage in his commentary, Ohr HaHayyim, which enables us to understand this difficult character change. In an ideal world, he teaches, there ought to be no rich and no poor, no lenders and no borrowers; everyone should receive from the Almighty exactly what they require to live.

But, in His infinite wisdom, this is not the manner in which the Lord created the world. He provides certain individuals with excess funds, expecting them to help those who have insufficient funds, appointing them His "cashiers" or "ATMs", or agents in the world. Hence, we must read the verse as, "If you have extra funds to lend to my nation—which should have gone to the poor person, but are now with you through G-d's largesse—therefore, you were merely given the poor person's money in trust, and those extra funds that are you 'lending him' actually belong to him."

If you understand this fundamental axiom—that the rich person is actually holding the poor person's money in trust as an agent of the Divine—sthen everything becomes clear. Certainly, the lender may not act as a creditor, because she is only giving the poor man what is in actuality his! And, of course, one dare not charge interest, because the money you lent out was never yours in the first place.

This is the message of the exodus from Egypt, the seminal historic event that formed and hopefully still informs us as a people: no individual ought ever be owned by or even indebted to another individual. We are all owned by and must be indebted only to God.

This essential truth is the foundation of our traditional legal system, which is uniquely just and equitable: it is especially considerate of the needs of the downtrodden and enslaved, the poor and the infirm, the orphan and the widow, the stranger and the convert, the "chained wife" and the indigent forced to sell their land. From this perspective, not only must we submit to Jewish law, but it is crucial that our judges be certain that Jewish law remains true to its ethical foundations.

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 Batra 8b, 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

Ethical Laws & Ritual Laws - They're All G-d's Laws

The opening pasuk of the parsha reads, “And these are the judgments (v’Eleh haMishpatim) that you shall place before them.” [Shemos 21:1]. Rashi comments: Wherever we find the word Eleh (these) without the prefix “v” (and), it implies rejection of that which had been stated previously (i.e., “these, but not those”). Wherever it says v’Eleh (and these) (as it does here), it adds on to that which has been stated previously (i.e., “not only those, but these as well”).

Rashi explains that in this context, the “vov prefix” is coming to specify that not only those earlier mitzvos mentioned in Parshas Yisro (the “Ten Commandments”) are from Sinai, but these civil laws mentioned in Parshas Mishpatim are from Sinai as well.

The question is, is this not obvious? Why does the Torah need to tell us this? Why do I need this extra letter in the Torah to teach us this “novelty” (chiddush)? Might I have thought that these laws in Parshas Mishpatim are not of Sinaitic origin?

There are different answers given to this question. I would like to share a beautiful idea that Rav Hutner, zt”l, writes in his Pachad Yitzchak on Shavuos (Ma’amar 41). This Chazal is teaching us that we should not think there is something more religious or more spiritual regarding the commandments between man and G-d than regarding those between man and his fellow man. The overwhelming majority of laws in Parshas Mishpatim deal with mitzvos bein adam l’Chaveiro (societal obligations). Mishpatim contains very “mundane mitzvos“: My ox gores your ox; I ask you to watch my wallet; you find my pen. These are literally basic laws of interpersonal relationships.

Someone could perhaps think that “religion” only involves laws between man and G-d. If someone asks the “man on the street” to define “religious law,” he no doubt would say, “religion is about praying to G-d; religion is about believing in G-d; religion is about theology.” What about returning a wallet? What is that? “That is not religion. Maybe it is being a nice person; maybe it is being a good citizen; maybe it is being a fool! But it is not religion! Religion involves the Church or the Synagogue. Religion is about G-d.”

The Torah’s approach is different. “Just as those (the “Ten Commandments”) are from Sinai, so too these (“mundane laws of civil behavior”) are from Sinai. The consequences of my ox goring yours is as much about the Word of G-d and Torah from Heaven as “I am the L-rd your G-d…” The same attention, detail, and meticulousness that a person places on to how he bakes matzah should be given to how we talk about another person and how we treat another person.

Rav Hutner buttresses this idea by citing another passage at the end of this parsha. “To Moshe He said, ‘Go up to Hashem, you, Aharon, Nadav, and Avihu and seventy of the elders of Israel, and you shall prostrate yourselves from a distance…’” [Shemos 24:1] The last passage of Mishpatim describes the covenant entered into between the Almighty and Klal Yisrael the day preceding Matan Torah (Giving of the Torah).

“He sent the youths of the Children of Israel and they brought up olah-offerings, and they slaughtered bulls to Hashem as peace-offerings to Hashem.” [Shemos 24:5] There is a whole ceremony. “Moshe took half the blood and placed it in basins, and half the blood he sprinkled upon the altar.” [Shemos 24:6] “He took the Book of the Covenant and read in earshot of the people, and they said, ‘Everything that Hashem has said, we will do and we will obey’” [Shemos: 24-7]. These famous words – Na’aseh v’Nishmah – occur

over here in Parshas Mishpatim, which chronologically occurred prior to the giving of the Asseres Hadibros ("Ten Commandments") (even though the Asseres Hadibros are recorded in the preceding parsha of Yisro). Then we have the formal execution of the covenant: "Moshe took the blood and sprinkled it upon the people, and he said, 'Behold the blood of the covenant that Hashem sealed with you concerning all these matters.'" [Shemos 24:8]

Rashi comments (verse 6) on the words "And Moshe took half the blood" – "Who divided it in half? An angel came and divided it." Why could Moshe Rabbeinu not have done this? He could have taken two cups and poured roughly equal amounts of blood into each cup and he would have the blood divided half and half. Okay, so he may have been a fraction of an ounce off one way or another, but who cares?

No! An angel of G-d came and divided the blood! Why an angel? The answer is because the blood had to be divided precisely. We hold that human beings cannot be exact (ee efshar l'tzamzem [Gittin 78a]) in their measuring. Only angels can be exact. Why was it so important to be exact? Because half the blood went on the Mizbayach and half the blood went on the people. The blood on the Mizbayach represented the part of the covenant symbolizing the commandments "between man and G-d"; the blood sprinkled on the people represented the part of the covenant symbolizing the commandments "between man and his fellow man." These two halves need to be exact because these two components of Torah law are exactly equal in importance! Just as these are from Sinai, so to these are from Sinai!

Rav Hutner also points out something interesting about the way that the word Luchos ("Tablets" referring to the Tablets of Stone that contain the Asseres Hadibros) is written in the Torah. We always call them "Shnei Luchos" – the two Tablets. However, each of the six times the word appears (Shemos 24:28; Devorim 9:9 (twice); Devorim 9:10; Devorim 9:15; Devorim 10:1), it appears without a second vov – Lamed, Vov, Ches, Taf (rather than Lamed, Vov, Ches, Vov, Taf). The Ksiv (the way it is written in the Torah) is Luchas – as though it refers to a singular Luchas – (one) Tablet! The message is that it IS one tablet! The laws of Bein Adam L'Chaveiro and Bein Adam L'Makom merge, as it were, into a single set of equally Divinely-ordained requirements of the Jewish religion.

People are meticulous to the nth degree when it comes to mitzvos bein Adam l'Makom. We have a Mishneh Berura with small paragraphs (s'if katans) and super-commentaries (e.g. – Sh'ar haTzions) and people follow the "letter of the law" without deviating from it a hair's breadth. Unfortunately, this meticulousness is not always as strong regarding commandments between man and man. However, in reality, it is all has the same level of importance.

Rav Hutner writes, as is his style (k'darko b'Kodesh), that the Mishna Berura, which occupies so much of our lives, was written by the Chofetz Chaim. The Chofetz Chaim (Rav Yisrael Meir Kagan) was a prolific author. His two other most-famous works are Shmiras HaLashon and Sefer Chofetz Chaim, about the laws of guarding one's tongue and avoiding slander.

It is no coincidence that both the laws of daily ritual observance (Mishna Berura commentary to Shulchan Aruch Orach Chaim) and the laws regarding proper speech were written by the same person. The same precision in mitzvos regarding how we bake matzah or how to make tzitsis or how to write the letters of Tefillin—that same precision needs to be applied to laws between man and his fellow man. The Chofetz Chaim wrote a whole sefer —Ahavas Chessed (Love of Kindness)— describing these law in meticulous detail.

Rav Hutner writes that the Mishna Berura (involving ritual law) and the other volumes the Chofetz Chaim wrote regarding laws between man and man "came from the same quill and from the same heart." They came from the same author, the very same individual.

He begins this piece by pointing out a historical anomaly. At least in the Yeshiveshe-Litvishe world, the person who gets credit for putting the Torah's laws between man and man "back on the map" of halachic concern was Rav Yisrael Salanter. He put great emphasis on these matters. There is a famous story with Rav Yisrael Salanter. When he was too old to himself go and bake matzahs, the students who were going to go bake for him inquired, "So, what are your hidurim (exceptionally pious requirements) regarding baking matzahs?" He replied, "Make sure not to yell at the woman who cleans up the place between every baking because she is a widow and you should not violate the prohibition of oppressing widows and orphans [Shemos 22:21]." This incident says it all about Rav Yisrael Salanter.

Rav Hutner notes that Rav Yisrael Salanter's Yahrtzeit always falls out during the week of Parshas Mishpatim—because this was the essence of his Torah philosophy: The laws of Mishpatim. This is Toroso shel Rav Yisrael Salanter.

Ritual Laws relating to G-d and Ethical Laws relating to our fellow man—they are all in the same Shulchan Aruch. They were all on the same Tablets of the Covenant. They all require the same meticulous observance and attention to detail.

Dvar Torah
Chief Rabbi Ephraim Mirvis

The Torah on honesty in financial matters.
A social worker in Jerusalem told me about a teenage boy who was caught stealing milk at a store. He was hauled before the Jerusalem juvenile court and just before judgement was passed the judge, a compassionate man, said to the lad "tell me, why did you have to steal the milk? Were you thirsty?" The lad replied, "not at all, I had just had a meaty meal there is no way I would drink that milk!" (He was more concerned about the prohibition against mix ing meat and milk than the prohibition against theft.)

The commencement of Parshat Mishpatim addresses such a phenomenon. 'V'ele hamishpatim asher tasim lifneihem' Hashem says to us 'these are the ordinances which you shall place before them'.

'Lifneihem – before them' – what exactly does that mean? Rashi says 'k'shulchan ha'aruch' – we need to place these laws before the people just like a table which is prepared for people to eat at it. Rav Moshe Leib of Sassov says something really beautiful. He says actually what Rashi is getting at is that when we sit down to a meal, we will always enquire 'where's the food from? Who was the mashgiach? And which religious authority was it prepared? How many stringencies were included in the preparation of this food? Can I really allow it to pass my lips? In the same way, as we are naturally so strict with regards to the food we eat, so to we should equally be strict with all the 'Mishpatim' – the monetary laws which are presented to us in Parshat Mishpatim. Any person who is committed to fulfilling the word of Hashem should be absolutely scrupulous with regard to all financial matters.

You can take this one step further. Rav Yosef Karo when he wrote his masterpiece on Jewish law – the authoritative guide to Halacha to this day – the Shulchan Aruch, took the title from this Rashi. All of Jewish law, Rav Yosef Karo is suggesting, is like a table that is laid before us. In the same way we are strict with regards to Kashrut, so to we should be strict in every respect. Just as it matters to us deeply whether we are meaty or milky, so to we should be concerned to be strict in every aspect of Halacha.

OTS Dvar Torah

"You shall surely return it to him"
Rabbanit Billy Rabenstein

"You shall surely return it to him" (Exodus 23:3) Parashat Mishpatim is packed with commandments tied to the finer details of our everyday lives. Some of those commandments concern our interaction with others, while others involve our relationship with Hashem. Some establish a basic ethical requirement, while others set a much higher and loftier level of morality for us to achieve.

It is in this framework that I'll relate to the commandment to return another person's lost belongings: "When you encounter your enemy's ox or donkey wandering, you must take it back to him"[1]. These words form the biblical underpinning for the commandments concerning returning lost items to their owners, which are listed in the second chapter of Tractate Baba Metziah, in the chapter entitled "These are the Found Objects". Among the cases discussed in this tractate of this chapter of the Jerusalem Talmud is the legend of the King of Katzia. This story appears in the Jerusalem Talmud after a description of a series of cases in which Jews returned lost items to their gentile owners[2]. All the stories end with the gentiles' fascination with the ways of the people of Israel, exclaiming brich elaha deyehuda'ei – Blessed may He be, the God of the Jews. After the Gemara describes how amazed the gentiles were with the Jewish people's high morality, it tells us that far away, beyond the horizon, another gentile culture, morally superior to our own, is thriving. On the face of it, Katziah is a utopian kingdom, somewhere at the edge of the world, and its culture is uniquely different[3]:

Alexander the Great approached the King of Katziah.
The king showed him a hoard of gold and silver.
Alexander the Great said to him: "I have no need for your gold, or your money,
No, I have only come here to learn of your ways,
How do you engage in negotiation? How do you adjudicate matters?"
While they were conversing, another man came with his fellow man to have their case tried,
[The man] had bought a junkyard from his friend, containing a trash heap, and had found a clutch of dinars in the heap.
The buyer said: I bought the junkyard! I did not buy the treasure.
The seller said: You bought the junkyard, and all it contains!
While they were deliberating,
The king said to one of them: "Have you a son?"
"Yes", replied the man.
"Have you a daughter?" he asked the other.
"Yes", replied the man.
He said to them: "Marry them, and you shall both share the treasure!"
He saw that Alexander was chuckling.
[The king] asked him: "Why do you chuckle? Haven't I adjudicated the case well?
Had this case been presented in your court, how would you have adjudicated it?", he asked.
Alexander replied: "We would have killed them both and taken the treasure to the king's treasury!"
[The king] said: "Do you love gold that much?"
He made him a feast and served him beef and hens made of gold.
Alexander asked him: "Am I to eat gold, then?"
[The king] replied: "May you be cursed! For you do not eat gold, so why do you love it so much?"
"Does the sun shine down on you?"
"Yes", replied Alexander.
"Does the rain fall?"
"Yes."
"Do you have small cattle?", asked the king.
"Yes", replied Alexander.
[The king] replied: "May you be cursed! Your life depends on those small animals, as it is written: "God shall bring salvation to man and beast".

The chapter of "These are the lost objects" sets out the rights and obligations of one who has found a lost object. On the one hand, we are duty-bound to return a lost object to its owner. On the other hand, our sages teach us that if the object can't be returned, the finder may keep the object. It is at this point that the notions of signs and the "owner's desperation" come into play. The story recounted in the Jerusalem Talmud fundamentally rejects both these options. On the one hand, the behavior of someone who has found a lost item and wishes to keep it strikes us as rather odd. Why? You didn't buy this item, did you? If not, why would you want to keep something that doesn't belong to you? On the other hand, the one who lost the item and decides to comb the area to recover it is also harshly criticized. "Why don't you ease up? Why is this property so important to do?"

The view taken by the inhabitants of Katziah implies an intense dedication to Hashem. They believe that Hashem will fulfill their every need, and that they have no need for anything other than what Hashem provides them. Furthermore, if something is taken from them, they probably didn't need it to begin with. These things tie into what the king said at the end of the story, regarding the rainfall. The King of Katziah is awestruck that rain falls in Alexander's kingdom. Something about Alexander's behavior jars with how he perceives the possibility of blessings of rain. According to the King of Katziah, rain only falls on those who raise their gaze to God, who brings rainfall to those who need it, to those who place their hopes in Hashem, and are confident that Hashem will open His hands and fulfill their every need. The animals place their hopes in Hashem, and accordingly, they get everything they need from Him. Humans, according to the King of Katziah, are sinning in two ways by hounding their possessions. First, they state that what they truly need is gold, and if so, they have no need for rain. Second, they indicate that because of their greed, they can fulfill their needs on their own. If this is the case, Hashem will not share His treasures with them.

We are staggered by the King of Katzia's character, wisdom and morality. He puts up a challenging mirror for learners to peer at: I, who wish to keep a lost item that isn't mine, I, who am tirelessly looking for something I lost, do I owe my livelihood to that "thin animal"? This story challenges and even criticizes the halachic part of the issue. It sets a moral benchmark that is far higher than the benchmark set by Jewish law. The halachot regarding the return of lost objects tried to set a framework to reign in people's lust for property, though stopping short of banning it altogether. There are no temptations in Katziah, though. There is no greed. People are happy with their lot in life, and accept their God.

According to this reading, this is the reason that the Jerusalem Talmud includes the story of the King of Katziah in its discussion of the halachot concerning returning lost objects: to set the highest possible moral and ethical benchmark. The Talmud doesn't suffice with merely establishing a legal framework to regulate monetary interactions between people. In addition, it would also like to set another goal, which is an even greater social challenge: to create a world in which no one lusts for property, a world without jealousy or competition. The halacha sets a minimum threshold that we must never fail to achieve. The Aggadah sets a moral threshold ascending high into the heavens, which we should strive to achieve.

There is another way to interpret this story. I believe that while the inhabitants of Katziah represent an awe-inspiring perception of morality, ultimately, they, too, are like Alexander, inasmuch as they represent a worldview that isn't human. Alexander comes across as a monster for being so eager to kill a human being just to be able to keep that person's treasure, but the inhabitants of Katziah, too, who have lost all interest in property, have fallen out of touch with human nature. Humanity means having weaknesses and desires, but it also means we observe the command of "not lusting". None of these exist in the Kingdom of Katziah.

Could it be that the Jerusalem Talmud wedges this story between other halachic issues in order to establish the status of the halachot, which ostensibly caves to human weaknesses? Could it be that the Jerusalem Talmud wishes to argue that the altruism of the inhabitants of Katziah isn't a Jewish quality? That it is characteristic of some other realm? The Jew, who connects heaven and Earth, finds room for the Earth as well. Even when he touches the heavens, his feet are firmly rooted in the ground. Therefore, the cultural gap illustrated in this story isn't about the contrast between idyllic harmony and cold separation[4]. The gap will be between setting an ideal that negates human weaknesses and setting one that tolerates them, using that environment to engender morality.

Dvar Torah: TorahWeb.Org
Rabbi Hershel Schachter
COVID and Derech Halimud

Just a few days ago (Jan. 29, 2021) there was a long article in the New York Times about Rav Chaim Kanievsky and the COVID situation in Eretz Yisroel. I was very saddened to read the statistic that although the Chareidim make up only 12% of the Jewish population in Eretz Yisroel, 28% of those infected with COVID were from the Chareidi community. What a tragedy! More than twice as much as it should have been.

Every morning in the davening we speak about the value of human life. We comment that all human activities are so trivial that to a certain extent, humans are not more consequential than animals. However, we go on to say, the B'nai Yisroel, the followers of Avraham, Yitzchak, and Yaakov who keep mitzvos are in a very different category.

The opening passuk in the Torah tells us, "בראשית ברא אלקים" and Rashi in his commentary quotes from the Midrash that the word "בראשית" means "בשביל ראשית", i.e. for the Jewish people, that are referred to by Yirmiyahu (2:3) as ראשית and for the Torah which is referred to in Mishlei (8:22) as ראשית. The passuk is telling us that the world was created on behalf of the Jewish people who are going to keep the Torah. This was the whole purpose of creation.

The simple reading of the mishnah in Pirkei Avos (3:14) is that all men were created btzelem Elokim. The Jewish people have a greater degree of tzelem Elokim, which is referred to as bonim laMakom (since children always carry the DNA of their parents). The M'eiri in his introduction to shas quotes an interesting Midrash that maintains that the first five of the Aseres Hadibros were written on the first luach and the second five were written on the second luach, and there is a correspondence between the first set of five and the second set of five. Specifically, the sixth of the Aseres Hadibros is related to the first; the seventh to the second, etc. The connection between the first and the sixth dibros is that the Torah prohibits murder because man was created btzelem Elokim and one who kills is demonstrating that he does not believe that there is such a thing as Elokim. Because we believe that B'nai Yisroel have a greater degree of tzelem Elokim, we are always much more careful regarding safeik sakonah (possible danger) than all of the medical doctors. For example, when a bris has to be postponed because the infant is not well, even after the doctors release the baby from the hospital and say that that he is up to having the circumcision, the halacha in the Gemarah tells us that we still have to wait additional days. And, in recent years, the mohalim have established a minhag regarding the bilirubin count that is also more stringent than what the doctors would say.

Halacha tells us that even if there is a sfeik sfeika, a very slight risk, of sakonah, still that slight safeik is sufficient to be docheh Shabbos and Yom Kippur and most of the mitzvos of the Torah. So the question begs itself, how could it possibly be that the number of infections in the Chareidi community due to COVID is twice as high as what it should have been, proportionally?

My impression is that part of the explanation is a result of the derech ha'limud adopted in many of the yeshivas. There is a big emphasis on pilpul, sevoros, chakiros, and ha'veh a'minas in the Gemarah. The Gemarah considers the highest level of learning to be one who learns l'asukei sh'meitza aliba d'hilchosa - to reach a final conclusion as to what the halacha is. When I was a student in the Yeshiva, one of the talmidim asked a rebbe after we learned a whole piece of Gemarah that was relevant to halacha l'meisa - halachic practice, "so how do we pasken?" The rebbe, who was a European, responded in Yiddish, "call up the Agudas Harabonim and ask them". In the Lithuanian yeshivas in Europe learning halacha l'meisa was frowned upon. They misinterpreted the idea of learning Torah l'shmo to mean that one should not focus his learning arriving at a conclusion as to what the halacha is. It is well known that the Chazon Ish worked hard to correct this misunderstanding and influence the yeshivas to concentrate more on halacha l'maaseh.

Many students in the yeshivas today are trained to raise all logical possibilities about the halacha - maybe it's like this and maybe it's like that; on the one hand and on the other hand, etc. Rav Avigdor Nevenzal pointed out that the Malbim (in his commentary on Mishlei 1:7) understands that "אויל" is a specific type of a fool who is always raising questions and doubts, that maybe it's like this and maybe it's like that.

When I was a student in college, there was a popular British philosopher by the name of Bertrand Russel. One day, one of my classmates brought with him a copy of Russel's "dictionary of philosophy". As I seem to recall, for every letter of the alphabet Russel has a word and a cartoon to convey the meaning of the word. Under the letter "A" you find the word "arithmetic" and the cartoon depicts a priest with the collar around his neck in a backward position, teaching young children arithmetic. The priest writes on the blackboard 1+1+1=1. They believe in the Trinity but the bible says "Hashem Echad", so they assume that one plus one plus one equals one. Of course, we all know that that does not correspond to reality.

Chazal always believed in experimentation. It is generally assumed today in all of the yeshivas that it does not make any sense to have a machlokes in the Gemarah regarding metzius - a factual point. The Ramban points this out, quoting a passage in the Talmud Yerushalmi which asked, how can there be a disagreement between Rav Yochanon ben Nuri and the chachomim whether orez and dochen can become chometz, why didn't the Tanaim test it out and ascertain what the reality is? Halacha cannot contradict reality!

In the shailos u'teshuvos literature, there is a serious discussion between the Chasam Sofer and the Maharam Schick regarding to what extent do we rely on medical knowledge. One thing is for sure, though: with respect to sakonas nefashos we certainly follow what the doctors say at least to the extent of considering it a safeik sakonah which is docheh almost kol ha'Torah kula.

This entire attitude that many otherwise very observant Jews have to totally ignore the recommendations of the medical community regarding the risks of COVID is in total contradiction to the Jewish tradition of psak halacha. The religious Jews always placed more value on human life than doctors did.

The Beis Ha'Levi explains that when the Jewish people responded, "כל אשר־דבר ה' נעשה ונשמע" (Shemos 24:7) at Har Sinai, na'aseh meant that we committed ourselves to observe the mitzvos, and nishmah meant that we committed ourselves to learn Torah. What does it mean to learn Torah? The Chumash tells us "ולמדתם אתם ושמרתם לעשתם" - "you should learn them (the 613 mitzvos) and observe them." It is for this reason that the Rambam authored the Sefer Ha'mitzvos as an introduction to the Mishnah Torah. At the beginning of each section in Mishnah Torah, he gives you a list of the mitzvos that will be covered in this section. By the time you complete the entire Mishnah Torah you have covered all of the 613 mitzvos.

The basic mitzvah of talmud Torah is to be familiar with all of the 613 mitzvos and all of their details. Answering a question Rav Akiva Eiger has on a Tosofos is comparable to eating the icing on a second piece of cake as part of dessert. The primary goal and focus of limud ha'Torah is to know halacha l'maaseh how to keep all the mitzvos ha'Torah. In my opinion much of the tragedy of the high infection rate among the Chareidi population is due to the faulty derech ha'limud which eschews focusing on the correct thing to do halacha l'maaseh, and instead focuses on pilpul and ha'veh a'minas. Just as in learning Torah they are preoccupied with sevaras that do not correspond to halacha l'ma'aseh, similarly in dealing with COVID they come up with, and act based on, ideas that simply don't correspond to reality.

Let us all return to the traditional style of learning that was practiced for so many centuries and merit the promise of the Torah, "וחי בהם" ולא שימות בהם.

Torah.Org Dvar Torah
by Rabbi Label Lam

How Sweet It Is!

If the stolen article is found in his possession whether a bull, a donkey, or a lamb live ones he shall pay twofold. If a man leads his animals into a field or a vineyard, or lets his animal loose and it eats in another's field, the best of his field or the best of his vineyard he shall pay. (Shemos 22:3-4)

Life is filled with temptations. The Torah cautions about all possible deviations to keep us on the straight and narrow path. We are not only responsible for what we do but also for what our animals do as well. The soup of life is dense with opportunities to grow rich with Mitzvos and/or to stray into another's field and incur expenses.

Can we ask, "Why did HASHEM create this maze of complexity?" The Ramchal spells out in Derech HASHEM that it is HASHEM's desire to bestow kindliness on another. The full flavor of that goodness can only be experienced in the next world. That raises another obvious question or the same question, "Why did HASHEM create this maze of complexity?" "Why did HASHEM not just place the souls of those who He wishes to shower with goodness directly in the next world? Why does one have to walk through the gauntlet of this world first? That is the question!?

It could be that the purpose of the entire creation was revealed to me in a brief encounter I had with a student at the time of dismissal. The boys were exiting the building and I reached into my pocket and handed to one young man a candy. As he received it I asked him gently, "Did you behave well today?" He paused and thought for a moment, shook his head no and discretely hand the candy back to me and got on the bus.

I was amazed! He could not allow himself to honestly accept a candy that I'm sure he would have wanted to have. Yet he begged away because according to his own estimation he had not truly acted in a deserving way. At the moment I was stunned with joy at the integrity of the child. Later on, though, I found myself reflecting on this episode though a grand philosophical lens.

The Zohar says that the reason HASHEM created this material world as a prelude to the next ultimate spiritual world is because of a concept known as, "NAHAMA D'KISUFA"- "The Bread of Shame". Simply explained, Reb Dessler wrote that a person would rather not get credit for something that they did do than get credit for something they didn't do and to be glorified for something they are truly not.

That praise is actually painful to the soul. It could be that Gan Eden and Gehinom – Heaven and Hell are actually be the same. To the extent that one labored to bask in the presence of HASHEM it is the ultimate delight while for the one for whom this is fraudulently earned it is extremely embarrassing and discomforting. Light is so good and light can be cruel. It depends upon what it reveals.

Therefore as the Mesilas Yesharim cautions, that by design the world is filled with temptations and tests, tremendous risks and great opportunities for reward. In the end everything is a perfectly just dessert, and as the Mishne in Pirke Avos tells, "According to the effort is the reward!" It's the degree of effort and the struggling involved with doing Mitzvos, standing up to life's tests, and improving ourselves that determines the ultimate candy of existence, just how sweet it is!

BS"D

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Piskei halacha from Rav Schachter on Coronavirus Shaylas
https://www.torahweb.org/torah/docs/rsch/RavSchachter-Corona-56-January-31-2021.pdf
Issues Pertaining to the Observance of Purim During COVID-19 (2021)
1. The practice is to read Parshas Zachor with a minyan from a kosher Sefer Torah on the Shabbos before Purim. If one is unable to do so, they may read from a kosher Sefer Torah without a minyan (without reciting the brachos). If that is not an option, one should have in mind to fulfill this obligation with the Kriyas HaTorah on Purim morning. If that too is impossible, one should have it in mind when reading Parshas Ki Seitzei (in the summer months). If a person feels that they will not remember to have this in mind during the summer months, then an additional reading of Parshas Zachor can be added this year. This should be done on a weeknight (without brachos), so anyone who is unable to leave their homes may participate via Zoom.
2. When giving Machatzis Hashekel there is no need to raise the actual coins. One may fulfill the minhag of Machatzis HaShekel by placing paper money in the collection bin. We should keep in mind that this minhag is merely a "zecher l'Machatzis Hashekel" and not the actual mitzvah of Machatzis HaShekel that was performed in the days of the Beis Hamikdash.
3. There is some debate among the poskim whether one must eat bread in order to fulfill the obligation of seudas Purim. While the Shulchan Aruch never explicitly requires that meat be eaten for seudas For further halachic inquiries please email ravschachter@gmail.com Purim (indeed, Rav Soloveitchik once remarked that according to the Shulchan Aruch a tuna sandwich would suffice), the Rambam writes that the seuda must consist of meat and wine. When Purim falls on Friday, one can fulfill the mitzvah of seudas Purim starting in the morning.
4. When Purim falls on Friday, the practice in Yerushalayim is to stop the meal in the middle, cover the bread, and to recite kiddush so that the meal may continue as a seudas Shabbos. However, this practice is not recommended.
5. One must complete any meal on erev Shabbos or erev Yom Tov by the beginning of the tenth halachic hour of the day. Therefore, the Purim seudah should be completed on erev Shabbos by that time as well. 6. Due to Coronavirus concerns there are those who may be uneasy with receiving food prepared in other people's homes. Consequently, this year in particular, it is worthwhile to heed the Rambam's exhortation to spend more on Matanos L'evyonim than on Mishloach Manos.
7. One can fulfill the mitzvah of Mishloach Manos by sending the food through a third party. Alternatively, money may be given to a trustworthy person in advance of Purim to be distributed to individuals on Purim.
8. There are places with severe restrictions on gatherings of more than ten people, requiring multiple shifts for Megillah reading. It is best to avoid reading the Megillah at night before tzeis hakochavim, unless there are extenuating circumstances. In a case of great need, one may read the Megillah during Bein Hashmashos. If there is an even greater need, one would be allowed to read the Megillah on Erev Purim after plag hamincha. If one has no option to hear the Megillah with a minyan due to these circumstances, if they have a kosher Megillah in their possession and know how to read it correctly, they may do so on their own. If they do not know the reading but would be able to read it correctly while listening to a recording or livestream of a slow reading from one who does know, that would also be effective. If this is not possible, one may rely on the opinions that the mitzvah can be fulfilled over the telephone or via Zoom.
9. Eating light snacks after nightfall would be permissible for those who will ze attending a later shift for Megillah reading. A full meal should not be eaten until after one hears the reading of the Megillah.
10. In those places where gatherings are restricted, they will likely arrange a number of consecutive readings throughout the day. Normally we should wait until sunrise to read the Megillah, but in this situation one may even read the Megillah as early as alos ha'shachar.
11. The Megillah should be read in its entirety by one individual. However, in places with many readings, where it will be difficult to find enough people who can learn to read the entire Megillah, it is permissible to divide the Megillah reading among several readers.

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from: **Rabbi Yissocher Frand** <ryfrand@torah.org>
to: ravfrand@torah.org
date: Feb 11, 2021, 12:36 PM
subject: Rav Frand - We Would Have Legislated Just the Opposite!
Parshas Mishpatim
We Would Have Legislated Just the Opposite!
These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: #1150 Taking State Farm To Beis Din. Good Shabbos!
We Would Have Legislated Just the Opposite!
The first topic in the parsha is the halacha of the eved ivri (Jewish slave). An eved ivri is a person who stole and cannot afford to pay back his debt. He is sold for six years as a slave to a fellow Jew, and in the seventh year he goes free. There is a mind-boggling halacha associated with an eved ivri, which is that the master is allowed to give him a shifcha Cananis (a gentile maidservant) as a wife. As part of his servitude, he would father children with this shifcha Cananis, who would themselves become slaves to the master.
The pasuk teaches, "If he comes in single, he goes out single" (Im B'Gapo yavo b'Gapo Yeitzei) [Shemos 21:3]. Rashi teaches, based on the Mechilta, that the eved ivri can only be given a shifcha Cananis as a wife if he is already married when he begins his period of slavery. If he enters slavery as a bachelor, the halacha does not allow the master to give him a shifcha Cananis by which to father children.

If we had to write this halacha about the master giving his eved ivri a shifcha Cananis, and we were told that it only applies in one situation—either for a single person or a married person—what would we say makes more sense? Most people would assume, "Okay, if the fellow is single then we can understand that the master gives him a shifcha Cananis. However, if he has a family already – then would we think that his master can give him a shifcha Cananis? This must not do a lot for the Shalom Bayis (domestic tranquility) of this eved ivri!

The Torah legislates just the opposite of what we would have thought to be logical!

I saw in the name of Rav Moshe Shternbach, shlit"a, that the rationale behind this is the following: If a person is married then he knows what marriage is about. He knows that what he is doing with this Shifcha is just a matter of cohabitation for the purpose of fathering children. He fully understands "this is not a wife!" He knows what a wife is. He knows what marriage is. He knows what real family life is about. After six years, when he is given the option – are you going to stay with her (and remain in slavery until the Jubilee year) or are you going to go back to your family, chances are the person would say, "I am going back home. I know what a wife is. I know what a Jewish family is. I know what children are all about."

On the other hand, if an eved ivri who was not married was given a shifcha Cananis to live with he would assume: "Oh, this is what the male female relationship is all about! This is what it is!" We do not want the person to say "I love my master, my wife, and my children. I will not go out free." [Shemos 21:5]. We do not want that to happen! The chances of it NOT happening are increased when the person knows what a wife is supposed to be and what the relationship between a husband and wife is supposed to be. Then, the person will hopefully say, "after six years of this, I am out of here!"

The Ear That Heard at Sinai

The halacha is that if the eved ivri in fact says "I love my master, my wife, and my children—I do not want to go out free" then the master brings him to the doorpost and pierces his ear with an awl and he becomes a slave "in perpetuity." Rashi famously comments in the name of Rav Yochanan ben Zakkai, "the ear that heard at Sinai 'Thou shalt not steal' and went ahead and stole gets pierced with an awl!" This explains why it is the ear rather than the arm, the toe, or any other body part that pays the price, so to speak, in this process of the master making the eved ivri, whose term of service was six years, remain a slave until the Jubilee year.

The Sefas Emes asks – Is it the ear's fault? The ear is merely a receptacle that hears. The problem is not with the ear. The problem is with the heart or with the brain that processes the message heard by the ear! Why pick on the ear?

Of course, we can say simply that it is not possible to pierce the heart or the brain and have the slave remain alive. That is true. Perhaps we could get around that problem, but certainly piercing the ear seems to be a very superficial choice of an organ to pay the price for this Jew's act of theft!

The Sefas Emes answers that the message here is that the word of G-d, "Do not steal" entered the ear, but it stayed in the ear. That is as far as it went. Or, to use a colloquial expression "It went in one ear and went out the other." People can hear something that remains nothing more than sound waves that penetrate the ear but do not travel to the heart, to the brain, to the soul. That is not what a human being is supposed to do with the message of G-d.

In Yiddish, if you want to ask "Do you understand?" you say "ihr hert?" (do you hear?). Among Yeshiva students, many times someone asks someone else "Do you hear what I am saying?" Try that in the secular world! In the world at large, if you tell someone "I hear" he will assume you are telling him that you are not deaf. In Yiddish "herrin" means "ich farshtei" (I understand). Shmia does not mean the physical act of hearing. It means understanding!

In the famous pasuk "Shma Yisrael Hashem Elokeinu Hashem Echad." the translation, "Hear oh Israel…" is a misinterpretation. It really means "listen oh Israel." There is a difference in English between "you hear" and "you listen." The problem of "ozen she'shama b'Sinai" is that it just heard "Thou shalt not steal" but it did not listen!

The Sefas Emes points to the pasuk at the beginning of last week's parsha – "Vayishma Yisro…." What does "Vayishma Yisro" mean? It means more than just that he heard. He understood what was happening over here. That is the difference between Yisro and Iyov. The Gemara says that three parties heard Pharaoh's infamous scheme (oso eitzah): Yisro, Bilaam and Iyov. Bilaam suggested the plan and his end was that he was killed by the sword. Iyov, who kept quiet, wound up being plagued with punishments. Yisro fled. Why did he flee? It is because he was a Shomea. That does not mean he was a "hearer". It means he was a listener. He understood what was happening here, and it made an impression upon him. It made an impression upon him that propelled him on his path that eventually brought him to Judaism. When someone hears but it does not penetrate, it is an example of "Ozen she'shama b'Sinai" – it only remained within the ear!

How Was This Rosh Yeshiva Different From All Other Roshei Yeshiva?

There is a pasuk in this week's parsha that talks about how careful we need to be with widows and orphans. "You shall not persecute any widow or orphan. If you will persecute them, for if they will cry out to Me, I shall surely hear their cry." [Shemos 22:21-22] In the past, We have said a famous vort from the Kotzker Rebbe that the threefold redundant appearance of verb forms in this pasuk (Aneh/Sa'aneh; Tza'ok/Yitzak; Shamoa/Eshma) indicates that any feeling of hurt that a widow or orphan senses is always compounded. They always feel "If my father/husband would still be alive, this would not be happening to me." Therefore, the pain anyone inflicts on them is doubled. As a result, Hashem will "hear their cries" and impose a double punishment on the perpetrators.

I would just like to share an incident I heard involving Rav Nosson Tzvi Finkel, zt"l. It has been a long time since the passing of a Rabbinic personage had made such a great impression on Klal Yisrael as that of the passing of the late spiritual head of the Mir Yeshiva in Jerusalem (November 2011). The number of Hespedim that were offered in Yeshivas and Jewish communities all over the world for Rav Nosson Tzvi was unprecedented. That is because he was a person who had an incredible impact on Klal Yisrael. The reaction of the loss that people felt, and still feel, to his death was mind-boggling.

One on his Talmidim gave a eulogy for him in a certain yeshiva. In relating the incredible acts of kindness that Rav Nosson Tzvi engaged in, he told over the following story:

There was a student of the Mir—a man who was already married and had a family—who passed away at a relatively young age, leaving over a widow and orphans. Rav Nosson Tzvi was very close to this man and decided that he would try, in effect, to adopt this man's sons. He invited them to treat him (Rav Nosson Tzvi) like they would treat a father. This was a family that lived in America, but Rav Nosson Tzvi told the boys that they should write to him—not only their Torah thoughts, but they should correspond with him and keep him abreast of all their personal affairs and activities. When the boys got older, they came to Eretz Yisrael and Rav Nosson Tzvi found each one an appropriate Yeshiva. Over many years, he developed a strong relationship with these orphans and tried to act as a long-distance father to them.

This is what this former student of the Mir told over in his eulogy for the Mir Rosh Yeshiva. After he spoke, a young man from the audience came over to him and told him "The story you related is correct. I can verify the facts. However, that is not the entire story. The rest of the story is that the man who passed away had four sons and he also had a daughter—a little girl at the time of her father's death. She was the youngest member of the family. She felt left out. She was not going to write a "shtickle Torah" to Rav Nosson Tzvi. What can a young little girl discuss with a great Rosh Yeshiva? She felt neglected.

Rav Nosson Tzvi heard about this and he sent her a letter. But he did not merely send her a generic letter. He had someone draw a heart and, in the heart, he wrote her a note. The person told the Rav who was eulogizing the

Mir Rosh Yeshiva: “How do I know this story? It is because that little girl is now my wife.” This heart shaped message from Rav Nosson Tzvi Finkel gave that young girl such inspiration and such a positive feeling that it rejuvenated her spirit.
Do you know another Rosh Yeshiva on the face of this earth who would send a message inscribed in a heart to a little girl? It is incredible! One of the biggest Rosh Yeshivas in the world sends a heart to a little girl! I have heard dozens of stories about Rav Nosson Tzvi over the past several months, but to me, that story tops them all. To cheer up a little orphan daughter of a close student of his—there was no question of his own honor, proper protocol, or what might people say. He had the ability to rejuvenate the dispirited, which is the power to be mechayei meisim! It is a beautiful story.
Transcribed by David Twersky; Jerusalem DavidATwersky@gmail.com
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This week’s write-up is adapted from the hashkafa portion of Rabbi Yissochar Frand’s Commuter Chavrusah Series on the weekly Torah portion. A listing of the halachic portions for Parshas Mishpatim is provided below: # 043 Malpractice # 086 Withholding Medical Treatment # 134 Hashovas Aveida: Returning Lost Objects # 181 Medicine, Shabbos, and the Non-Jew # 227 Taking Medication on Shabbos # 271 Experimental Medical Treatment # 317 Wrecking a Borrowed Car # 361 Bankruptcy # 405 Litigating in Secular Courts # 449 Is Gambling Permitted # 493 Bitul B’rov # 537 Losing Your Coat at a Coat Check # 581 Lending Without Witnesses # 625 The Kesuba # 669 Rabbinical Contracts # 713 Adam Hamazik & Liability Insurance # 757 Midvar Sheker Tirchak: True or False? # 801 Oy! My Wallet Went Over Niagara Falls # 845 Is Hunting a Jewish Sport? # 889 The Neighbor Who Forgot To Turn Off The Fire # 933 The Mitzvah of Lending Money # 976 Will Any Doctor Do? # 1020 The Potato Baked in a Fleishig Pan – With Butter or Margarine? # 1064 The Doctor That Erred # 1107 5772 or 2012 What Should It be? # 1150 Taking State Farm To Beis Din # 1193 “Dayan, If You Know What’s Good For You, Rule In My Favor” # 1237 The ase of the Sefer That Was Borrowed and Never Returned # 1282 Treating Ebola Patients; The Har Nof Massacre and Kidney Donations # 1325 Finding a $20 Bill in Shul / Finding A Comb in a Mikvah: Can You Keep It? # 1369 Lending Money Without Receiving an IOU Slip – Is It Mutar? # 1413 Reinstituting the Sanhedrin in Our Day and Age? # 1457 My Neighbor’s Son Threw a Ball Through My Front Window – Who Pays?
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from: The Office of **Lord Rabbi Jonathan Sacks z"l** <info@rabbisacks.org>
date: Feb 10, 2021, 2:15 PM
subject: Vision and Details (Mishpatim 5781)

Covenant and Conversation

Vision and Details

Mishpatim 5781

Our parsha takes us through a bewildering transition. Up until now, the book of Shemot has carried us along with the sweep and drama of the narrative: the Israelites’ enslavement, their hope for freedom, the plagues, Pharaoh’s obstinacy, their escape into the desert, the crossing of the Red Sea, the journey to Mount Sinai and the great covenant with God.
Suddenly, we now find ourselves faced with a different kind of literature altogether: a law code covering a bewildering variety of topics, from responsibility for damages to protection of property, to laws of justice, to Shabbat and the festivals. Why here? Why not continue the story, leading up to the next great drama, the sin of the Golden Calf? Why interrupt the flow? And what does this have to do with leadership?
The answer is this: great leaders, be they CEOs or simply parents, have the ability to connect a large vision with highly specific details. Without the vision, the details are merely tiresome. There is a well-known story of three workers who are employed cutting blocks of stone. When asked what they are doing, one says, “Cutting stone,” the second says, “Earning a living,” the third says, “Building a palace.” Those who have the larger picture take more pride in their labour, and work harder and better. Great leaders communicate a vision.
But they are also meticulous, even perfectionists, when it comes to the details. Thomas Edison famously said, “Genius is one percent inspiration, ninety-nine percent perspiration.” It is attention to detail that separates the great artists, poets, composers, filmmakers, politicians and heads of corporations from the merely average. Anyone who has read Walter Isaacson’s biography of the late Steve Jobs knows that he had an attention to detail bordering on the obsessive. He insisted, for example, that all Apple stores should have glass staircases. When he was told that there was no glass strong enough, he insisted that it be invented, which is what happened (he held the patent).
The genius of the Torah was to apply this principle to society as a whole. The Israelites had come through a transformative series of events. Moses knew there had been nothing like it before. He also knew, from God, that none of it was accidental or incidental. The Israelites had experienced slavery to make them cherish freedom. They had suffered, so that they would know what it feels like to be on the wrong side of tyrannical power. At Mount Sinai, God, through Moses, had given them a mission statement: to become “a Kingdom of Priests and a holy nation,” under the sovereignty of God alone. They were to create a society built on principles of justice, human dignity and respect for life.
But neither historical events nor abstract ideals – not even the broad principles of the Ten Commandments – are sufficient to sustain a society in the long run. Hence the remarkable project of the Torah: to translate historical experience into detailed legislation, so that the Israelites would live what they had learned on a daily basis, weaving it into the very texture of their social life. In the parsha of Mishpatim, vision becomes detail, and narrative becomes law.
So, for example: “If you buy a Hebrew servant, he is to serve you for six years. But in the seventh year, he shall go free, without paying anything” (Ex. 21:2-3). At a stroke, in this law, slavery is transformed from a condition of birth to a temporary circumstance – from who you are to what, for the time being, you do. Slavery, the bitter experience of the Israelites in Egypt, could not be abolished overnight. It was not abolished even in the United States until the 1860s, and even then, not without a devastating civil war. But this opening law of our parsha is the start of that long journey.
Likewise the law that “Anyone who beats their male or female slave with a rod must be punished if the slave dies as a direct result.” (Ex. 21:20) A slave is not mere property. They each have a right to life.
Similarly the law of Shabbat that states: “Six days do your work, but on the seventh day do not work, so that your ox and your donkey may rest, and so that the slave born in your household and the foreigner living among you may be refreshed.” (Ex. 23:12) One day in seven slaves were to breathe the air of freedom. All three laws prepared the way for the abolition of slavery, even though it would take more than three thousand years.
There are two laws that have to do with the Israelites’ experience of being an oppressed minority: “Do not mistreat or oppress a stranger, for you were strangers in Egypt.” (Ex. 22:21) and “Do not oppress a stranger; you

yourselves know how it feels to be foreigners, because you were foreigners in Egypt. (Ex. 23:9)

And there are laws that evoke other aspects of the people's experience in Egypt, such as, "Do not take advantage of the widow or the fatherless. If you do and they cry out to me, I will certainly hear their cry" (Ex. 22:21-22). This recalls the episode at the beginning of the Exodus, "The Israelites groaned in their slavery and cried out, and their cry for help because of their slavery went up to God. God heard their groaning, and He remembered His covenant with Abraham, with Isaac and with Jacob. So God looked on the Israelites and was concerned about them." (Ex. 2:23-25)

In a famous article written in the 1980s, Yale law professor Robert Cover wrote about "Nomos and Narrative."[1] By this he meant that beneath the laws of any given society is a nomos, that is, a vision of an ideal social order that the law is intended to create. And behind every nomos is a narrative, that is, a story about why the shapers and visionaries of that society or group came to have that specific vision of the ideal order they sought to build.

Cover's examples are largely taken from the Torah, and the truth is that his analysis sounds less like a description of law as such than a description of that unique phenomenon we know as Torah. The word "Torah" is untranslatable because it means several different things that only appear together in the book that bears that name.

Torah means "law." But it also means "teaching, instruction, guidance," or more generally, "direction". It is also the generic name for the five books, from Genesis to Deuteronomy, that comprise both narrative and law.

In general, law and narrative are two distinct literary genres that have very little overlap. Most books of law do not contain narratives, and most narratives do not contain law. Besides which, as Cover himself notes, even if people in Britain or America today know the history behind a given law, there is no canonical text that brings the two together. In any case in most societies there are many different ways of telling the story. Besides which, most laws are enacted without a statement of why they came to be, what they were intended to achieve, and what historical experience led to their enactment.

So the Torah is a unique combination of nomos and narrative, history and law, the formative experiences of a nation and the way that nation sought to live its collective life so as never to forget the lessons it learned along the way. It brings together vision and detail in a way that has never been surpassed.

That is how we must lead if we want people to come with us, giving of their best. There must be a vision to inspire us, telling us why we should do what we are asked to do. There must be a narrative: this is what happened, this is who we are and this is why the vision is so important to us. Then there must be the law, the code, the fastidious attention to detail, that allow us to translate vision into reality and turn the pain of the past into the blessings of the future. That extraordinary combination, to be found in almost no other law code, is what gives Torah its enduring power. It is a model for all who seek to lead people to greatness.

[1] Robert Cover, "Nomos and Narrative," Foreword to the Supreme Court 1982 Term, Yale Faculty Scholarship Series, Paper 2705, 1983. The paper can be found at http://digitalcommons.law.yale.edu/fss_papers/2705.

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fw from hamelaket@gmail.com
from: Destiny Foundation/Rabbi Berel Wein <info@jewishdestiny.com>
subject: Weekly Parsha from Rabbi Berel Wein

Weekly Parsha MISHPATIM Rabbi Wein's Weekly Blog

After the granting of the Torah to the Jewish people at Mount Sinai, this is followed with a long and detailed list of instructions, commandments, and laws. The mere existence of such a list presupposes the willingness of the population to follow these laws and instructions.

As we are all aware, because of the ongoing incidents that mark our attempt to deal with the current corona virus crisis, that there has to be an internal discipline amongst the people to have them obey any set of laws, no matter how wise and beneficial they may be, in order for the rule of law to be effective.

It has been estimated that over two-thirds of the laws passed by the Israeli Knesset over the past 72 years have never been enforced and are known, if at all, to exist only in the breach. There are not enough police in the world to enforce all the laws that every society has promulgated and advanced. Even in the most rigorous of dictatorships and the most controlled of societies, black markets flourish, crime is rampant and, in fact, the tighter the controls, the more ingenious people become in their methodology of defying and circumventing those laws they feel unfair or unnecessary.

The most disciplined of societies such as Japan, Switzerland, or perhaps even Germany are of that nature simply because of their social compact one with another. The brute force of police may achieve the appearance of obedience to the law and the government but eventually all of history teaches us that subsystems collapse simply because of the weight of the necessary enforcement involved.

The Torah also presupposes that there be a legal system and that judges and police are necessary adjuncts to any civilized society. However, the Torah also realizes that it is only by voluntary acceptance of discipline and obedience to laws, the concern for the public and its welfare, the understanding that one is responsible for the Jewish people as a whole and to the God of Israel for one's actions, to make the system of laws that we read about in this week's portion of the Torah workable, acceptable and, in fact, eternal.

If the people are unwilling to follow the rules, there are not enough policeman in the world that will make them, no matter how severe the penalty may be for disobedience and violations of the law.

The Torah records for us once again the response of the Jewish people when offered the Torah: "We will do and obey and then we will listen and understand." Without that stated pledge to voluntarily observe the laws and precepts given them at Mount Sinai, there is no method available to human societies to enforce such a rigorous social and spiritual discipline to such a large population of individuals.

It is hoped that through study and education this voluntary acceptance, of the laws of the Torah, that has been hallowed by millennia of tradition and observance, will continue to govern Jewish society and its value system and behavior.

Shabbat shalom
Rabbi Berel Wein

In My Opinion THE FEW AND THE MANY
Rabbi Wein's Weekly Blog

Many of you are aware, as I have previously written in another blog, I have just completed writing a book of stories that will be published in the next few months. The Torah teaches us that our great teacher Moshe, even after writing the Torah, had 'ink left in his quill.' I do not, God forbid, pretend to resemble Moshe in any meaningful way, but I also have some stories left over that will not appear in the book. Nevertheless, I feel that this following story may prove to be of value and insight even though it is written with 'ink left over in the quill.'

Stories usually carry with them great moral messages and life lessons if they are correctly understood and interpreted. I have always been an avid listener to stories, and I have benefited greatly from their teachings and moral direction. Stories teach in a gentle and even indirect fashion, and to be a very high form of educational technique and methodology. And many stories have the advantage of being memorable and thus remain in our memory bank and are much more accessible oftentimes than hard lessons taught directly.

The moral lessons of stories seep into our personalities and viewpoints and are an enormous aid in the development of our intellect and spiritual growth. In utter simplicity, one can say that the entire narrative, of the holy books of the Bible, is told to us in the fashion and style of stories so that we will be able to correctly absorb and assess the eternal lessons meant to be conveyed from God, so to speak, to human beings.

An example of the value of a story is: Goethe and Beethoven were taking a walk together when they were confronted by Archdukes dressed in all their regalia and finery. Goethe motioned to Beethoven that they should move off the path and stand at the side of the road and bow in respect to these two noblemen, allowing them to pass before them on the garden path. Beethoven apparently did not hear what was said to him or purposely ignored the message and kept on walking straight down the path. When he came face-to-face with the two noblemen, they recognized him and realized that here was one of the immortal and great musical geniuses of Germany, in fact of all-time, standing before them. The nobleman separated and stood at the side of the path while Beethoven marched on his way seemingly oblivious to them.
A few minutes later Goethe caught up to Beethoven and inquired of him as to what the source of his courage was that enabled him to continue walking between the noblemen without any signs of fear, respect or trepidation, causing them to make way for him on the garden path. Beethoven replied simply: "There are thousands of them but there are only two of us."
How much wisdom and intellectual astuteness lies in that comment! The measure of human beings is never by quantity or numbers. There is no doubt that in the eyes of the posterity of human civilization, Goethe and Beethoven more than balance the importance of thousands of flamboyant Archdukes.
The Torah emphasizes this point many times, especially regarding the Jewish people and the relatively small population that Jews would constitute over all the ages of humanity. The Torah specifically tells us that Jewish people are special not because of the numbers, for in fact they are rather small and few considering the billions of human beings that inhabit our planet.
Nevertheless, it is the uniqueness of human beings and not their numbers that determine their true worth and value and therefore grant selective immortality to the few – 'there are only two of us' – rather than the many – 'there are thousands of them.' Every person needs to see one's self as an important individual, someone unique and special and incomparable as well.
Science eventually may be able to clone physical characteristics and even body parts and skeletons, but the secret of personalities and creativity remains locked within each individual and cannot be copied or duplicated.
All honors, titles and awards granted by humans to humans are but temporary blips on the radar screen of human civilization. What a person accomplishes by himself or herself, by the uniqueness of one's own personality and talents, industry and efforts, is what is really lasting and remains the legacy that human beings truly achieve. It is comforting and heartening to know that there are only two of us though there may be thousands of them.
Shabbat shalom Berel Wein

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fw from hamelaket@gmail.com
from: Ohr Torah Stone <ohrtorahstone@otsny.org>
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subject: Rabbi Riskin on the Weekly Torah Portion
Shabbat Shalom: Mishpatim (Exodus 21:1- 24:18)
Rabbi Shlomo Riskin

Efrat, Israel — "When [Hebrew: 'im'] you lend money to My people, to the poor person with you, you shall not behave toward him as a lender; you shall not impose interest upon him." (Ex. 22:24)
How can we ensure that Jewish ideals—such as protecting the downtrodden and most vulnerable people in our society—emerge from the abstract and find expression in our daily lives? Our weekly portion, Mishpatim, in addressing the issue of lending, provides an insight to this question, and sheds light on the core Biblical values of compassion and empathy.
The verse cited above raises several questions. First, in stating the prohibition on charging interest, why does the Torah employ a word—im—that usually means if? Our Sages note that the use of "im" in this verse is one of just three instances in the entire Torah in which the word means when instead of if [Midrash Tanhuma]. What is the significance of this exceptional usage of the word?
Moreover, why does the verse seem to repeat itself ("to My people, to the poor person with you")? Seemingly, just one of these phrases would have been sufficient to teach the lesson.
Additionally, "you shall not behave toward him as a lender," says the Torah. Why is this so? Our Sages teach that not only is it forbidden for the creditor to remind the debtor of the loan, but that the creditor must go out of his way not to cause the debtor embarrassment [ibid.]. If, for example, the creditor sees the debtor walking towards him, it is incumbent upon the creditor to change direction. Why not remind the debtor that the loan must be repaid? After all, the debtor took money from the creditor, did he not?
Finally, why is there a specific prohibition against charging interest at all? With respect to the reason for the prohibition against interest, Maimonides goes so far as to codify: "Anyone who writes a contract with an interest charge is writing and causing witnesses to testify that he denies the Lord God of Israel…and is denying the exodus from Egypt." [Laws of Lenders and Borrowers, 4:7] Why the hyperbole? After all, there is no prohibition against charging rent for the use of my house! Why should there be a prohibition against charging rent for the use of my excess funds?
A key lesson from our Sages provides the philosophical underpinnings of the answers to these questions. They teach that a person must view himself as if he were the poor person in need of support. We easily deceive ourselves that we are immune from the fate of poverty, a regrettable attitude that can harden us to the real needs of those seeking assistance.
I must look at the indigent as if he were I, with the thought that I, but for the grace of God, could be he.
Rabbi Hayyim ibn Attar, in a brilliant illumination, beautifully explains this passage in his commentary, Ohr HaHayyim, which enables us to understand this difficult character change. In an ideal world, he teaches, there ought to be no rich and no poor, no lenders and no borrowers; everyone should receive from the Almighty exactly what they require to live.
But, in His infinite wisdom, this is not the manner in which the Lord created the world. He provides certain individuals with excess funds, expecting them to help those who have insufficient funds, appointing them His "cashiers" or "ATMs", or agents in the world. Hence, we must read the verse as, "If you have extra funds to lend to my nation—which should have gone to the poor person, but are now with you through G-d's largesse—therefore, you were merely given the poor person's money in trust, and those extra funds that are you 'lending him' actually belong to him."
If you understand this fundamental axiom—that the rich person is actually holding the poor person's money in trust as an agent of the Divine—sthen everything becomes clear. Certainly, the lender may not act as a creditor, because she is only giving the poor man what is in actuality his! And, of course, one dare not charge interest, because the money you lent out was never yours in the first place.
This is the message of the exodus from Egypt, the seminal historic event that formed and hopefully still informs us as a people: no individual ought ever be owned by or even indebted to another individual. We are all owned by and must be indebted only to God.
This essential truth is the foundation of our traditional legal system, which is uniquely just and equitable: it is especially considerate of the needs of the downtrodden and enslaved, the poor and the infirm, the orphan and the widow, the stranger and the convert, the "chained wife" and the indigent forced to sell their land. From this perspective, not only must we submit to Jewish law, but it is crucial that our judges be certain that Jewish law remains true to its ethical foundations.
Shabbat Shalom!

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fw from hamelaket@gmail.com
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Insights Parshas Mishpatim Adar 5781

Yeshiva Beis Moshe Chaim/Talmudic University
Based on the Torah of our Rosh HaYeshiva HaRav Yochanan Zweig
This week's Insights is dedicated in loving memory of Serach Yudka bas Shmuel. "May her Neshama have an Aliya!"

Money Can't Buy Self Esteem

…an eye for an eye, a tooth for a tooth, hand for a hand, a foot for a foot (21:24).

This week's parsha devotes quite a bit of space to jurisprudence and judicial matters, with a special focus on torts and assigning compensatory damages for a variety of damages to person and property. An oft quoted possuk relating to how Judaism applies justice is likewise found in this parsha: "…an eye for an eye, a tooth for a tooth, hand for a hand, a foot for a foot" (21:24).

Simply understood, the Torah seems to be proscribing a "law of retaliation" for injuries caused to the physical body. In other words, the Torah seems to advocate that one who causes physical injury to another be penalized to a similar degree. The Talmud quickly dispels that notion and explains that "an eye for an eye" refers to monetary compensation for the loss of an eye. The Gemara goes on to explain that Judaism requires that all justice be fair and evenly applied, "But what of a case where an already blind person causes another to lose his eyesight? How can we fairly exact justice?" The Gemara ends with an exegetical analysis of the language used by the Torah to determine that the law requires equitable monetary compensation, not a physical maiming as retribution (See Bava Kama 83b-84a).

This verse has been misunderstood even as a far back as the Sadducees* and has been termed by uninformed "Bible Scholars" to be one of the most controversial verses in the Bible as it seems to reveal the "vengeful nature" of the Torah. Though we don't take the verse literally, Shi'ite countries that use Islamic Sharia law, such as Iran, actually apply the "eye for an eye" rule as stated.

Of course, the Gemara's understanding of the possuk requires further explanation. If the Torah merely meant a monetary payment and not a literal retribution of "an eye for an eye," then why should the Torah write it in such an oblique manner? Why doesn't the Torah plainly state, "If one causes another to lose his eye, he must pay an equitable amount of money?"

Rambam in the Yad (Hilchos Chovel Umazik 5:9) makes a curious statement: We cannot equate one who damages another monetarily to one who damages another physically. For one who damages another monetarily is considered forgiven when he repays the money that is owed. But one who damages another physically and pays him in full for the damage caused isn't absolved of his responsibility until he begs for forgiveness from the injured party. While this may be true in the laws of repentance, what does this have to do with paying what is owed? Why does Maimonides list this requirement among the laws of compensation?

This is why the Torah writes "an eye for an eye." While on the surface this statement seems to be advocating vengeance, the Torah is revealing the very nature of the compensation required in the case of a physical injury. In Hebrew, the word for vengeance is nekama, which has its roots in the word kam – to stand or reinstate. Meaning, one of the reasons vengeance is so pleasurable is because it restores the dignity and self-respect of the injured party.

The Torah is teaching us that when a person suffers a physical injury there is an emotional injury that must be addressed as well. Even if the injured party is financially compensated, the loss of self-esteem hasn't yet been addressed. In order to properly fulfill "an eye for an eye" the one who caused the injury has to beg forgiveness in order to restore the self-esteem of the person he injured. By begging for forgiveness he is acknowledging the human value of the injured party, and begins the process of restoring their self-esteem.

*Those who insist on the literal interpretation of the Torah when the literal reading seems to contradict the rabbis' interpretation.

And Dignity Above All

When a man will steal an ox or a sheep or a goat, and slaughter it or sell it, he shall pay five cattle in place of the ox and four sheep in place of the sheep (21:37).

Rashi (ad loc) quotes the Tanna R' Yochanan Ben Zakkai's opinion recorded in the Gemara (Bava Kama 79b) as to the reasoning behind the discrepancy in the multiple of the ox compared with that of the sheep: "Rabban Yochanan ben Zakkai said – The Omnipresent had compassion on the dignity of people; an ox that walks on its own feet and through which the thief was not humiliated by having to carry him on his shoulder, the thief must pay five times its value. But for a sheep, which he must carry on his shoulder, he only pays four ties its value since he was humiliated through it."

To clarify, the payment made by the thief isn't merely compensatory, the Torah is levying a punitive fine as well. This being the case, asks the Gemara, why should there be a difference in the fine for stealing an ox versus stealing a sheep? R' Yochanan Ben Zakkai gives us a reason for the discrepancy.

However, the additional humiliation that the thief is suffering when stealing a sheep needs to be explained. To start, this humiliation is self inflicted; the thief decided on his own to commit this crime, why should he get a break in the fine for subjecting himself to this indignity?

Moreover, the Talmud (ad loc) goes to great pains to distinguish a thief from a robber. The difference between a thief and a robber is that a thief steals surreptitiously at night while a robber steals even during the day (e.g. a mugging – where there is an overt act against the victim). The Gemara explains that this is a case of a thief who is trying to avoid detection. In other words, this thief is concerned that others may see him but he is not concerned with the all-seeing presence of the Almighty, and this is why there is a special fine levied against him. But if this thief took great care to avoid detection, what indignity did he suffer by carrying the sheep on his shoulders if no one saw him?

The answer is that he denigrated himself. Animals are supposed to serve humans, not the other way around. Obviously, one has to meticulously care for the animals that one is responsible for. Nevertheless, animals are beasts of burden for people, people aren't supposed to become beasts of burden for the animals.

By carrying the sheep on his shoulders he was lowering his own status vis-à-vis that of the animal. In order to improve his situation he sacrificed a level of his own dignity – he took the human form and made it lower than that of the animal. The Torah is acknowledging his lowered status and recognizing this indignity by crediting him for some of his fine.

This is a very important lesson and quite relevant to our everyday lives. We must carefully elevate the potential within ourselves to improve upon who we are. This is the reason that the Gemara states that a funeral has an advantage over a birth in the sense that when a person is born they only have potential, but once that person dies it is possible to see that potential actualized. Similarly, it is reputed that Maharal created a golem from the clay of the earth; that is, he raised the physical to make it somewhat more spiritual. A golem is not quite on the level of humans created by Hashem, but they are an elevated life form.

In contrast, much of today's society, including our educational systems, takes elevated human beings with real potential and turns them into golems – barely reasoning beings who are content with merely satisfying their physical desires and a stupefying superficial existence. We must always remember what we are capable of achieving and we must chart a path to fulfilling our God-given potential to grow and become God-like.

Did You Know...

This week, in addition to Parshas Mishpatim, we also read Parshas Shekalim. Parshas Shekalim is the first of the "four parshios" that are added to the Torah readings in the next six weeks. Parshas Shekalim deals with the obligatory half shekel that was used to count males from the age of 20, and then contributed to the funds for parts of the Mishkan and its offerings. The minhag (custom) nowadays is to give a zecher (commemorative) half shekel

as tzedakah as a remembrance of the half shekel which was collected in the time of the Beis Hamikdosh before Nissan.
The first and most obvious question is; exactly how much was the half shekel? Since we know it was made out of pure silver, we simply need to establish its weight.
We can then calculate the worth based on today's market value for silver, which is 88 cents per gram. Like many things in the Jewish world, there are multiple opinions. Josephus (Antiquities 3:8:2) says that it was equal to the weight of two Athenian Drachma, or estimated at about $7.60 in today's silver. Another opinion (Rabbi Aryeh Kaplan) notes that it weighed 0.4 oz. (11.34 grams), or about $10.
Interestingly, Rambam (Hilchos Shekalim 1:5) says a half shekel weighed 160 barley grain's weight in silver. So of course, the crack Did You Know investigative team counted out and weighed exactly 160 grains of barley, and it weighed 6.8 grams (equal to almost exactly $6). Remarkably, archaeological excavations conducted in Israel in 1999 to 2001 "dug up" a half shekel coin minted in the 2nd century CE, with "Half-Shekel" in ancient Hebrew written on it. This coin possessed a silver content of 6.87 grams, or almost the exact weight assigned to it by Rambam (Oxford Centre for Hebrew and Jewish Studies, London 2009, pp. 96; 118).
Nowadays, the accepted Ashkenazi minhag is three half dollars, or whatever coins are common in that place. The accepted Sefardi minhag (Rav Ovadyah in Yalkut Yosef and Chazon Ovadyah) is to give an amount equal to 9 grams of silver, as the Kaf Hachaim (694:20) concludes that that is equal to the original half shekel.
The second question is; when do we give it? Rama 694:1 (and Mishna Brurah 694:4) writes that the minhag is to give it before mincha of Taanis Esther.
Though other opinions, like Kitzur Shulchan Aruch (141:5), write that the minhag is to give it before the reading of the Megillah. This is based on Gemara Megillah that says our shekalim counteract the shekalim of Haman read about in the Megillah.
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Ohr Somayach :: Torah Weekly :: Parsha Insights
For the week ending 13 February 2021 / 1 Adar 5781
Rabbi Yaakov Asher Sinclair - www.seasonsofthemoon.com
Parshat Mishpatim
Handle With Care
"If a person steals an ox…" (21:37)
People are sensitive. I know… I'm one of them. Having been educated in the Empire-Building English Public (i.e. Private) School system, where "big boys don't cry," I can tell you that however stiff your upper lip may be, inside we are all softies.
In this week's weekly Torah portion, the Torah tells us that a thief who slaughters or sells a stolen ox has to pay five times the value to its owner. However, if he does the same with a sheep, he only has to pay four times, because he has already paid part of his penalty with the embarrassment and humiliation he felt during the theft by carrying the sheep across his shoulders. One would not place sheep-stealers among mankind's most sensitive beings, yet the Torah evaluates a sheep-stealer's embarrassment as calculable in hard cash.
The Talmud (Yevamot 44b) permits or even mandates birth control in the case of a widow who is breast-feeding her deceased husband's child and then re-marries. We are concerned that should she become pregnant and her milk sour, the current husband might be unwilling to pay for milk and eggs to feed the baby. Then she will have to go to Beit Din to claim child support from the beneficiaries of the dead husband. She may be too embarrassed to do this, and there is danger that the baby may not receive adequate nutrition and die.
Is there any greater love than a mother for her baby? And yet we are still concerned that embarrassment and humiliation may vie with motherly love.
It is certainly much easier to be sensitive to ourselves than to others. But at some level, even those who seem the least sensitive feel embarrassment and hurt. Everyone deserves to be "handled with care."
Source: Rashi, Chidushei HaLev

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Mishpatim: Deeds Done in Doubt
Rabbi Dr. Tzvi Hersh Weinreb
My wife and I moved to the Jewish community of Baltimore almost fifty years ago. The fond memories we have of the time we spent there begin with our first Shabbat in town. It was then that I met two special gentlemen.
Like any newcomer to a new neighborhood, I sampled several of the nearby synagogues that Shabbat. I entered one of them late in the afternoon, just before the modest "third meal," seudah shlishit. Two older men, at least twice my own age, motioned to me that there was a vacant seat across the table from them. I sat down and they welcomed me very warmly.
We exchanged introductions, and I learned that they were both Litvaks, Jews from Lithuania, who had had the good fortune to flee Eastern Europe in time. As devout Jews, they saw their good fortune as divine providence.
They invited me to return the following week. They had discovered that I listened to the conversation, not out of mere courtesy, but as someone sincerely interested in their story.
After that first Shabbat, I spent quite a few "third meals" in their company. I now wish that I had somehow kept a written record of all of those precious conversations. After they both passed on, I forced myself to record from memory at least some of the tales they had told. I occasionally peruse those notes with nostalgia, and with a tear or two.
I remember the anecdotes they told me about their encounters with the great early twentieth century sage, Rabbi Yisrael Mayer Kagan, of blessed memory. Many today are not familiar with that name. That is because they know him as the author of his famous book, Chafetz Chaim. He is so identified with that masterpiece that he is referred to as "the Chafetz Chaim," as if he was his book!
My two senior citizen friends adamantly insisted that that particular book was not his most important work. That book focuses on what its author saw as the dominant sin of his generation, namely malicious gossip, lashon hara. Personally, I have always felt that he was absolutely right. In fact, I think that with the advent of electronic communication, the problem of malicious gossip has been magnified and exacerbated far beyond what Rabbi Yisrael Mayer Kagan could have imagined almost a century ago.
But my newfound friends disagreed with me. They made me aware of another work by the author of Chafetz Chaim. Their candidate for their mentor's masterpiece is entitled Ahavat Chesed, "Loving Kindness." Had they had their way, Rabbi Kagan would not be known as "the Chafetz Chaim," but rather as "the Ahavat Chesed," the "Lover of Kindness."
What, you ask, is the subject of this second book, the one preferred by my two elderly tablemates?
The book is about the acts that one is commanded to perform in order to assist others who are in need. Charity, for example, is one such deed, and the laws of charity comprise a major section of Ahavat Chesed. Hospitality is another such deed, as is giving others helpful advice. But a major portion of the work is dedicated to a mitzvah which is less well known, but which is

promulgated in this week's Torah portion, Parshat Mishpatim (Exodus 21:1-24:18). The following are the verses to which I refer:

“If you lend money to My people, to the poor among you, do not act toward them as a creditor; exact no interest from them. If you take your neighbor’s garment in pledge, you must return it to him before the sun sets; it is his only clothing, the sole covering for his skin. In what else shall he sleep? Therefore, if he cries out to Me, I will pay heed, for I am compassionate.” (Exodus 22:24-26).

This beautiful passage portrays an act of compassion. The image of a totally destitute person who has but one change of clothing is heartrending. The sensitivity to his sleeplessness is exquisite. We can ourselves hear his cries in the night to the Lord.

But there is one word that the earliest commentators find absolutely puzzling. It is the first word in the passage, “If.” If? If you lend money to my people? Shouldn't it read, "I command you to lend money to My people,” or, “You must lend money to My people.”?

It is this question that leads Rashi to cite Rabbi Ishmael's teaching in the Talmudic tractate Bava Metzia: “Every ‘if’ in the Torah expresses an act which is optional, except for three instances in which ‘if’ expresses an act which is mandatory—compulsory—and this is one of the three.” This “if” is to be translated as "you must."

But the question remains. Why use the word "if" at all? Why does Torah not simply tell us that we must lend money to those who need it? Why the "if"?

For one answer to this question, I draw upon the teaching of Rabbi Yechezkel of Kuzmir, a nineteenth century Hasidic master. He, in turn, asks a question upon the following Talmudic text:

"Rabbi Pinchas ben Yair was on a mission to try to redeem several Jews who were held captive. His route was blocked by the river Ginai. He said to the river, 'Split your waters so that I might pass through!' The river refused, saying, 'You are on your way to do the will of your Maker, and I am on my way to do the will of my Maker. You might succeed, but you might not succeed! But I will certainly succeed! I simply need to continue to flow.'"

The river seems perfectly justified. All he has to do is follow nature's course and flow downstream as his Maker created him to do. But Rabbi Pinchas, for all of his good intentions, could not be certain of success. Indeed, the odds are that he would fail. Why should the river yield?

But Rabbi Pinchas simply ignored the river's reasonable argument. Instead, he harshly threatened the river, saying, "If you don't split for me, I will decree that not a drop of water shall ever again flow down your riverbed for all eternity!" The question remains: what right did the rabbi have to ignore the river's convincing argument?

Rabbi Yechezkel of Kuzmir answers: "The river's assumption is that a deed that is certain to be successful is more desirable to the Almighty than is a deed whose ultimate success is in doubt. But the spiritual insight of Rabbi Pinchas taught him otherwise. The Almighty cherishes the person who undertakes a mission which is risky and whose outcome is uncertain much more than the person who undertakes a mission which he knows will be blessed with success.

This, I would suggest, is why lending money to someone in need is, at least in one way, more desirable to the Almighty than simply giving a handout to the poor. When one gives food, for example, to a hungry person, he knows immediately that he has done a good deed. There is no element of doubt. However, when one lends money to another, one never knows. Will the borrower postpone repayment? Will he default? Will the lender ever see his money back? Doing this kind of mitzvah comes with second thoughts and regrets. It is a mitzvah done in the throes of doubt and uncertainty.

The lesson taught by Rabbi Pinchas teaches the lender that the mitzvah he did with so much doubt and uncertainty is all the more cherished by the Almighty.

There are many mitzvah missions that we all undertake at great risks and with no guarantee that we will be successful in our efforts. Rabbi Pinchas ben Yair teaches us to deliberately pursue such mitzvot.

Hence, the passage in this week's Torah portion begins with the big "if." Moral actions are often "iffy." But that's all the more reason to engage in them. The risks are real, but the rewards are eternal.

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Rabbi Buchwald's Weekly Torah Message - Mishpatim 5781

“‘An Eye for an Eye’ in Jewish Law”

(updated and revised from Mishpatim 5762-2002)

Rabbi Ephraim Z. Buchwald

In this week’s parasha, parashat Mishpatim, the Torah introduces the fundamental legal system of Israel. Both, criminal and civil laws are recorded, and in great number. In fact, this week’s parasha is the fifth most numerous parasha of laws in our Torah, containing 53 of the 613 mitzvot enumerated in the Torah.

Because of the antiquity of the Torah, we would expect to find many ancient laws that appear to be out of step with contemporary values. In the past, we have tried to explain many of these seemingly antiquated laws and show that they are indeed relevant to, and often ahead of, contemporary values. But, few passages in the Torah raise more eyebrows and engender greater consternation than the law of “retaliation,” expressed in Exodus 21:24-25: עַיִן תַּחַת עַיִן, שֵׁן תַּחַת שֵׁן, יָד תַּחַת יָד, רֶגֶל תַּחַת רָגֶל. כְּוִיָּה תַּחַת כְּוִיָּה, פֶּצַע תַּחַת פָּצַע, חַבּוּרָה תַּחַת חַבּוּרָה , An eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot, burning for burning, wound for wound, a strike for a strike. These ancient laws are known to Biblical scholars as “Lex Talionus,” which means the “Laws of Retaliation.”

Aside from the seeming cruelty and inhumanity of these laws, the striking parallel between the language of the Torah and the language found in other ancient Near-Eastern documents, such as the Code of Hammurabi, often result in all these laws being lumped together as one ancient chulent, resulting in them being regarded as a stew of primitiveness and barbarism.

An additional reason for the negativity, is that in the Middle Ages, Christian courts and Christian kings actually invoked the statements of the “Old Testament” in order to justify their cruel retributive practices, which were introduced at that time in many European kingdoms.

Despite these strongly-worded Torah passages, no case of physical retaliation is ever recorded in the Bible or other Jewish texts, the only exception being of course, for murder, where the perpetrator is condemned to lose his life for taking another’s life. The Talmud in Bava Kama 83b & 84a and the Mechilta prove, through cogent analysis, that these biblical expressions can only mean monetary compensation–for an eye, for a hand, for a tooth, etc. Furthermore, there is no record of any Jewish court ever blinding or inflicting physical injury in return for an injury inflicted on a victim.

On the other hand, the laws of the ancient Near East clearly indicate that physical retaliation was common practice in those societies. Some examples from the Hammurabi Code of ancient Babylonia : If a son has struck his father, they shall cut off his hand. If a citizen has destroyed the eye of another citizen, they shall destroy his eye. If he has broken the bone of a citizen, his bone shall they break.

In the code of Hammurabi, we also find the law of a son for son, and daughter for a daughter. Consequently, if a builder causes the death of the son or daughter of the owner, then the builder’s son or daughter is put to death, not the builder. What we see in effect, is that according to ancient Near-Eastern laws, human beings are regarded as property, as chattel. Hence, if a citizen killed his neighbor’s son, the neighbor has the right to come and kill the citizen’s son. If a citizen raped his neighbor’s daughter, the neighbor has the right to rape the citizen’s daughter or take his daughter as a concubine. If a citizen killed his neighbor’s slave, he could give his neighbor 18 camels and they would be even. In other words, the perpetrator must suffer the same loss as the victim.

Almost 400 years after Hammurabi, the Torah came along and revolutionized the entire legal concept of punishment that had been practiced until then. The Torah declares: (Deuteronomy 24:16) לֹא יוּמְתוּ אָבוֹת עַל בָּנִים וּבָנִים לֹא יוּמְתוּ עַל אָבוֹת אִישׁ בְּחֶטְאוֹ יוּמָתוּ , fathers may not be put to death for the sin of their children, neither shall children be put to death for the sin of their fathers, every person shall be put to death for his/her own sin.

In effect, the Torah transformed the underpinnings of the ancient penal system, by declaring that people are responsible for their own acts, and that, under no circumstances, may a third innocent party be punished for someone else's crime. Furthermore, firmly dismissing the notion that human beings are chattel, the Torah declares that human beings, who are created in G-d's image, are G-d's property. Therefore, when a human life is taken illegally, according to the Torah, a crime has not been committed against the owner, the father or the mother, but rather, a crime has been committed against G-d. The entire Western world has adopted this Jewish point of view, with one significant modification. Instead of assuming Judaism's theocratic tone, the law has been "secularized," and G-d has been eliminated. Therefore, homicide cases are always proclaimed as crimes against the State vs. the accused, e.g. the State of New York vs. John Doe, or the Queen of England vs. John Smith. These statements, in effect, declare that a crime has been committed against society–the contemporary substitute for G-d.

If "An eye for an eye" does not literally mean an eye, but rather monetary compensation for an eye, why then does the Torah use this provocative formulation of עַיִן תַּחַת עַיִן , "An eye for an eye"? Maimonides and other commentators explain that this phraseology is purposely used to underscore that in G-d's eyes, the perpetrator truly deserves to lose his own eye. A perpetrator cannot achieve full forgiveness by merely paying for the damages. In fact, the perpetrator is expected to beg his victim to forgive him. Other commentators explain further that the particular expression, "An eye for an eye" comes to underscore a revolutionary concept affirmed by the Torah. While the perpetrator may deserve to lose an eye, and perhaps, considering the cruelty involved, deserve to lose even more than an eye, the maximum penalty that can be exacted in punishment is the value of an eye. So, in effect, the Torah advises us to have no illusions, that no matter how vicious the circumstances of the injury, the maximum punishment may only be up to the value of an eye, and not one iota beyond that point.

Enigmatic phrases often have much to teach us–especially enigmatic phrases from the Torah.

Please Note: This Shabbat is Shabbat Parashat Shekalim. On this Shabbat, an additional Torah portion, known as Parashat Shekalim, is read. It is the first portion of four additional thematic Torah portions that are read on the Shabbatot that surround the holiday of Purim.

This week's supplementary Torah reading is found in Exodus 30:11-16 and speaks of the requirement for all the men of Israel, aged 20 and above, to bring a half-shekel in order to be counted as a member of the People of Israel. In later years, these shekels were donated to the Temple in anticipation of the festival of Passover, when funding for the daily sacrifice had to be renewed.

May you be blessed.

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Chief Rabbi Ephraim Mirvis

Dvar Torah Mishpatim: Coming back to Shul – for what reason?

Should we come to see or to be seen?

In Parshat Mishpatim the Torah presents us with the mitzvah of the three pilgrim festivals, Pesach, Shavuot and Sukkot – times when the people of Israel would gather in Jerusalem, in the temple before Hashem. The way the Torah puts it is:

'Shalosh peamim beshana yeira'eh.' – 'Three times a year he shall be seen.' Our sages notice that the word 'yeira'eh' – 'he shall be seen' – has the same lettering as 'yireh' meaning 'he shall see'. Therefore the Mishna, at the commencement of Masechet Chagigah, tells us that if a person is sadly blind and therefore cannot see what's happening in Jerusalem, he is exempt from this mitzvah.

The Rambam enquires as to what happens if one has only partial sight, that is, if one can only see with one eye. His conclusion is that we are required to have 're'iah sheleimah,' total vision, and therefore sadly, if a person is blind in one eye, he too is exempt. The Rambam explains that this is because it is so important that one should see for oneself the beauty, splendour, and majesty of Jerusalem in order to appreciate the privilege that one has.

Now I believe that all of this is exceptionally relevant for us right now. So many of us have not been in a shul for a good while on account of coronavirus and we are looking forward to the time when we shall return. When that day arrives and we are able to fill our shuls again, why will we be there?

For some it might be a case of wanting to be seen. We would like to be noticed. We would want people to recognise that we are being loyal to the community. That is a very good reason.

But there is a better reason. The better reason is because we want to see for ourselves, because we appreciate the beauty, grandeur and privilege we have of 'tefillah b'tzibbur,' to daven with a community. We appreciate the ruchnius and the presence of Hashem, and we want to connect to Him in the strongest possible way through being part of that minyan. So therefore when the time comes, and please God it should be soon, for our shuls to be vibrant and full once again, let it not just be a case of 'yeira'eh' – in order that we should be seen. Let it be 'yireh' – because we don't want to miss out; we want to see it for ourselves.

Shabbat shalom.

Rabbi Mirvis is the Chief Rabbi of the United Kingdom. He was formerly Chief Rabbi of Ireland.

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Rabbi Shmuel Rabinowitz

Parashat Mishpatim - 5781

A Thief's Dignity

The case dealt with by this law is when a person steals a bull or a lamb – domesticated animals people had during the times of the Bible – and he either kills or sells the stolen animal. When the thief is caught, he is required to pay the value of what he stole, and is also fined:

If a man steals a bull or a lamb and slaughters it or sells it, he shall pay five cattle for the bull or four sheep for the lamb. (Exodus 21, 37)

Usually, biblical law determines that a caught thief gets a "double fine" – a requirement to pay twice the value of what was stolen. But in this case, when the thief continued to sin by killing or selling the animal, he gets an even higher fine: If he stole an ox, he is required to pay five times the value of the theft; and if he stole sheep, he has to pay four times the value of the theft.

This, of course, begets the question regarding the different fines. Why is it that someone who steals an ox gets fined five times the value of the theft whereas someone who steals a lamb gets fined only four times the value of the theft?

We are not the first to find this law difficult to comprehend. This question was asked in a beit midrash in Jerusalem 2,000 years ago! We hear the answer from the greatest of Jewish sages in the 1st century CE, Rabban Yohanan ben Zakkai:

Rabban Yohanan ben Zakkai said: Come and see how great human dignity is. The theft of an ox, which walked on its own legs as the thief stole it, leads to a fivefold payment, whereas the theft of a sheep, which the thief carried on his shoulder as he walked, thereby causing himself embarrassment, leads to only a fourfold payment. (Babylonian Talmud, Baba Kama, 79)

Rabban Yohanan ben Zakkai teaches us that the law determining the thief's fine takes into account the honor of the thief himself. In the case of the theft causing the thief some sort of embarrassment – his fine is lower!
It is difficult to grasp such an absurdity. Are we being asked to be considerate of the thief who embarrassed himself while committing a crime?
Rabbi Menachem Hameiri (Provence 1249-1315) inferred an educational message in this explanation that the Torah wishes to teach us through this law about theft: "A person has to be very careful with the dignity of others. Chazal said: Come and see how great human dignity, an ox, which walked on its own legs, fivefold, a sheep which the thief carried on his shoulders – fourfold" (Hameiri, Beit Habechira, Baba Kama ibid).
The Torah wants to educate the thief, and all of us. Even a person who lost his conscience and his self-esteem, even he is worthy of respect. The thief has to hear this when he is fined. The thief will internalize that, even if he himself behaves in an undignified manner, the justice system still sees him as someone worthy of respect. The fine he is punished with distinguishes between a minor self-debasement and a significant one.
Removing someone from the cycle of crime does not necessarily entail severe punishment. Education and granting respect are preferable. If you, dear thief, have lost your self-respect, we will teach you that you are worthy of respect. You, too, have positive traits and you are worthy. Thus, the punishment will not lead the thief to commit another crime, but will hopefully help lead him out of the quagmire and into rehabilitation.
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Rav Kook Torah
Psalm 104: Let Sin be Uprooted
Chanan Morrison

Rabbi Meir, the second-century scholar, had a serious problem.
Neighborhood thugs were making his life miserable. Desperate for a way to stop their harassment, Rabbi Meir decided that drastic measures were called for. He decided to pray that the ruffians would die.
But Bruriah, Rabbi Meir's wife, was not pleased with this solution. Bruriah quoted to her husband the verse in Tehillim:
"יִתַּמּוּ חַטָּאִים מִן-הָאָרֶץ, וּרְשָׁעִים עוֹד אֵינָם"
"Let sins be uprooted from the earth, and the wicked will be no more." (Psalms 104:35)
It doesn't say "Let חוטאים (sinners) be uprooted," Bruria pointed out. It says "Let חטאים - their sins - be uprooted."
You shouldn't pray that these thugs will die; you should pray that they should repent! And then, automatically, "the wicked will be no more."
Rabbi Meir followed his wife's advice. Sure enough, the neighborhood hooligans changed their ways due to the scholar's prayers.
Why didn't Rabbi Meir think of his wife's sensible solution himself?
The Innate Goodness of the Human Soul
Rabbi Meir was keenly aware that people have free will to choose between good and evil. Otherwise, how can we be held accountable for our actions? Our freedom of choice is a fundamental aspect of the universe.
If so, thought Rabbi Meir, what use will it be to pray that these hooligans will repent? After all, it is a basic principle that God does not deny or limit free choice. These fellows have already chosen their path - one of cruelty and violence. What good could my prayers accomplish?
Bruriah, however, had a deeper insight into the souls of their unruly neighbors. There is no evil person who would not prefer to follow the path of righteousness. The wicked are misled and compelled by their evil inclinations. No one is absolutely corrupt to the extent that they cannot be influenced to better their ways.
Bruriah understood the greatness of the human spirit, which God created upright and good. We cannot alter the basic nature of the soul. Given the kernel of goodness planted in the soul - even in unrepentant criminals - it is logical to pray for Divine assistance that these people should succeed in breaking the shackles of their evil tendencies.
Such a prayer is like praying for the sick who are unable to heal themselves, despite their innate desire to be healthy.
Perhaps this is why the verse Bruriah quoted ends with the exclamation, "Let my soul bless God." The soul is grateful for its portion, for being created with Divine wisdom and integrity, so that it cannot be totally corrupted and lost. Sins may be uprooted, and the wicked are gone. But the soul, created by Divine light, will live forever.
(Adapted from Ein Eyah vol. I, p. 48 on Berachot 10)

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Shema Yisrael Torah Network
Peninim on the Torah - Parshas Mishpatim
פרשת משפטים תשפ"א
ואלה המשפטים אשר תשים לפניהם
And these are the ordinances that you shall place before them. (21:1)

Hashem commanded Moshe *Rabbeinu* to present a clear picture of Jewish civil law, teaching the people not only the letter of the law, but also its spirit – underlying principles and reasoning. This way they would develop a deeper understanding of the law, thus allowing for greater application. It is a desecration of Hashem's Name for a Jew to bring litigation before a secular court, because, by inference, it indicates that their system of justice is superior to ours. (In certain instances, the power of a secular court is necessary to deal with a recalcitrant litigant. With Rabbinical approval, one may employ the services of a secular court.)

Furthermore, a fundamental difference exists between secular law and Torah law. Secular law is based upon human logic and rationale, considering that which society needs in order to function properly. Since society is ever-changing, its laws are not concrete and given to change with the flow of societal needs. The United States Supreme Court, which is the final arbiter of the American judicial system, changes its interpretation of the law with the understanding of the majority of its justices. For decades, it may swing to the liberal needs of its populace, and then, when the majority changes, it will become conservative. A law that is subject to human interpretation is not much of a law. [With regard to the debates found in *Mishnah, Talmud, Gaonim*, etc., *Rav Shrira Gaon* explains; when the *Bais Hamikdash* was destroyed, the Rabbinic leadership moved to Beitar. Once Beitar was destroyed the sages were scattered in every direction. As a result of the confusion, persecutions and uncertainties of that era, the disciples did not learn sufficiently and the number of disputes increased. *Iggeres Rav Sherira Gaon*.]

Torah law and its fulfillment are based upon the concept of compliance with the *ratzon*, will, of Hashem. *Mitzvah* observance hones the Jewish ethical character, and it refines the soul through the individual's complete subservience to Hashem. Our laws are the *dvar*, word, of Hashem, not a justice who is a servant of the people. Hashem's laws contain no iniquity. Can we say the same for secular law? As *Horav Mordechai Gifter, zl*, observes, David *HaMelech* expresses this concept (*Tehillim* 147:19), *Maggid devaro l'Yaakov…* "He relates His word to Yaakov, His statutes and judgments to Yisrael. He did not do so for any other nation; such judgments, they know them not. In order to accept Torah law, one must accept Torah and live a life of commitment to its precepts.

Rav Gifter presents a glimpse of how Torah law differs from human-generated law. We have a *mitzvah* to return, at the end of each day, a garment that serves as a *mashkon*, security, for a loan. The rationale for this *mitzvah* is compassion: Without his garment (blanket, etc.), the borrower will have difficulty sleeping at night. This is the manner in which one who has no other knowledge of Torah, Written or Oral Law, would view this law. However, *Rashi*, quoting *Midrash Tanchuma*, reveals to us a different

compelling insight: "The Torah makes you repeat the act of taking and returning security, even if you must do so many times, as a lesson that may be learned from the manner in which Hashem treats us. It is as if Hashem says, 'Consider how indebted you are to Me! Every night your *neshamah*, soul, ascends to Heaven, gives Me an account of itself, and is understandably found to be indebted to me. Nonetheless, I return it to you each morning.' Therefore, you too take collateral and return it, take it and return it – again and again – even if you must do so many times." Now, can we even begin to compare Divine rationale to human thought? They are worlds apart. To fully appreciate this, one must be committed to Torah and its Divine Author.

The *Rosh Yeshivah* explains that since Torah is Divine, it is well above human cognition. Every aspect of Torah, even its morals and ethics, are above our comprehension. In a reference to *Pirkei Avos*, a section of the Oral Law exclusively dedicated to ethics and morals, *Rav* Gifter prefaces that we must be conscious of the fact that we are different. When the Jew says, *Hamavdil bein ohr l'choshech, bein Yisrael l'amim*; "He Who makes a distinction between light and darkness, between *Klal Yisrael* and the nations," he thereby declares a similarity between these two distinctions. Clearly, light and darkness are not differences in degree, but in kind. Likewise, *Klal Yisrael* and the nations are different in kind, not in degree. We are literally not the same, not on the same page, with no point of contact between the two. This is neither an expression of elitism, nor an implication that we are better, but rather, that we are different. Our approach to all problems is that of Torah – and Torah alone (How does the Torah view this problem?), while the approach of the nations rests on a completely different foundation.

The basic distinction is to be observed in the blessings pertaining to *chochmah*, wisdom. Upon seeing a non-Jewish *chacham*, scholar, wise man, *halachah* dictates that we recite: "Who has given of His wisdom to flesh and blood," while upon seeing a Torah scholar, one blesses, "Who has apportioned of His wisdom to those who fear Him." The *Taz* (*Orach Chaim* 224:6) observes two distinctions to be gleaned herein. The wisdom of the Torah is never totally disassociated from Hashem. He apportions it to Torah scholars. Furthermore, *chochmah* and *chachamim*, wisdom and scholars, are defined by *yireiav*, those who fear Him, as opposed to ordinary flesh and blood. One who is G-d fearing and studies Torah receives an element of Hashem's wisdom. He is guided by the Almighty. This is his uniqueness.

The *Bartenura* explains that the ethics and morals taught in *Pirkei Avos* are not the product of human intellectual endeavor which the sages of the Talmud originated; rather, they are all principles of ethics transmitted to us from *Har Sinai*. With this in mind, we understand that the ethics and morals presented in *Pirkei Avos* are not examples of proper etiquette, but rather, the word of Hashem. We are not learning what is socially acceptable, proper and moral. We are learning what Hashem deems correct and what is the Torah's perspective on ethics and morals. The barometer is not societal norms, but Hashem's transmission to us concerning what is ultimately appropriate and what is not. Hashem is the barometer, not man.

כל אלמנה ויתום לא תענון

You shall not cause pain to any widow or orphan. (22:21)

It is understandable that one should not afflict the widow and orphan. Why would anyone who has a modicum of human decency have to be commanded not to take advantage of the weak and defenseless? Apparently, when a profit can be made, or one can assuage his ego by dominating over others, human decency has little meaning – and even less influence.

Horav Yechiel Meir, zl, m'Gustinin was asked why the Torah emphasizes that one many not afflict a widow and an orphan, as if one is permitted to do so to an ordinary Jew who is not a victim of tragedy. The Torah writes, "When he cries out, I will surely listen to his cry." Does this mean that Hashem does not answer the cry of an ordinary Jew? Certainly, Hashem listens to everyone. What distinguishes the widow and orphan from other Jews who are victims of travail? The *Rebbe* replied: "When an ordinary Jew cries out to Hashem, if he is justified in his grievance, Hashem listens. If his complaint requires serious validation, Hashem does not listen. If a widow or orphan cries out to Hashem, He listens, regardless of justification or not. He listens to them all the time." Thus, the Torah warns us to beware of their cries.

Horav Shlomo Zalman Auerbach, zl, was a *talmid chacham*, Torah scholar, who became the *posek ha'dor*, generation's *halachic* arbitrator. He was a unique blend of brilliance coupled with extreme humility. His love for all Jews was legend. His sensitivity towards the weak and defenseless was extraordinary, as evinced by the following story.

Early one morning, an *avreich*, young man living in the Har Nof section of Yerushalayim, called an ambulance for his wife. She was about to give birth, and it was best that they reach the hospital as soon as possible. Suddenly, as they were preparing to leave for the hospital, the young man's heart gave out. The medics worked on him, to no avail. Tragically, he died before his wife gave birth to their son. The tragedy was great, the grief overwhelming, but, as believing Jews, we know that we have a Heavenly Father Who decides everything that occurs in this world, Thus, with profound faith and trust, we carry on. This young mother was heartbroken, her life was presently shattered, but she was well aware that several *halachic* questions had to be clarified, one of which was: Could she give her newborn son his father's name? Her late husband had died at a young age, which was reason to refrain from naming her son after him. She asked someone to approach *Rav* Shlomo Zalman with the *sheilah*, *halachic* query.

After hearing the question, *Rav* Shlomo Zalman's immediate response was, "I would like to visit the mother." He wanted to hear from her in person, so that he could hear her story first-hand and rule accordingly.

Rav Shlomo Zalman did not visit women in the hospital. This time, he digressed from his usual practice and went to the hospital. He sat with the young widow and comforted her in her bereavement. He instructed her to name her son after the infant's father: "This boy will not have a father. I want you to know that I accept upon myself to be his father! Furthermore, I will be a father to your other children, and I will take care of them and of you, too, just like a real father!"

Rav Shlomo Zalman kept his word. Despite having no prior acquaintance whatsoever with the family, he filled the role of a concerned parent to each and every child, involving himself in both their spiritual and material wellbeing. He assisted the widowed mother in marrying off all of her children, and he later helped her to find a spouse as well.

We can glean one powerful lesson from this story. *Chesed* means more than writing a check or even making a phone call. It means making an attempt to fill the needs of the beneficiary. A widowed mother needs reassurance that someone has her back and will be present for her. An orphan requires a parent to fill his void. Obviously, the benefactor cannot be the parent, but he can fill the void. For some, giving a check is a way of saying, "Here, take this, help the family, but please do not bother me." For others, it is a way of assuaging their guilt. While no one is ignoring the check, true *chesed* means filling the beneficiaries' needs.

A well-known incident occurred concerning the *Chafetz Chaim* which, due to its compelling lesson, deserves repeating. A wealthy philanthropist came to Radin to obtain a *brachah*, blessing, from the saintly *Chafetz Chaim*. The man entered the room and was shocked at the *Chafetz Chaim's* cold response to him. Instead of garnering the respect he was used to receiving wherever he went, he was the recipient of an icy stare from the *Chafetz Chaim*. This could have traumatized anyone. Being a decent person and not overly arrogant, he begged to speak with the *Chafetz Chaim*. He was beside himself over the *Chafetz Chaim's* puzzling welcome. He finally confronted the holy *Chafetz Chaim* and asked, "*Rebbe*, what did I do to deserve his honor's cold stare?" The *Chafetz Chaim* looked him directly in the eyes and said, "It is all your fault!" Now the man was even more perplexed. "*Rebbe*, what is my fault?" he asked. "More than three million of our brothers and sisters are suffering pain and oppression – both physical and religious – under the harsh yoke of Communism. Everything that they are experiencing is your fault!"

"Many years ago," the *Chafetz Chaim* continued, "you administrated a school which had a student by the name of Leibel Bronstein who challenged his *rebbe* and the entire system. He was an orphan who had lost his father. He lived with his widowed mother who struggled to put bread on the table. Disciplining her Leibele would have to wait. The pressure on Leibel was too much for a young boy to bear, so he acted out and caused trouble. He wanted to 'share' his deprived childhood with everyone.

"In the end, you lost patience and had Leibel removed from the school. [He felt that he had a responsibility to the other children, which he did, but…] As a result, Leibel attended a secular school where he flourished. He reneged his religious heritage and became a secular leader, indeed, one of the founders of Communism. He became the supreme commander of the Red Army. Yes, Leibel became Leon and Bronstein became Trotsky. Leon Trotsky, who is responsible for so much Jewish suffering, was the boy whom you ejected years ago! Now, I ask you, who is responsible for all this pain, if not you?"

I will not bother to state the ramifications of this incident and how they affect us in a practical manner in our own educational institutions, particularly the frequent double-standard we manifest toward children who do not live up to our expectations. At the end of the day, it is all the home – the parents. They are the first line of defense, the first responders and, also, the first despoilers, either actively or passively, perhaps by default, by not noticing a problem and acting to ameliorate it.

Zero Mostel was a famous American actor and comedian. His real name was Shmuel Yoel Mostel. He was born in Brooklyn and grew up, together with his seven siblings, in a very observant home on the Lower East side. Ultimately, he repudiated his heritage and left Jewish observance. He called himself "Zero" Mostel, a truly strange name for such a successful entertainer. He explained that his father had constantly told him, "You are a zero! You will always be a zero!" Sadly, he proved his father right. He became a "zero" – leaving nothing for Jewish observance. How careful we must be to accentuate the positive and never focus on the negative.

וגר לא תונה ולא תלחצנו כי גרים הייתם בארץ מצרים

You shall not taunt or oppress a stranger, for you were strangers in the land of Egypt. (22:20)

The Torah shows its concern for the proper treatment of the weak, helpless, abandoned and the stranger/convert, who feel alone, estranged, although they should be welcomed and embraced. It is sad that there exist among us the few who lord over others due to their own insecurities. These people consider themselves better, privileged, powerful when, in fact, they are the ones who are weak and pathetic. The prohibition against any mistreatment of a *ger*, convert, is prefaced with a serious reminder to look back to our own history, when we were strangers in the land of Egypt. A newcomer to a religion is a standout, feeling ill at ease and inadequate. He/she feels different. We must embrace the *ger*, including him/her into our own lives, our religious and social milieu.

Horav Yeruchem Levovitz, zl, suggests a deeper message implied herein. As the Torah admonishes us concerning *mitzvos bein adam l'chaveiro*, commandments that address our relationships between man and his fellowman, it is vital that we learn about and appreciate who our fellowman is. Without an appropriate, intelligent assessment of our fellow's essential character, nature, principles and values – plus his challenges, background and achievements – we will fail to treat him with the necessary respect the Torah demands of us. In other words, we should not bunch everyone together into a "one size fits all" category. Some people require greater attention, more empathy and compassion than do others. In order to treat our fellow Jew properly, it is critical that we intuit our fellow, realize who he is, digest his personality and needs and be cognitive of what he has experienced and endured to reach his present station in life.

The *Mashgiach* compares this to a medical student who must first study pathology, initially becoming proficient in recognizing and understanding the workings of every organ of the human body, before going on to study illnesses and their therapeutic cares and cures. One can hardly become a physician without first having studied the human body. Likewise, one must study his fellow before he can assess how to treat him.

Rav Yeruchem extends this analysis to *mitzvos bein adam laMakom*, commandments that deal specifically with our relationship with Hashem. It is incumbent upon us to ponder, identify, and delve into the *darkei Hashem*, ways of the Almighty, in order to serve Him properly and carry out His *mitzvos* to their fullest and most optimum level. We support this notion from a brief reading of *Bircas HaTorah* where we ask Hashem, "May we and our offspring and the offspring of Your people, *Bais Yisrael*, all of us, know Your Name and study Your Torah for its own sake." *Yodei Shemacha*; "know Your Name," precedes *v'lomdei Torasecha lishmah*; "and study Your Torah for its sake." Should it not be the other way around – with *limud*, study of Torah, taking precedence to knowing Hashem? Apparently, in order to perform the mitzvah of *limud haTorah* properly, one must "know" Hashem, recognize and appreciate His greatness and glorify His Name. Only then, when we recognize the distinction of its Divine Author, can we begin to appreciate the depth of His Torah.

Perhaps we may derive from this thesis that one who does know Hashem, or, alternatively, once was observant and knew the Almighty, a *shanah u'pireish* – was learned as well as observant, but now is no longer interested in maintaining his relationship with Hashem, knows deep within his psyche that he is wrong. He knows Hashem, but no longer wants to study or observe. Such a person commits transgressions, overtly desecrating the Torah; yet, he is aware that he is wrong. He continues to sin, but the *geshmak*, pleasant satisfaction that would normally accompany his outrageous behavior, is missing. He knows Hashem, thus "depriving" him of the enjoyment associated with transgression, which one who never knew or learned would have. The *shanah u'pireish* is like a rebellious child who, if he possesses any emotion, feels bad that he is turning against his parents who have raised him.

This attitude was quite evident during the sin of the Golden Calf when, according to *Targum Yonasan ben Uziel*, the sinners "cried with joy" before the calf. Joy and crying are not consistent with one another. They are not synonymous with one another. Tears are usually the emotional expression of one who is sad. (Tears of joy are different.) These people knew they were acting inappropriately, but they could not control their passions. On the one hand, they were prepared to renege their relationship with Hashem, but the happiness they expressed was superficial. Inside, they were crying because they knew Hashem, and they knew that they were wrong.

ויקם משה ויהושע משרתו ויעל משה אל הר אלקים

Moshe stood up with Yehoshua, his student, and Moshe ascended to the Mountain of G-d. (24:13)

Yehoshua was neither commanded to accompany Moshe *Rabbeinu*, nor did he have any function at the mountain. Nonetheless, as the loyal student and servant, he accompanied his *Rebbe* and waited for him at the foot of the mountain for forty days until he returned. The question is obvious: What did Yehoshua achieve by waiting at the bottom of the mountain? If he thought he would miss something, he could have set his "alarm clock" for forty days later (in the morning) and run up to the mountain and wait for Moshe. Why did he camp out at the mountain for forty days, despite knowing full well that Moshe would not descend until the appointed time? What was to be gained from waiting?

Perhaps Yehoshua wanted nothing to come between his holy *Rebbe's* leaving and returning. The relationship that he had with Moshe was one of *lo yamush mitoch ha'ohel*; "he never left the tent." Yehoshua's essence never left Moshe's tent. He was bound, body and soul, to his *Rebbe*. What took place when his *Rebbe* left him, when his *Rebbe* left the tent? How was Yehoshua to maintain his unimpaired relationship to Moshe? He did this by remaining with Moshe until the very last possible moment and then remaining at that same place, unmoving, not returning to the communal camp, so that his mind remained attached to his *Rebbe* without pause or interruption until Moshe returned. This is what is meant by not leaving the tent. His body, as well as his mind, was totally connected to the tent.

Va'ani Tefillah

שים שלום– *Sim Shalom*. Establish Peace.

It is noteworthy that the *gematria*, numerical equivalent, of both Eisav and *shalom*, peace, is 376. Simply, we might suggest that Eisav came to wage war against Yaakov *Avinu*. Yaakov circumvented this war by making peace with his evil brother. Yaakov employed *shalom* to neutralize Eisav's desire to go to war. Perhaps we may propose an alternative approach. Eisav does not necessarily strive to destroy us by employing weapons and armor to attack and destroy. There is another, quite possibly more effective method, which sadly guarantees greater long-term destruction: the approach of peace. *Hatzileini na mi'yad achi, m'yad Eisav*: "Save me from my brother, from Eisav" (*Bereishis* 32:12). At times, Eisav comes against us as Eisav, the evil brother bent on destruction. At other times, however, Eisav embraces us as the brother who loves us. When Eisav's approach is one of *shalom*, peaceful affiliation, brotherhood, love and all the wonderful promises that spur assimilation, he destroys us spiritually, seeing to it that future generations will no longer know that they are Jews. *Shalom* – 376, with Eisav – 376 is dangerous. Diplomatic, human decency, normal etiquette are important; brotherly love and acting as "family" is frightening. *Shalom* is special, but we must take great care with whom we choose to make *shalom*.

לעילוי נשמת האשה החשובה
מרת ליבא ברוין בת ר' צבי לאקס ע"ה כ"ח שבת תשס"ב ת.נ.צ.ב.ה .
Perl and Harry M. Brown

prepared and edited by Rabbi L. Scheinbaum

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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.

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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PARSHA INSIGHTS

by Rabbi Yaakov Asher Sinclair

Handle With Care

"If a person steals an ox..." (21:37)

People are sensitive. I know... I'm one of them. Having been educated in the Empire-Building English Public (i.e. Private) School system, where "big boys don't cry," I can tell you that however stiff your upper lip may be, inside we are all softies.

In this week's weekly Torah portion, the Torah tells us that a thief who slaughters or sells a stolen ox has to pay five times the value to its owner. However, if he does the same with a sheep, he only has to pay four times, because he has already paid part of his penalty with the embarrassment and humiliation he felt during the theft by carrying the sheep across his shoulders. One would not place sheep-stealers among mankind's most sensitive beings, yet the Torah evaluates a sheep-stealer's embarrassment as calculable in hard cash.

The Talmud (Yevamot 44b) permits or even mandates birth control in the case of a widow who is breast-feeding her deceased husband's child and then re-marries. We are concerned that should she become pregnant and her milk sour, the current husband might be unwilling to pay for milk and eggs to feed the baby. Then she will have to go to Beit Din to claim child support from the beneficiaries of the dead husband. She may be too embarrassed to do this, and there is danger that the baby may not receive adequate nutrition and die.

Is there any greater love than a mother for her baby? And yet we are still concerned that embarrassment and humiliation may vie with motherly love.

It is certainly much easier to be sensitive to ourselves than to others. But at some level, even those who seem the least sensitive feel embarrassment and hurt. Everyone deserves to be "handled with care."

- *Sources: Rashi, Chidushei HaLev*

TALMUD TIPS

by Rabbi Moshe Newman

Mishpatim: *Pesachim 86-92*

A Good Guest

Rav Huna, the son of Rav Natan, said: "Everything that the host requests that you do – do – unless he says 'Go out'."

The *gemara* relates a time when the Sage Rav Huna went to the home of Rav Nachman bar Yitzchak and his family. While there, they asked him to do a variety of acts, and he complied. For example, they asked for his name and they asked him to sit down to eat. He answered their first question by saying that his name was "Rav Huna." When they asked him why he included the title "Rav" as part of his name, he explained that others had called him "Rav Huna" since his early childhood. (Apparently he was a Torah scholar from youth.)

When they asked him to sit for the meal, he sat on the bed and reclines, as per the way of important people in those days. However, the hosts did not have this custom to recline on a bed for eating, but would rather sit on simple benches (Rashi). Since reclining on the bed was strange to them, they asked him why he reclined on the bed to eat. He explained that our Sages have taught, "*All that the host requests you (the guest) to do – do – unless he says 'Go out'.*" (Since they told him to sit to eat, he obeyed, doing so in the normal way for him, which was to recline on a bed.)

The general rule that Rav Huna cited, of when to listen to the host and when not to. Is a teaching found in a collection of Torah teachings regarding proper interpersonal conduct and etiquette. However, while the first part of the statement — to obey the instructions of the host — seems reasonable, the end of the sentence seems quite difficult to understand. Do what the host tells you "*except if he tells you to go out*." How can that be so? It is the domain of the host and he should be able to decide who may stay there and who may not!

A number of great Torah commentaries address this question. Some lead to halachic implications and others interpret it in as a message of spiritual guidance of great importance. (And at least one commentary — Rabbi Menachem HaMeiri — says that the correct text should not state the last two words we have in our text — *chutz m'tzei* — which eliminates our question and hence the need to provide an answer).

One reason why we would be taught to do all that the host says except to obey to "leave" is the concept in *Shas* "to not change one's lodging." This concept is seen as having a basis in the Torah, from verses describing Avraham Avinu's loyalty to his hosts while traveling. Elsewhere, the *gemara* says that "A guest who changes one inn for another causes a blemish to the innkeeper, and he himself is also blemished." (*Erchin 16b*) Rashi explains that when people see a customer leave one temporary lodging to go to another, they will think badly about the host and the guest: "Oh, these people just cannot get along. There must be something wrong with one or the other — or both of them!"

Based on this concept, the Aruch Hashulchan explains the statement in our *gemara* that if the host says to leave, one does not need to obey. Why not? By doing so, he might be damaging both the reputation of the host and his own good name. Instead, he should try explaining these consequences to the host — unless he feels that the

host is certainly not receptive to this conversation or will cause him bodily harm. Ideally, they should both try to understand why the host told him to leave, and hopefully they will be able to work it out. But even if they still cannot resolve the issue, the guest has the right to insist on staying if he would like. He may say to the host, "You have the right to not care about the tarnish to your own reputation that will occur if I leave, but I am not willing to suffer a blemish to my good name." Of course, the guest can always choose the option of leaving, if he so wishes. It is important to note that in any real-life situation a person should contact his Rav to ask for the correct behavior according to halacha. (*Aruch Hashulchan Orach Chaim 270)*

Another answer is that "go out" refers to going out of the dwelling to the market or to do errands for the host. The guest should obey the host when he is told to do something *inside* the home, but need not cause himself to appear undignified in public by doing the bidding of his host. In Hebrew, the host is called "master of the house," but he is not the master of the public domain. (*See the Magen Avraham and the Vilna Gaon to Shuchan Aruch Orach Chaim 270.*)

Some explain the writings of the Maharsha in a similar manner — that the guest does not need to show special honor and obedience in matters to be done outside of the house. However, it is also possible to understand the Maharsha in a different manner, with a twist: Once the host has told him to leave, he is no longer considered "his host," and is no longer deserving of any special obedience from the guest whom he told to leave. For example, if the host asked the guest to leave in a hurry and close the door behind him, the guest may take his time packing and may leave without shutting the door.

A novel *agggadic* interpretation is offered for this statement, leading to a metaphorical message. The "host" alludes to Hashem, while the guest is potentially any one of us. The *gemara* in Masechet Chagiga teaches that Elisha ben Avuya (aka "*Acher*"), the Rabbi of Rabbi Meir, went "off the *derech*" (the causes are mentioned in the commentaries there). Rabbi Meir implored him to do *teshuva*, but without success. One day, *Acher* heard a Heavenly voice call out, "Do *teshuva*, wayward children, *except for Acher*." When he heard that he was not included in the call to repent, he despaired and completely gave up hope. But he was mistaken. It is always possible to do *teshuva*, and Hashem, in His great mercy, will accept the return of any wayward child.

This is the message in our *sugya*: "All that the Host (Hashem) says to anyone to do — do — *except for leaving*." No matter what a person experiences, no matter what negative signs one sees, no matter how lost and hopeless a person feels due to his many transgressions — he is always warmly welcomed by Hashem if he does *teshuva.*

My revered teacher, HaRav Moshe Shapiro, *zatzal*, taught me that the Heavenly voice was *not* saying that anyone's *teshuvah* would be *accepted*, except for *Acher's*, which would not be accepted. Rather, it was *a call to everyone but Acher to do teshuva.* And, *Acher* knew that he did not possess the "strength of soul" to do *teshuva* without knowing that Hashem was *also calling him to do teshuva*. But he certainly had the free-will to do *teshuva*, despite the Heavenly proclamation, and his *teshuva* would have certainly been accepted — like anyone else's.

- ***Pesachim 86b***

Q & A

MISHPATIM

Questions

1. In what context is a *mezuza* mentioned in this week's parsha?
2. What special mitzvah does the Torah give to the master of a Hebrew maidservant?
3. What is the penalty for wounding one's father or mother?
4. A intentionally hits B. As a result, B is close to death. Besides any monetary payments, what happens to A?
5. What is the penalty for someone who tries to murder a particular person, but accidentally kills another person instead? Give two opinions.
6. A slave goes free if his master knocks out one of the slave's teeth. What teeth do not qualify for this rule and why?
7. An ox gores another ox. What is the maximum the owner of the damaging ox must pay, provided his animal had gored no more than twice previously?
8. From where in this week's parsha can the importance of work be demonstrated?
9. What is meant by the words "If the sun shone on him"?
10. A person is given an object for safe-keeping. Later, he swears it was stolen. Witnesses come and say that in fact he is the one who stole it. How much must he pay?
11. A person borrows his employee's car. The car is struck by lightning. How much must he pay?
12. Why is lending money at interest called "biting"?
13. Non-kosher meat, "*treifa*," is preferentially fed to dogs. Why?
14. Which verse forbids listening to slander?
15. What constitutes a majority-ruling in a capital case?
16. How is Shavuot referred to in this week's parsha?
17. How many prohibitions are transgressed when cooking meat and milk together?
18. What was written in the *Sefer Habrit* which Moshe wrote prior to the giving of the Torah?
19. What was the *livnat hasapir* a reminder of?
20. Who was Efrat? Who was her husband? Who was her son?

All references are to the verses and Rashi's commentary, unless otherwise stated.

Answers

1. 21:6 - If a Hebrew slave desires to remain enslaved, his owner brings him "to the doorpost *mezuza*" to pierce his ear.
2. 21:8,9 - To marry her.
3. 21:15 - Death by strangulation.
4. 21:19 - He is put in jail until B recovers or dies.
5. 21:23 -
   (a) The murderer deserves the death penalty.
   (b) The murderer is exempt from death but must compensate the heirs of his victim.
6. 21:26 - Baby teeth, which grow back.
7. 21:35 - The full value of his own animal.
8. 21:37 - From the "five-times" penalty for stealing an ox and slaughtering it. This fine is seen as punishment for preventing the owner from plowing with his ox.
9. 22:2 - If it's as clear as the sun that the thief has no intent to kill.
10. 22:8 - Double value of the object.
11. 22:14 – Nothing
12. 22:24 - Interest is like a snake bite. Just as the poison is not noticed at first but soon overwhelms the person, so too interest is barely noticeable until it accumulates to an overwhelming sum.
13. 22:30 - As "reward" for their silence during the plague of the first-born.
14. 23:1 - Targum Onkelos translates "Don't bear a false report" as "Don't receive a false report".
15. 23:2 - A simple majority is needed for an acquittal. A majority of two is needed for a ruling of guilty.
16. 23:16 - *Chag Hakatzir* – Festival of Reaping.
17. 23:19 - One.
18. 24:4,7 - The Torah, starting from Bereishet until the giving of the Torah, and the *mitzvot* given at Mara.
19. 24:10 - That the Jews in Egypt were forced to toil by making bricks.
20. 24:14 - Miriam, wife of Calev, mother of Chur.

COUNTING OUR BLESSINGS

by Rabbi Reuven Lauffer

INFINITE POTENTIAL (PART 1)

These are the precepts that have no proscribed measure to them: the corner of the field; the first fruit offerings; making a pilgrimage to the Holy Temple; acts of kindness; and Torah study (Tractate Peah 1:1)

Ostensibly, the reason why the first Mishna in Tractate Peah was chosen to represent the Oral Torah within the Torah blessings is because it contains a reference to Torah study. However, as with so many different facets in Judaism, under the surface is a profound message, one that touches on every aspect of our relationship with G-d.

At face value, our Mishna is somewhat perplexing. The legalistic aspect of Judaism is very exact and didactic, and the laws are normally defined absolutely. For example, without going into the details, the first Mishna in the first Tractate of the Talmud discusses the correct time to recite the *Shema* at night. The various options suggested there are meticulously precise — as are most of our religious obligations. And, yet, our Mishna lists five requirements that have *no defined quantity* according to Torah law. This means that according to the Torah, all obligations mentioned can be fulfilled in the most minimalistic way possible, or in their maximal way, according to the whim of the person performing them. And, apparently, the outcome is always the same: the obligation has been fulfilled equally in each manner. The entire structure of the Mishna seems to be counterintuitive. It is paradoxical that the Mishna is distinctive, not because of an abundance of guidelines and directives, but because there are no indicators as to what exactly our obligations are.

Maimonides explains that the Torah is teaching us a startlingly innovative concept. It is true that a person can fulfill their obligations by doing the barest minimum. But, the more they do, the more praiseworthy they are, and the greater is their spiritual reward. What an astonishing and thought-provoking idea: to push beyond what is "enough," to *want* to aspire to more and more. We should not be satisfied with the "bare-bones" fulfillment of our obligations, but, rather, we should strive to overcome our feelings of having done "our bit." We should embrace the concept of adding extra layers — with the additional time and effort that that entails — to bring us to a loftier and more sublime understanding of serving G-d.

G-d is holding out His Hand and making us an offer that we should not refuse — the opportunity to receive far more reward than we would have if we had just followed the letter of the law. It is like the story of the mother of a needy family who gave some money to her seven-year-old son to buy some groceries. Before leaving the shop, the boy was looking at the candied nuts, wishing he had money to buy some. The shopkeeper told him, "Take a handful. You can have it for free." The boy didn't budge. The shopkeeper urged him again, "Take a handful for yourself." But the boy did not respond. Finally, the merchant himself took a handful of candied nuts, poured them into a bag and gave the bag to the child. When the boy came home, he told his mother what had happened. She asked, "Why didn't you take the nuts immediately when he offered them to you?" And he replied, "I have small hands. How much can I take? But the shopkeeper has large hands. I was waiting for him to give me his own handful, which is so much more!"

To be continued...

Insights based on the writings of Rav S.R. Hirsch by Rabbi Yosef Hershman

Notes to the Oral Law

Suppose you were reading a text which began:

> An RNA-based sequencing approach has been applied to characterize the genome of SARS-CoV-2, which is 29,881 bp in length, encoding 9860 amino acids.

It would be clear to you that this is intended for someone with some background of the subject. It presupposes knowledge of what RNA is, what sequencing is, what a genome is, what amino acids are, and some familiarity with nomenclature. It would not be the first paragraph in a molecular biology textbook. You might find it in someone's notes after reading a chapter in such textbook.

This is how Rav Hirsch explains the presentation of civil and criminal law in the Torah, or, more specifically, *how* the presentation is ordered so as to demonstrate the authenticity of the Oral Law.

This is to be the civil and criminal code of a nation. It is to set forth the principles and laws of justice and humanity that are to regulate human relationships. It is, perhaps, expected that the first section should address personal rights. But the choice of *which* rights are the ones first addressed is less expected: the laws applicable when a man sells another man, or when a man sells his daughter as a slave!

This beginning would be inconceivable were the Written Law actually the "book of law" — the primary source of law of the Jewish People. What a mass of laws and legal principles must have already been stated and established, considered and clarified, before the Torah could even turn to treat these exceptional cases — the cases that discuss *limitations* on the most sacred of human rights!

Clearly, the primary source of Jewish law is not the Written Word, but the living teachings of the Oral Tradition. The "Book" serves only as an aid to memory and a resource when doubts arise. The entirety of Torah was taught to the people in a system of oral transmission by Moshe over the course of their sojourn in the wilderness. It was given over in writing shortly before his death. Here we see exceptional cases recorded, because it is from them that the principles of ordinary life can be derived most clearly.

The Written Book does not set forth organized general principles, but instead records individual concrete cases. From those cases, the general principles are deduced. Moreover, the wording of the Written Book is so precise that in many instances an unusual word, a change in sentence structure, an extra or missing letter, and other nuances can imply a whole train of legal concepts.

The Written Law was intended not as a primary resource to those unfamiliar with the law, but as an aid to those already well-versed in the law. This can be compared to the written notes taken on a scientific lecture and the lecture itself. When consulting notes, a particular word, punctuation mark, highlighting or underline is sufficient to bring to mind a whole series of ideas heard in the lecture. The Written Law is used in these ways in the Talmud to support or refute interpretations passed down through the Oral Tradition in cases of doubt, uncertainty or controversy. He who did not attend the lecture will not understand these nuances and clues. If he attempts to use those notes to construct (as opposed to *re-construct*) the lecture he did not attend, he will dismiss what seems unclear. So too, to the unlearned in the Oral Law, the Written Law remains incomprehensible.

- *Sources: Commentary, Shemot 22:2*

WHAT'S IN A WORD?

Synonyms in the Hebrew Language

by Rabbi Reuven Chaim Klein

Mishpatim: Feeding the Lie

The Torah famously commands: "From a false (*sheker*) matter, you shall distance [yourself]" (Ex. 23:7). In this case, the word for falsity is *sheker*. Yet, elsewhere the Bible attests to the fact that "the remnant of Israel do no iniquity and speak no falsity (*kazav*)..." (Tzephania 3:13), using the word *kazav* to denote falsehood. A third word for "lies" is *kachash*, as we confess in the Yom Kippur liturgy, "on the sin that we have sinned before You through *kachash* and *kazav*." In this essay we will explore the three words for "falsehoods" in the Hebrew Language: *sheker, kazav* and *kachash*. In doing so we will demonstrate how even though the three terms in question seem synonymous, there are nonetheless slight differences in meaning between them.

Rabbi Yosef Albo (1380-1444) in *Sefer Ha'Ikkarim* (2:27) explains that the word *emet* ("truth") serves as the antonym to both *sheker* and *kazav*. The way he explains it, truth is defined as a statement that reflects not only the consonance between the statement itself and reality, but also the consonance between what a person verbally expresses and what he thinks in his heart. Thus, *sheker* and *kazav* denote dissonance in one of those two equations: *Sheker* refers to when one's statement and the reality that his statement speaks about are in disagreement, while *kazav* refers to a statement in which there is dissonance between what one says verbally and what one holds true in his heart.

Rabbi Yehuda Leib Edel (1760-1828) takes issue with Rabbi Albo's assumption that even a statement that truly reflects one's inner thoughts can be called *sheker* if it does not reflect an outside reality. He asks: According to this definition of *sheker*, how can the Torah forbid a person from testifying *sheker* or taking an oath of *sheker* (Lev. 19:11-12)? If a person cannot truly know what the outside reality really is, he can only present things as he perceives it! According to Rabbi Albo, if a person would unknowingly swear something that is objectively false, this should be considered "lying" and the swearer should be in violation of the commandment against "lying" — yet the Talmud (*Shavuot* 26a) exempts a person from punishment if he swore falsely while thinking that what he said is true. To Rabbi Edel, this suggests that the definition of *sheker* cannot just be something that is objectively untrue. Rather, it must also have an element of advertent deceit in purposely panhandling falsehood.

Indeed, Rabbi Yaakov Tzvi Mecklenburg (1785-1865) differentiates between *sheker* and *kazav* by writing that *kazav* denotes lying by mistake, while *sheker* implies purposefully or deceptively saying something untrue. He infers from the fact that when the Torah prohibits lying, it says *lo tishakru* (Lev. 19:11) — as opposed to *lo tichazvu* — that the prohibition entails only *deliberately* lying, not *mistakenly* lying.

We may defend Rabbi Albo's position by explaining that even though the general definition of *sheker* applies to any sort of objective untruth (whether said inadvertently or wantonly), the Talmud means that a Scriptural imperative (derived from Lev. 5:4) unrelated to that definition limits the prohibition of testifying or swearing falsely to one who *knowingly* perjures.

Rabbi Shimshon Raphael Hirsch (to Gen. 9:21, 21:23 and 43:11) invokes the interchangeability of KUF and KAF to compare the word *sheker* to the word *shikur* ("drunkard"). He explains the connection by noting that just as a drunken person's imagination dreams up all sorts of ideas that are actually outside the realm of reality, so too does *sheker* represent that which lies outside the realm of the true or real.

The Vilna Gaon (to Prov. 12:25) takes another approach to differentiating between *sheker* and *kazav*. He writes that when one utters *sheker*, it was a lie the entire time; but when one utters *kazav*, his statement became a lie only later on. For example, if one says that he will do something that he never planned to do, he has uttered a *sheker*. On the other hand, if one says that he will do something, and at that very moment he genuinely planned to do so but only later decided not to keep his word, this is called *kazav*. (See, Rabbeinu Yosef Bechor-Schor, to Numbers 23:19, who also explains the verb *kozev* as referring to a person who does not keep his word.)

Based on this sort of distinction, Rabbi Yehuda Leib Shapira-Frankfurter (1743-1826) writes that the Torah never prohibited saying a *kazav* like it prohibited saying *sheker* (Lev. 19:11), because there is no such thing as "saying *kazav*." This is because in a case of *kazav,* at the moment that a person says he will do something, he has not yet "said *kazav,*" because the possibility remains that he will end up doing what he said he would do. It is only later on, when he never ends up keeping his word, that retroactively what he originally said becomes *kazav*.

The Malbim in *Yair Ohr* writes that while *sheker* has no validity or truth to it, *kazav* has some reality to it, such that at first it seems to be true and is only later fully exposed as a lie. In *Sefer HaCarmel*, the Malbim adds that the same utterance can sometimes be described as both *sheker* and *kazav*. For example, if somebody purposely makes a truth-claim or statement that will later be proven to be false, from the perspective of the speaker that statement is *sheker* because at the time he said it, he knew it to be false. However, from the perspective of the listener, that same statement can be described as *kazav* because when he first hears it, he cannot yet disprove its validity. Hence, when somebody brands fake news as *sheker v'chazav*, this means that it is both *sheker* from the speaker's point of view and *kavaz* from the listener's point of view.

In a variation on this theme, Rabbi Hirsch (to Ex. 7:11, 21:17) argues that the root KAF-ZAYIN-BET (from which *kazav* derives) is related to the root KAF-SHIN-PEH (because ZAYIN is phonetically similar to SHIN, and BET to PEH), which means "witchcraft." He explains that like witchcraft, *kazav* only appears to be real on the surface, but in the end reveals itself as wholly untrue. Interestingly, the prophet Yechezkel repeatedly uses the term *kazav* in reference to witchery (see Yechezkel 13:6, 13:7, 13:9, 21:34, 22:28).

How does the word *kachash* fit into this discussion? The word *kachash* is commonly translated as "denial," and the self-same verse in the Torah that prohibits lying also prohibits *kachash* (Lev. 19:11).

The Malbim in *Sefer HaCarmel* explains that *kachash* differs from *sheker* in that when a *sheker*-type lie is first spoken, nobody immediately disputes it, while *kachash* is a false statement that is already disputed by one's interlocutor before it is even said. Rabbi Hirsch (to Lev. 5:21, 19:11, Deut. 9:7) similarly qualifies the meaning of *kachash* as a false reaction to another's claim. To illustrate this point, he contrasts the word *kachash* with *ka'as* ("anger") — presuming the interchangeability of CHET with AYIN, and SHIN with SAMECH. Rabbi Hirsch explains that *ka'as* refers to a real and justified reaction to someone else's misdeed, while *kachash* refers to an artificial reaction of denial to someone else's real and justified claim. When engaging in *kachash*, the opposing claimant pretends as though his interlocutor's assertions are totally unjustified and flatly denies them.

Rabbi Yonah Wilheimer (1830-1913) explains that *kazav* and *kachash* refer to two different types of "lies": *kazav* refers to saying about something that does not exist that it does exist ("fiction"), while *kachash* refers to saying about something that does exist, that it does not exist ("denial"). It would seem that, according to him, *sheker* is then an umbrella term that includes both of these types of lies.

Finally, Rabbi Shlomo Aharon Wertheimer (1866-1935) seems to explain that the three words in question reflect three different levels of falsehood. *Sheker* refers to a statement that everybody knows is false the moment it is uttered, *kachash* refers to a denial that has some plausibility but cannot be disproven outright, and *kazav* refers to any lie whose falsity can be discovered *only* later on.

- *For questions, comments, or to propose ideas for a future article, please contact the author at rcklein@ohr.edu*

PARSHA OVERVIEW

The Jewish People receive a series of laws concerning social justice. Topics include: Proper treatment of Jewish servants; a husband's obligations to his wife; penalties for hitting people and for cursing parents, judges, and leaders; financial responsibilities for damaging people or their property, either by oneself or by one's animate or inanimate property, or by pitfalls that one created; payments for theft; not returning an object that one accepted responsibility to guard; the right to self-defense of a person being robbed.

Other topics include: Prohibitions against seduction; witchcraft, bestiality and sacrifices to idols. The Torah warns us to treat the convert, widow and orphan with dignity, and to avoid lying. Usury is forbidden and the rights over collateral are limited. Payment of obligations to the Temple should not be delayed, and the Jewish People must be Holy, even concerning food. The Torah teaches the proper conduct for judges in court proceedings. The commandments of Shabbat and the Sabbatical year are outlined. Three times a year — for Pesach, Shavuot and Succot — we are to come to the Temple. The Torah concludes this listing of laws with a law of kashruth to not cook or mix milk and meat.

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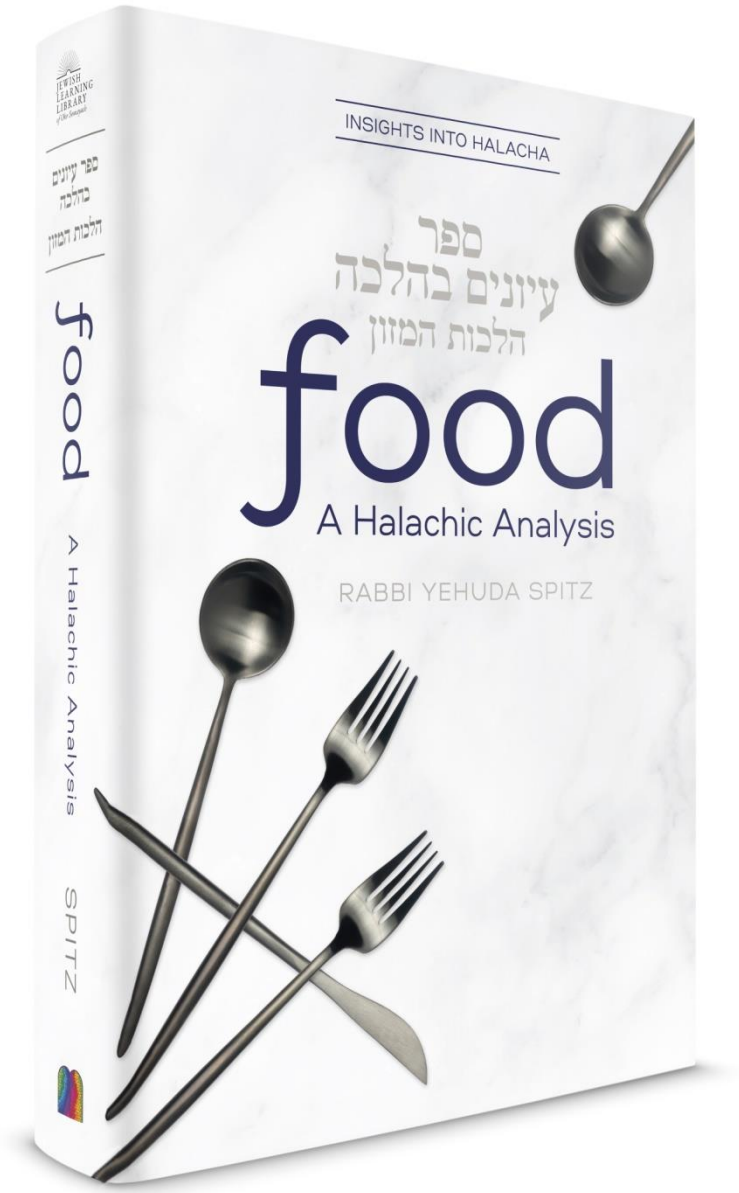

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