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Potomac Torah Study Center
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Shabbat Shekalim

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 more than 50 years ago and was our family Rebbe and close friend until his 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 archives.

After the dramatic Revelation that B'Nai Yisrael experience by Har Sinai, with thunder, lightening, and Hashem's booming voice, Mishpatim seems to be a boring, anticlimatic law school class. The parsha contains 53 mitzvot covering an extremely broad range of topics. Two years ago I summarized some of the points from many commentaries – specifically that Mishpatim contains each of the Aseret Dibrot but through concrete, specific examples implementing the Dibrot. For example, Mishpatim opens with obligations of a Jew who owns a slave, including an Eved Ivri (Jewish slave). The Torah next discusses the obligations of one who acquires a Jewish girl as a slave. The Torah establishes elaborate safeguards. The slave owner must treat her as a member of the family, and the Torah essentially guarantees the girl an opportunity to marry a Jewish man from a more affluent family. While the concept of Jewish slavery is shocking to us today, the Torah requires the owner of any Jewish slave to treat him or her as a member of the family, cease work for Shabbat and Yom Tov, and go free (with financial and marital protections) after six years.

In terms of crimes, intent is a key factor in penalties. The Torah requires harsh penalties for murder or physical injury with intent and much milder penalties for injury or death without intent. Punishment from a court requires a minimum of two first hand witnesses. Hashem promises to enforce punishment when a lack of witnesses prevents a human court from meeting the requirements for punishing a possibly guilty person.

Many of the specific mitzvot in Mishpatim derive from specific incidents involving the families of our Patriarchs through the families of Yaakov's children. For example, the Torah only calls one person an Eved Ivri – Yosef. The discussion of uncovering a pit and harming an ox also refers to Yosef, whom Yaakov on his deathbed describes as an ox. The brothers leave Yosef in a pit, and before they return, traveling merchants take him and sell him as a slave. When we read all the mitzvot regarding an ox or a pit, we are to reflect on the incidents of Yosef and his brothers.

Several of the specific laws involving injury or murder with or without intent quote from and repeat incidents from the interactions of Esav and Yaakov. (For example, Esav intends to kill Yaakov for many years but finally ends up forgiving his brother. The Torah discusses what Esav's punishment would have been if he had followed through with killing him.)

When the Torah warns not to taunt or oppress a stranger, the obvious reference is back to Sarah and Hagar. (Ha Ger is Hebrew for "the foreigner or stranger.") The Torah explains that we must not oppress a foreigner or stranger, because we were strangers in Egypt. Is the Torah hinting that our exile might not have been in Egypt if Sarah had treated Hagar better? The Torah warns that Hashem will enforce penalties against those who oppress foreigners, widows, orphans, and needy children (22:20-23).

Why do we obey Hashem's mitzvot? Rabbi Sacks distinguishes between na'aseh (we shall obey) and Nishma (we shall listen and understand). After discussing the views of many leading Rabbis, he concludes that there must be one halacha (Torah law) for na'aseh (Torah behavior) but the Torah does not require uniformity in terms of nishma (our understanding

of the reasons for specific mitzvot). Rabbi Marc Angel adds that our religion is for thinking people. We follow the mitzvot, but we also want to understand the reasons for the specific laws. Hashem told Moshe to set forth the mitzvot but also to teach them to the people so they would understand them. Blind faith is not sufficient for Jews – we also insist on understanding why we follow the mitzvot. (This interpretation allows for some chukim, some laws that we obey without needing to understand any more than that Hashem commands us to do so.)

Rabbi Ovadia discusses 23:14-19, the discussion of the Shalosh Regalim (three festivals). We celebrate Pesach and Sukkot on specific days, because they recall specific events, on designated dates in our history. Shavuot, however, may occur on any of three days in Sivan, depending on the calendar in a specific year. Shavuot is different from Pesach and Sukkot, because we have an opportunity to receive and observe the Aseret Dibrot (and all the mitzvot under the chapters of each commandment) every day.

Mishpatim is a very difficult parsha to summarize and introduce. My beloved Rebbe, Rabbi Leonard Cahan, z"l, probably said it best when he taught us that the first of the Aseret Dibrot is the key. Hashem is our God. All further discussion starts with that essential truth. May our children and grandchildren internalize this message.

Shabbat Shalom,

Hannah and 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 Yoram Ben Shoshana, Leib Dovid ben Etel, Asher Shlomo ben Ettie, Avraham ben Gavriela, Mordechai ben Chaya, Hershel Tzvi ben Chana, Uzi Yehuda ben Mirda Behla, David Moshe ben Raizel; Zvi ben Sara Chaya, Eliav Yerachmiel ben Sara Dina, Reuven ben Masha, Meir ben Sara, Oscar ben Simcha; Sharon bat Sarah, Noa Shachar bat Avigael, Kayla bat Ester, and Malka bat Simcha, who need our prayers. Please contact me for any additions or subtractions. Thank you.

Shabbat Shalom,

Hannah & Alan

Dvar Torah: Mishpatim: To Choose to Choose

By Rabbi Label Lam © 5760

There is nothing more dramatic in the entire universe than when, within a private moment, a person girds his loins (whatever that means) and makes a decision. There, I said it. I realize that it doesn't sound all that eventful. Allow me to explain, please.

We usually think of decisions with a small "d." Those types of decisions are between Coke or Pepsi, Chinese or Italian food etc. They can really be categorized as preferences since they exist on a horizontal plane and can easily be reckoned by the family pet as well.

A real decision with a capital "D," for example, is something I observed by a friend of mine who used to smoke three packs of cigarettes a day for almost two decades. I don't know when he had time for anything else. It sounds like a full time job. One day, for some mystical reason, he decided to quit, and that was that. Since then he never touched a

cigarette. That's dramatic!

Accompanying a sincere decision is a mini-power pack that gives the person the ability to withstand all the future consequences of that decision. The next day and forever more he'll have to find something new to do with his hands. He'll need some nifty social response when an old crony offers him one from his pack. He will need an awesome commitment to his principles and a superhuman energy to survive "the slings and arrows of outrageous fortune."

When I began to understand the power of this single act of heroism, I started to appreciate why we make such a big deal about weddings. I always wondered why everyone is so willing to cross the ocean or the George Washington Bridge. Why was so much money and man hours being spent on such a brief celebration – for harps, flowers, booze and some 400 chickens that have to give their lives for the event!?

What is so extraordinarily appealing is simply that two people are making a decision. They are deciding to remain bound together forever. At that moment, a huge power pack is available that will enable them to remain constant for fifty or seventy years in the face of millions of unforeseen variables. The economy, health, the in-laws, society around them, and the children will take them on a roller coaster ride that will test "whether that nation or any nation so conceived and so dedicated may long endure." The enormity of the energy available at that moment is staggering. People intuitively come to bask in the light as if it's a space ship launching.

Even the grandest of weddings is merely a faint echo of an original event 3312 [now 35] years ago. No romance or attraction could ever truly approximate the real magnetic pull that lured an entire nation out into the barren wilderness to forge an eternal bond.

We can only imagine the enormous superhuman energy that was endowed when the entire nation *declared "in a singular voice saying; 'everything Hashem says we will do!'"* (Shemos 24:3) That commitment unleashed an enduring force that has allowed us to remain through the gauntlet of persecution and expulsion "till the last syllable of recorded history," till the day when *"Hashem will be one and His name one."* (Zachariah 14:9)

All that abundance was buried in an initial challenge, *"And now Israel if you will listen well to My voice and guard My covenant, I will make you a treasure from all the nations…"* (Shemos 19:5) Rashi comments; *"If you will commit yourselves it will be sweet from here and further because all beginnings are difficult."* The hardest part is the initial decision, to move from zero to one. Afterwards there is a momentum of mitzvos and then the inertia compounds with each ensuing choice and reconfirmation.

Life is lived or lost in the millions of decisions we make or default on daily. While all creatures and entities in the universe are compelled to obey the will of their Creator, only a human being has the option to experience Mount Sinai; wedding the ordinary to the sublime at each moment of life with a unique and profound ability to choose to choose.

Good Shabbos!

https://torah.org/torah-portion/dvartorah-5760-mishpatim/

Why Are We Doing This and Why Does it Matter?

by Rabbi Dov Linzer, Rosh HaYeshiva, Yeshivat Chovevei Torah © 2019

The enterprise of ta'amei ha'mitzvot, trying to identify the values that underlie the mitzvot, is an important although potentially dangerous one. The importance lies in the fact that it helps us actualize those values both in the performance of the mitzvot and in other areas of our lives. So, for example, if we understand that the purpose of blowing the shofar on Rosh HaShanah is to serve as a wake-up call for teshuvah, then being cognizant of this when the shofar is being blown might spur us to reflect and repent. And if we understand that the reason that the Torah – in this week's parashah – commands that we unburden a donkey struggling under its burden is in order to prevent the suffering of animals, then we will work to live out this value when we see animals mistreated in other contexts as well.

The danger of this approach, however, is that too much focus on ta'amei ha'mitzvot, can lead someone to believe that the mitzvot are just means to achieve certain ends, and that one need not do a particular mitzvah if she can achieve the desired end result in other ways. It is for this reason that the Gemara (RH 16a) insists that the answer to why we blow the shofar – or any mitzvah – is "because God said so." The reasons for the mitzvot are not meant to be reasons why we do them, but rather why (or one of the reasons why) God commanded them, and what we are supposed to accomplish through doing them.

Another potential danger is that we will think that once we believe we have understood the underlying reason, that we are in a position to shape the halakhic parameters of a mitzvah accordingly, an approach known as darshinan ta'ama di'kra. Now, there is a Tana, Rabbi Shimon, who argues that we may do exactly this, but it is generally assumed that his position is rejected. In the wide range of halakhic discussions of the Talmud, the conversation almost never focuses on the underlying reasons for a particular law – all the discussions seem centered on more formal considerations: the phrasing of the verses, the formal parameters of the halakha, and so on.

And yet, at times it does seem that below the surface of some of the debates regarding formal parameters lies different understandings of a law's purpose. A number of Ahronim even point to cases where the reasons of a law seem to play an explicit role in shaping the law's parameters (see Rav Yaakov Yechiel Weinberg, Responsa Sridei Esh, 2:41; Rav Ovadya Yosef, Responsa Yechave Da'at 1:55). For these poskim, the Talmud can use the principle of darshinan ta'ama dikra when:

- The underlying reason is stated explicitly in the verse or is one that was known to the Talmudic Sages by tradition.

- The reason is being used li'humra, to be strict.

- The reason is used to determine a scope that does not contravene the prima facie halakhic implications of the verse.

- The underlying reason may be used as long as it does not do undue violence to the simple halakhic meaning of the verse.

The first two of these exceptions reflect a general concern as to whether we have identified the correct underlying principle. If we are only speculating as to what the reason of a mitzvah is, then we cannot legitimately use this reason to determine the scope a law. If, however, we know the reason for certain, or if we are only being strict, this concern goes away. I refer to this as the confidence concern.

The latter two exceptions reflect a necessary dialectic between the simple halakhic meaning of the verse and the related use of technical, hermeneutical rules on the one hand, which is necessary for legal conservatism and fidelity to the text, and the use of the mitzvah's underlying principles on the other hand. I refer to this as the textual fidelity concern.

The interplay between the formal parameters of a mitzvah and its underlying reasons plays out in the Talmud's discussion about the mitzvah of unloading a donkey struggling beneath its burden (Baba Metzia 32a-33a). The Talmud raises the question of whether tzar ba'alei hayyim, concern for animal suffering, should play a role in understanding the parameters of this mitzvah.

One question is whether this mitzvah is really about animal suffering. Perhaps this mitzvah is more about concern for the owner, who will be stranded on the side of the road and exposed to danger (and hence there is also a mitzvah to reload the donkey). Or perhaps it is a concern about our becoming callous or cruel, and not a concern for the animal per se.

A second question is what role tzar ba'alei hayyim should play, altogether. A simple read of the Talmudic discussion suggests that if, indeed, the principle behind the mitzvah is tzar ba'alei hayyim, then this would shape the parameters of the mitzvah. For example, it would dictate that the mitzvah would apply even in a case where the animal was ownerless. This discussion seems to support the contention that we are able to be darshinan ta'ama dikra. However, a number of

Rishonim reject or qualify this conclusion.

Rashi and Tosafot both assume that if there is a concept of tzar ba'alei hayyim, then it is an independent principle, one which can obligate a person to tend to an ownerless, struggling donkey, or to help any animal that was suffering, but one which would have no impact on scope of the Torah's mitzvah of unloading a donkey.
In contrast to Rashi and Tosafot's approach, Tosafot Rabbenu Peretz understands that tzar ba'alei hayyim can shape the scope of the mitzvah of unloading a donkey, but only within narrow parameters. It cannot change the primary meaning of the verse, but only add a clarifying addendum to the verse. This reflects the textual fidelity concern. Rabbenu Peretz also states that the principle of tzar ba'alei hayyim is known through a halakha li'Moshe mi'Sinai, an explicit law handed down from Moshe Rabbeinu. His need to state this reflects the confidence concern.

The difficulty in identifying the underlying principle for a mitzvah is evident to anyone who is familiar with the ta'amei hamtizvot literature. A simple comparison on a random selection of mitzvot between the explanations of Rambam, Ramban, Chinukh, Maharal, Ramchal, Rav Kook, and Rav Hirsch will demonstrate how subjective and speculative this attempt is.

No wonder, then, that Rishonim and poskim take seriously the confidence concern. Given the lack of any objective criteria to determine that we have identified the correct underlying principle, how could we not be hesitant to use it to interpret the scope of a mitzvah? This concern also raises questions regarding the whole enterprise of Torah values as an obligation. How, we may reasonably ask, are we to strive to live up to Torah values, in addition to Torah law, if there is no way to know for sure what those values are? The answer to both of these questions may be, ayn li'dayan el mah she'einav ro'ot, the judge only has what his eyes see, and we must do the best we can in identifying these values and underlying principles, knowing at the same time that we will never achieve complete clarity or confidence. Nevertheless, we do ourselves a disservice if we lose sight of what so clearly emerges from this sugya and the attendant discussion – that identifying the underlying principles of a mitzvah is an elusive goal.

A final point is in order. The preceding discussion has staked out different positions regarding the use of Torah principles to shape Torah law. However, the entire discussion has been in reference to the interpretation of verses and halakha as done by the Rabbis of the Talmud. These Rabbis are the fathers of the Oral Law, and the role that later rabbis play in the interpretation of halakha is much smaller by comparison. Thus, even the stronger claims made by the various Rishonim for the use of Biblical principles in halakhic interpretation, cannot be assumed to be applicable to the use of such principles in the halakhic interpretation of post-Talmudic rabbis.

True psak, as Rav Moshe Feinstein writes, starts with piety, humility and fear of Heaven. We are on firm ground when we engage in exploring ta'amei ha'mitzvot with the goal of enriching our religious lives and bringing Torah values into everything that we do. When it comes to interpreting and applying halakha, however, caution must be our byword. There is a reason that the Talmud focuses on the formalist parameters. A formalist discourse embodies the inherent conservativism of the halakhic system. Just as it is our responsibility to bring the fullness of our voice into the halakhic discourse, so it is our responsibility to ensure that those voices are deeply anchored in and true to the Torah that we are coming to explain and interpret. This is central to the brit over the mitzvot that appears at the end of the parasha. It is a brit that begins with na'aseh, with submission to God's command and will, and, only once that foundation is properly in place, is able to move to nishma, our attempt to understand, interpret and apply.

Shabbat Shalom. [Note: since I ran the DvarTorah that Rabbi Linzer's selected for this week two years ago, I chose a different message from him to avoid repeating the same Dvar Torah so soon.]

A Thinking Tradition: Thoughts for Parashat Mishpatim

By Rabbi Marc D. Angel *

Ralph Waldo Emerson, in his address "The American Scholar," spoke of Man Thinking. Ideally, people should think carefully, analyze issues, make reasoned judgments. Man Thinking is self-reliant and original. By contrast, in the degenerate state, a person "tends to become a mere thinker, or, still worse, the parrot of other men's thinking." In his

essay, “Self-Reliance,” Emerson complains that “man is timid and apologetic. He is no longer upright. He dares not say ‘I think,’ ‘I am,’ but quotes some saint or sage.”

Although it surely is important to have a proper base of knowledge, a person should not forego the right and responsibility of making individual evaluations and decisions. After careful thought and study, one has the right — and responsibility — to express a personal opinion.
Some years ago, I gave a lecture on my book *The Orphaned Adult* in which I discussed my feelings upon the passing of my mother. In the question and answer period following my talk, an Orthodox rabbi asked for the halakhic sources for my comments. I was taken aback. I was describing my experiences and offering my reactions to the death of a parent: why would I need halakhic sources to justify my thoughts?

Yet, for this rabbi (and for so many others) one is expected to have authoritative sources for one’s words. One’s own opinion is not valid in and of itself. Too often, especially in religious life, we don’t trust Man Thinking but demand validation from an earlier authority. Our own opinions don’t count unless they are bolstered by quoting “some saint or sage.” We don’t take into consideration that the earlier sage/authority was expressing an original opinion, was a Man Thinking.

Judaism is sometimes portrayed — and sometimes experienced — as a system of laws, rituals, customs. As a tradition-based way of life, we seek wisdom and direction from the sages and saints of earlier generations. Yet, Judaism in actuality is geared for thinking people, those who not only adhere to the mitzvoth but who seek inner meanings. We don’t only want to know what to do, but why we do it, what is expected, what are the goals. Yes, we do want to learn from the earlier saints and sages…but we then also want to think on our own.

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 — including “hukim” -- contain divine wisdom. Rambam refers to the sickness in the souls of people who prefer to observe commandments blindly rather than to imagine that God had reasons for giving these commandments. He 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.

Albert Einstein offered his view on the vitality of Jewish tradition: “The pursuit of knowledge for its own sake, an almost fanatical love of justice, and the desire for personal independence — these are the features of the Jewish tradition which make me thank my stars that I belong to it” *(The World as I See It,* p. 103)

We should all feel grateful for belonging to a religious tradition that is deep, wise, idealistic — and that encourages us to think for ourselves.

* Founder and Director, Institute for Jewish Ideas and Ideals.

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 Institute for Jewish Ideas and Ideals at this time.

https://www.jewishideas.org/article/thinking-tradition-thoughts-parashat-mishpatim

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"Electronic Lashon Hara" – Sinful Words from Sinful People

Blog by Rabbi Marc D. Angel *

Years ago, I — along with many others -- regularly received envelopes stuffed with pages put together by a group that claimed to represent "authentic" Judaism. The authors believed themselves to be the sole arbiters of true Judaism, and they vilified those who deviated from their views. Their screeds were drenched in hateful, slanderous language…and it seems not to have occurred to them that lashon hara — evil gossip — is a highly serious sin.

Halakha teaches that just as it is forbidden to communicate lashon hara, so it is a transgression to receive it. I sent the authors several requests to remove me from their mailing list, but they ignored my requests. I finally came up with a great idea. The next time I received one of their mailings, I took a red magic marker and wrote in large letters on the front of the envelope: RETURN TO SENDER: OBSCENE MATERIAL. That solved the problem. I received no more mail from them.

When such people engage in gossip/slander/defamation of character, they are indeed generating obscene material. They somehow delude themselves into thinking that they alone are God's policemen and that they are permitted to defame people whose views they deem not sufficiently religious. Their misguided and self-righteous behavior reflects an incredible religious arrogance…and sinfulness.

The problem has become far more severe now that people can spread their defamations via electronic means. They reach thousands of readers by posting their venom on websites, or entering malicious material on Wikipedia, or sending emails.

Rambam points out that among the sins for which there is almost no possible atonement is the sin of maligning someone in public. Even if one eventually wishes to repent, he/she will not know who heard the sinful words and therefore cannot ever be sure he/she can reach everyone to retract the wicked statements. Evil words, once made public, are impossible to retract fully. All the more so with "electronic lashon hara."

Modern technology makes it quite easy for people to post hostile remarks against those with whom they disagree. These ad hominem attacks gain lives of their own, being forwarded to readers who then forward them to others etc. People feel that it's fine for them to vent, to call names, to discredit others. In their self-righteousness, they don't realize the gravity of their transgressions.

The Talmud teaches that the ancient Temple in Jerusalem was destroyed because of sinat hinam, gratuitous hatred. A key feature of sinat hinam is the use of derogatory language.

In a fascinating responsum (Meshiv Davar, no. 44), Rabbi Naftali Tsevi Yehudah Berlin — the Netsiv — reminded his readers that during the time of the Second Temple, the Jewish people were divided between the Perushim and Tsedukim. Competition between the groups was intense. The situation became so bad that Perushim branded as a Tseduki anyone who deviated even slightly from prevailing practice. To dissent from the predominant opinion led to one's being ostracized. The Netsiv applied the lesson to his own time:

> *"It is not difficult to imagine reaching this situation in our time, Heaven forbid, that if one of the faithful thinks that a certain person does not follow his way in the service of God, then he will judge him as a heretic. He will distance himself from him. People will pursue one another with seeming justification (beHeter dimyon), Heaven forbid, and the people of God will be destroyed, Heaven forfend."*

When people — including those who think of themselves as being religious — spread defamatory material, they undermine the moral fabric of society. They do not teach "truth," but rather become models of what religious people should not be. They desecrate the Torah they claim to defend and honor.

In an age of mass communication, the dangers of sinat hinam and lashon hara are greatly exacerbated. Here is some basic advice on how to cope with this serious problem.

1. Do not post ad hominem attacks or engage in character assassination. If you object to someone's opinions, then focus on the opinions. Offer cogent arguments. Be respectful.

2. If you receive a comment/blog/email that contains lashon hara, delete it immediately. Do not forward it to anyone else. If possible, communicate with the sender and register your disapproval of his/her spreading of lashon hara.

3. Do not trust the credibility of those who engage in defamation/lashon hara. If they have no compunctions about defaming others, they'll have no compunction about defaming you!

Remember that our Temple was destroyed because of sinat hinam and lashon hara. Those who engage in these sins are committing a terrible injustice not just to their victims, but to our entire community and society. When they pose as being upholders of authentic Orthodoxy, their sins are particularly reprehensible. How will they ever be able to repent? Will they even realize that they need to repent?

The daily Amidah prayer has a concluding meditation: *"Oh Lord, guard my tongue from evil and my lips from speaking deceitfully."* Let everyone pay close attention to these words and strive to live up to them. To pray them and not mean them makes a mockery of the prayer...and a mockery of one's own purported religiosity. Lashon hara is obscene material. It must be avoided, it must be rejected, it must be returned to sender for atonement.

* Founder and Director, Institute for Jewish Ideas and Ideals.

https://www.jewishideas.org/blog/electronic-lashon-hara-sinful-words-sinful-people-blog-rabbi-marc-d-angel

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Eved Ivri -- Smart Investments

by Rabbi Mordechai Rhine *

Many years ago, I knew a man who was very diligent about investing. Every month he would allocate money from his paycheck into an investment account. Then he would instruct his stockbroker when to buy investments and when to sell them.

This man had a strategy which he followed with great discipline. When the market was doing poorly, he would quickly sell his stocks because he felt it was a bad idea to own stocks if they were going down. Then, when stocks were doing well, he would insist on buying stocks, because if they were doing well, they must be a good investment.

Unfortunately, the obedient stockbroker listened to him, and the man was left with very little money after 40 years of investing because he always sold low and bought high.

Contrast that style of investing with Unkolus. Unkolus was a righteous convert at a time when Rome was a world empire and the Jews were exiled. When the roman Caesar asked Unkolus what possessed him to become Jewish, Unkolus replied:

> *"It is something that you taught me that motivated me. You once said that the key to good investing is to buy when something is undervalued. The Jews are undervalued. They are a solid investment; their system provides rich dividends, and they have a bright future in store. So, I bought in."*

The Jewish value system encourages us to see long term value in what we do and not get caught up in the volatile mood

of the moment.

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In this week's Parsha we read of the Eved Ivri, the Jewish slave. This is a Jewish person who was sold as a long-term servant to another Jew due to stealing or by personal choice. The unique law of this Jew is that he must serve his master loyally, including making himself available to be with a non-Jewish maidservant, to father children who will be non-Jewish and will remain in the employ of the master after the Jew has completed his term.

Sometimes, the Jew will like the arrangement so much that he might wish that it continue past its regular duration of six years. The Torah accommodates such a request and provides a mechanism by which he can stay longer. The Torah says that he shall be pierced on his ear and then he can stay longer. The commentaries explain that the Jew's request to stay longer is a very sad one. It is bad enough that he was a slave until now due to his circumstances of poverty or misdeed. Instead of living the proud life of a free man serving Hashem, he is a serving as a slave to a human master. The work he does is not his own; the children he fathers are not considered his. The Torah says: Pierce the ear that heard Hashem's statement to serve Him. Acknowledge that what he is doing is not in agreement with Hashem's noble plan for the Jewish people. Then, reluctantly, he shall be allowed to continue investing in something that will show him nothing in return.

The lesson of Eved Ivri and of investments in general is that we must strive to invest wisely. So many people invest time and money with great diligence and devotion. But the key question to ask is, *"Are we investing wisely?"*
What will we be able to show for our investments after decades of disciplined, devotional giving?"

A number of years ago I was approached by parents in the community in which we lived. The father told me with great heartbreak that his son had gotten addicted to computer games. Instead of the studious and socially interactive child he once was, the son had become reclusive, sitting for hours with his computer games. He asked me if I would speak with the son.

I made an appointment to speak with the young man, and he began the meeting excitedly describing his newfound passion. He said, "Over the past 5 months, I, together with my international collaborators, have killed 17 dragons. We have also toppled 4 evil regimes. All of this required disciplined effort so that we could achieve victory."

I listened intently to what he said. I must have appeared interested and agreeable, because he then said to me, "Please, Rabbi, speak to my parents and explain the wonderful things that I am doing. Maybe if they hear from you, they will finally understand and start to respect me."

In a similar vein, a colleague of mine shared that one of his congregants asked him to serve as his integrity partner for internet use. Each week a report of internet usage would go to the Rabbi for his review. After two weeks the Rabbi called in the congregant to meet.

The congregant asked, "Is there something wrong. I am so careful only to visit clean sites."

"Indeed," the Rabbi responded, "Everything is clean. But it looks like you have a Seder Kovua — a regular appointment with the internet — for 3-4 hours a night. Is all of that surfing really necessary? When do you have time to study Torah or spend time with your family?"

The story of the Eved Ivri is one of the saddest in all of Torah. It is the story of a Jew who finds being a slave so comfy that he wants to stay. He doesn't realize that what he is investing his life in will give him nothing after decades of dedicated service. His accomplishments will not be his. His children will remain with the master as slaves; they will not be Jewish. In return he received daily food and shelter, but after years has nothing to show for it.

Contrast that with someone who lives in a Jewish community as an upright person interacting, sharing, and inspiring on a daily basis. A person's family and friends attest to the investments of decades, the daily devotion of building people and making the world a better place. The daily Torah study accumulates and transforms, allowing a person to look back at a lifetime of smart investing with genuine pride.

Torah living invites us to a place of constant, smart investment. It is a place where valuable investments called mitzvos, are typically undervalued and can be purchased for a relatively small sum, granting dividends that are eternal. As we reflect on Even Ivri we yearn that we all step free of investments that shackle and limit us so that we can be all the greatness that we were meant to be.

With best wishes for a wonderful Shabbos!

* Rabbi Mordechai Rhine is a certified mediator and coach with Rabbinic experience of more than 20 years. Based in Maryland, he provides services internationally via Zoom. He is the Director of TEACH613: Building Torah Communities, One family at a Time, and the founder of CARE Mediation, focused on Marriage/ Shalom Bayis and personal coaching. To reach Rabbi Rhine, his websites are www.care-mediation.com and www.teach613.org; his email is RMRhine@gmail.com. **For information or to join any Torah613 classes, contact Rabbi Rhine.**

Parshas Mishpatim – The Identity of a Jew

by Rabbi Yehoshua Singer * © 2021

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 taught 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.

* Rabbi, Am HaTorah Congregation, Bethesda, MD. Rabbi Singer's new Dvar Torah did not arrive before my deadline. Since I did not receive his Dvar Torah in time, I am running his message from 2021.

Mishpatim

By Rabbi Herzl Hefter *

Rabbi Hefter did not send me a Dvar Torah for this Shabbat. Watch this space for further insights from Rabbi and Rosh Yeshiva Herzl Hefter.]

* Founder and dean of the Har'el Beit Midrash in Jerusalem. Rabbi Hefter is a graduate of Yeshiva University and was ordained at Yeshivat Har Etzion. For more of his writings, see www.har-el.org. To support the Beit Midrash, as we do, send donations to America Friends of Beit Midrash Har'el, 66 Cherry Lane, Teaneck, NJ 07666.

Mishpatim: Law of Responsibility

By Rabbi Haim Ovadia *****

You shall celebrate three pilgrimage holidays a year.)Ex. 23:14(

We all know the three pilgrimage holidays, Pesah, Shavuot, and Sukkot. Do we also know how Shavuot differs from the other two? Well, to begin with, Shavuot has no set day in the Torah, but is rather celebrated fifty days after Pesah and could potentially occur on the 5th, 6th, or 7th of Iyyar. Another, deeper difference, is that on Pesah and Sukkot we reenact the events of the Exodus, while there is no such reenactment on Shavuot. On Pesah we eat the same ingredients our forefathers ate on the night of leaving Egypt, and on Sukkot we dwell in temporary structures, similar to those used by our forefathers when they were in the desert, but Shavuot is referred to in the Torah only as the holiday marking the harvest season. Why is the date of Shavuot not mentioned, and why is there no special physical act to mark that holiday as the day of the Giving of the Law?

The answer is that Pesah and Sukkot commemorate a single, albeit important, historical events, so the dates serve as temporal ties to the original events. The reenactments validate the contract, or covenant, between the nation and God for one more year. On Pesah, the reenactment reminds us of the elements of slavery and freedom, thus prompting us to protect the rights of others. On Sukkot we dwell in booths to show our confidence in the power of God to provide us shelter, and to unite as one nation without boundaries. The Giving of the Law, however, though associated with Shavuot, cannot be limited to a date, since we must adhere to the Torah constantly, every day.

As to the reenactment, it is right there in front of us, in last week's Parasha. Instead of creating a yearly event to celebrate the Giving of the Law, the Torah provides us with endless opportunities to do so daily. The purpose of the Ten Concepts, aka the Ten Commandments, was to educate the Israelites to respect and protect the rights of others, and to cherish their own blessings.

In that vein, the Torah presents us, immediately after the momentous revelation at Mount Sinai, not with a list of ritualistic acts, but with a set of rules revolving around the theme of personal responsibility. The Parasha starts with the laws of slavery, which the Torah sets out to abolish by granting slaves unprecedented rights. A slave is encouraged to seek freedom, and a master is warned against causing slaves physical harm. The Parasha also speaks about damages caused by one's property, mainly his animals, and indirect actions, such as setting fire or digging a pit in public property. There are also regulations regarding moneylending, taking specific care to protect the rights of the weaker strata of society, such as widows and orphans, and distortion of justice. Even the famous warning *"do not eat a kid in its mother's milk"* carries a message of personal awareness and responsibility. It tells us that although God allows the consumption of meat, we should understand that killing an animal is a cruel act, and we should not add to that cruelty by cooking the meat of a mammal in the liquid which sustained it when it was alive.

Almost a thousand years after the Giving of the Law, those admonitions were forgotten, and the Israelites resorted to celebrating their relationship with God and the Torah by offering sacrifices. They were then harshly rebuked by the prophets, among them Isaiah, who reminded the people that true enactment and reenactment of the Giving of the Law lie elsewhere:

> *When you raise your palms in prayer I will look away, pray as you wish, I will pay no heed, as your hands are stained with theft and corruption. Cleanse yourself]not by water, but[by mending your ways and ceasing from doing evil. Learn well, seek justice, rectify wrongdoing, protect and defend orphans and widows.*)Is. 1:15-17(

The Torah did not create a special event to commemorate the Giving of the Law, nor did it give us a specific date for that happening, so that our religious awareness will not be manifested by ritualistic acts performed annually. Instead, the Torah offers a system in which each act of responsible behavior, protecting justice, and avoiding infringement upon the rights of others, is an act of devotion and inspiration. According to this worldview, righteousness and piety are not achieved by constant prayer or Torah study, but rather by honesty, respect for others, and a deep sense of responsibility.

Shabbat Shalom.

* Torah VeAhava. Rabbi, Beth Sholom Sephardic Minyan)Potomac, MD(and faculty member, AJRCA non-denominational rabbinical school(. **New: Many of Rabbi Ovadia's Devrei Torah are now available on Sefaria: https://www.sefaria.org/profile/haim-ovadia?tab=sheets** . The Sefaria articles include Hebrew text, which I must delete because of issues changing software formats.

Treat the Problem, not the Symptom!

By Rabbi Eliezer Lawrence *

There is a universal wisdom that children are supposed to respect their parents, so it is not surprising that we are introduced to the mitzvah of kibbud av va'eim — honoring one's parents — in the "10 commandments" of last week's parsha. This foundational mitzvah is complex, with sugiyot in the gemara, simanim in the Shulkhan Arukh and countless seforim devoted to ascertaining what that "respect" should look like. At the same time, it is quite difficult to cleanly define the "right and wrong" of the child/parent relationship — the first relationship of attachment — in as clear terms as "the minimum length of tzitzit," or whether a hechsher "is accepted in the normative Torah observant community."

In the field of psychology, the theory of family systems posits a more complex story. Picture this. 14 year old Chava is sent to therapy to address her problematic behavior — namely defying her parents' rules, staying out after curfew, and experimenting with alcohol. But Chava, as the "defined patient," is merely the one in the family who is displaying symptoms of larger familial dynamics. The practitioner is likely to discover that Chava's older brother recently left for college and has not been in touch with Chava's mother for months. Chava's mother is handling the separation with anxiety and has been micromanaging Chava's every move, resulting in a rift between Chava's parents. As an act of avoidance of interfacing with his wife's anxiety, Chava's father has been trying to spend more "quality time" with Chava, even at times when Chava has other plans or priorities. This change in family dynamics and her autonomy as a teenager have deeply impacted Chava, and she is acting out to assert her independence. To truly understand how to address the

“problematic behavior” and “disrespect,” one would need an intervention that would address all of these external factors and behaviors present in her family unit.

While family systems theory was first published in the late 80’s by psychologists Kerr and Bowen, the idea that child behavior is often linked to home life has roots in Jewish tradition. Midrash Tanchuma tells us that a ben sorrer umoreh — a wayward and rebellious son — who engages in gluttony, drunkenness and parental defiance, becomes that way as a result of a tumultuous home life, as he is born of an isha yefat to’ar — a woman who is kidnapped and coerced into a marriage with her captor. The midrash bases its claim on the fact that the two scenarios are described sequentially in parshat ki tetzeh.

Similarly, in this week’s parasha, we are introduced to three sequential pesukim that, according to Rav Saadia Gaon)via Ibn Ezra,(tell us a similar story as it relates to the proscribed childhood misbehavior.

> *And he who strikes his father or mother shall surely be put to death. And he who kidnaps a person and sells him, and he was found in his hand, shall surely be put to death. And he who curses, his father or mother shall surely be put to death.*)Ex. 21:15-17(
>
>]On this[Saadiah Gaon states: *“… the majority of kidnap victims are young children and do not recognize their parents. It is thus possible for them to strike and curse their parents. The punishment for this will fall upon the kidnapper.”*

Rav Saadiah Gaon offers us an empathetic, human-centered insight into the child’s psyche. In his view, a child is naturally inclined to interface with her or her parents with respect and love. A child who acts out against his or her parents, therefore, is a child who does not feel comfortable or safe enough to connect with and recognize his or her parental relationship. Halakhically, therefore, he or she is not culpable for their behavior.

Like with all relationships, the dynamic that allows for the fulfillment of kibbud av va’eim requires reciprocal responsibility. While it is certainly incumbent upon a child to do their best to honor their parents, it is equally as important for parents to create a space where a child can feel safe and secure enough to do so. By focusing on identifying the context for the behavior, rather than placing blame on the child or the parents, Rav Saadiah Gaon presents opportunities to not just treat the symptom, but heal the underlying problem, allowing for a more sustainable framework for the mitzvah itself.

Shabbat Shalom.

* Semikha from Yeshivat Chovevei Torah. Faculty, YCT & Maharat Beit Midrash Program. Note: quotes in Hebrrew omitted because of problems with changing software.

https://library.yctorah.org/2023/02/treat-the-problem-not-the-symptom/

Shavuon Mishpatim

By Rabbi Moshe Rube *

Our hearts go out to all affected by the cyclone this week.

While I am not the expert in the usual weather for New Zealand, I’ve been told that something like this hasn’t happened in the last one hundred years.

We’ve experienced the thunder and lightning described in our parsha for real, and while some in Auckland were spared the brunt of it, many others were not.

It seems strange that we carry on the prayer for rain in our tefillot, but Pesach is around the corner and we’ll soon change it to the prayer for dew. Plus, we are entering the month of Adar and that is the month of turnarounds in the Jewish calendar, so let’s pray the weather makes a 180 degree turn from what it has been.

For those who can't wait till Pesach, I have composed a possible prayer we can all say until then. Feel free to add your own prayer to this one.

Dear God,

Please help all those who have been damaged by the rain. May there always be rain in New Zealand to water our crops and vary our days, but let it always be a rain of blessing not of destruction. May the rest of this summer be filled with sunny days, and may this month of Adar herald a turnaround in the weather which all New Zealanders can enjoy.

Shabbat Shalom.

* Senior Rabbi of Auckland Hebrew Congregation, Auckland, New Zealand.

Rav Kook Torah
Mishpatim: Trust in God vs. Self-Reliance

The Talmud)Berachot 10b(tells a puzzling story about the righteous king Hezekiah. It is related that the king secreted away the medical books of his day. Why? King Hezekiah felt that the people relied too heavily on the prescriptions described in those texts, and did not pray to God to heal them.

Surprisingly, the Sages approved of King Hezekiah's action. Such an approach would appear to contradict another Talmudic ruling. The Torah says one who injures his neighbor must *"provide for his complete healing"*)Exodus 21:19(. The Talmud)Baba Kama 85a(deducts from here that the Torah granted doctors permission to heal. Even with natural diseases, we do not say, *"Since God made him ill, it is up to God to heal him,"* but do our best to heal him.

Which is the correct attitude? Should we rely on doctors and medical books, or place our trust only in God and prayer?

There is in fact a larger question at stake. When are we expected to do our utmost to remedy the situation ourselves, and when should we rely on God's help?

Two Forms of Bitachon

Rav Kook explained that there are two forms of bitachon, reliance on God. There is the normative level of trust, that God will assist us in our efforts to help ourselves. And there is the simple trust in God that He will perform a miracle, when appropriate.

Regarding the community as a whole, we find apparent contradictions in the Torah's expectations. Sometimes we are expected to make every possible effort to succeed, as in the battle of HaAi)Joshua 8(. On other occasions, human effort was considered a demonstration of lack of faith, as when God instructed Gideon not to send too many soldiers to fight, *"Lest Israel should proudly say 'My own hand saved me'"*)Judges 7:2(. Why did God limit Gideon's military efforts, but not Joshua's in the capture of HaAi?

The answer is that the spiritual level of the people determines what level of bitachon is appropriate. When we are able to recognize God's hand in the natural course of events, when we are aware that God is the source of our strength and skill — *"Remember the Lord your God, for it is He Who gives you strength to succeed"*)Deut. 8:18(— then God is more clearly revealed when He supplies our needs within the framework of the natural world. In this situation, we are expected to utilize all of our energy and knowledge and talents, and recognize divine assistance in our efforts. This reflects the spiritual level of the people in the time of Joshua.

On the other hand, there are times when the people are incapable of seeing God's help in natural events, and they attribute any success solely to their own efforts and skills. They are likely to claim, "My own hand saved me." In this case,

only miraculous intervention will enable the people to recognize God's hand — especially when the Jewish nation was young, miracles were needed to bring them to this awareness.

Educating the People

Consider the methods by which parents provide for their children. When a child is young, the parent feeds the child directly. If the child is very small, the parent will even put the food right in his mouth. As the child grows older, he learns to become more independent and take care of his own needs. Parental care at this stage is more indirect, by supplying him with the wherewithal — the knowledge, skills, and training — to provide for himself. The grown child does not wish to be forever dependent on his parent. He wants to succeed by merit of his own talents and efforts, based on the training and tools that his parents provided him.
So too, when the Jewish people was in its infancy, miracles served to instill a fundamental recognition and trust in God. In the time of Gideon, the people's faith had lapsed, and needed strengthening. Similarly, in the time of King Hezekiah, the king realized that the corrupt reign of Ahaz had caused the people to forget God and His Torah. He calculated that the spiritual gain through prayer outweighed the scientific loss due to hiding the medical texts.

But when faith and trust in God are strong, it is preferable that we utilize our own energies and talents, and recognize God's hand within the natural universe. The enlightened viewpoint calls out*, "Lift up your eyes on high and see: Who created these?"*)Isaiah 40:26(. So it was when Joshua conquered the city of HaAi. After forty years of constant miracles in the desert, the people were already thoroughly imbued with trust in God. It was appropriate that they use their own resources of cunning and courage to ambush the fighters and destroy the city.

What about the future redemption of the Jewish people? It may occur with great miracles, like the redemption from Egypt; or it may begin with natural events, as implied by several statements of the Sages that the redemption will progress gradually. It all depends on the level of our faith in God. It is certainly integral to our national pride that we take an active role in rebuilding the House of Israel.

)Gold from the Land of Israel pp. 136-138. Adapted from Ein Eyah vol. I, p. 57.(

https://www.ravkooktorah.org/MISHPA62.htm

We Will Do and We Will Hear)Mishpatim 5780(

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

Two words we read towards the end of our parsha – na'aseh ve-nishma, *"We will do and we will hear*" – are among the most famous in Judaism. They are what our ancestors said when they accepted the covenant at Sinai. They stand in the sharpest possible contrast to the complaints, sins, backslidings and rebellions that seem to mark so much of the Torah's account of the wilderness years.

There is a tradition in the Talmud]1[that God had to suspend the mountain over the heads of the Israelites to persuade them to accept the Torah. But our verse seems to suggest the opposite, that the Israelites accepted the covenant voluntarily and enthusiastically:

> *Then]Moses[took the Book of the Covenant and read it to the people. They responded, "We will do and hear]na'aseh ve-nishma[everything the Lord has said."* Ex. 24:7

On the basis of this, a counter tradition developed, that in saying these words, the assembled Israelites ascended to the level of the angels.

Rabbi Simlai said, when the Israelites rushed to say *"We will do"* before saying *"We will hear,"* sixty myriads of ministering angels came down and fastened two crowns on each person in Israel, one as a reward for saying *"We will do"* and the other is a reward for saying *"We will hear."*

Rabbi Eliezer said, when the Israelites rushed to say *"We will do"* before saying *"We will hear"* a Divine voice went forth and said: *Who has revealed to My children this secret which only the ministering angels make use of?*]2[

What, though, do the words actually mean? Na'aseh is straightforward. It means, *"We will do."* It is about action, behaviour, deed. But readers of my work will know that the word nishma is anything but clear. It could mean *"We will hear."* But it could also mean, *"We will obey."* Or it could mean *"We will understand."* These suggest that there is more than one way of interpreting na'aseh ve-nishma. Here are some:

> *]1[It means* "We will do and then we will hear." *This is the view of the Talmud)Shabbat 88a(and Rashi. The people expressed their total faith in God. They accepted the covenant even before they heard its terms. They said* "we will do" *before they knew what it was that God wanted them to do. This is a beautiful interpretation, but it depends on reading Exodus 24 out of sequence. According to a straightforward reading of the events in the order in which they occurred, first the Israelites agreed to the covenant)Ex. 19:8(, then God revealed to them the Ten Commandments)Ex. 20(, then Moses outlined many of the details of the law)Ex. 21-23(, and only then did the Israelites say na'aseh ve-nishma, by which time they had already heard much of the Torah.*
>
> *]2[* "We will do]what we have already been commanded until now[and we will obey]all future commands[." *This is the view of Rashbam. The Israelites' statement thus looked both back and forward. The people understood that they were on a spiritual as well as a physical journey and they might not know all the details of the law at once. Nishma here means not* "to hear" *but* "to hearken, to obey, to respond faithfully in deed."
>
> *]3[* "We will obediently do" *)Sforno(. On this view the words na'aseh and nishma are a hendiadys, that is, a single idea expressed by two words. The Israelites were saying that they would do what God asked of them, not because they sought any benefit but simply because they sought to do His will. He had saved them from slavery, led and fed them through the wilderness, and they sought to express their complete loyalty to Him as their redeemer and lawgiver.*
>
> *]4[* "We will do and we will understand" *)Isaac Arama in Akeidat Yitzchak(. The word shema can have the sense of* "understanding" *as in God's statement about the Tower of Babel:* "Let us, then, go down and confound their speech there, so that they shall not understand]yishme'u[one another's speech" *)Gen. 11:7(. According to this explanation, when the Israelites put* 'doing' *before* 'understanding'*, they were giving expression to a profound philosophical truth. There are certain things we only understand by doing. We only understand leadership by leading. We only understand authorship by writing. We only understand music by listening. Reading books about these things is not enough. So it is with faith. We only truly understand Judaism by living in accordance with its commands. You cannot comprehend a faith from the outside. Doing leads to understanding.*

Staying with this interpretation, we may be able to hear a further and important implication. If you look carefully at Exodus chapters 19 and 24, you will see that the Israelites accepted the covenant three times. But the three verses in which these acceptances took place are significantly different:

> The people all responded together, *"We will do]na'aseh[everything the Lord has said."*)Ex. 19:8(
>
> When Moses went and told the people all the Lord's words and laws, they responded with one voice, *"Everything the Lord has said we will do]na'aseh[."*)Ex. 24:3(
>
> Then]Moses[took the Book of the Covenant and read it to the people. They responded*, "We will do and hear]na'aseh ve-nishma[everything the Lord has said."*)Ex. 24:7(

Only the third of these contains the phrase na'aseh ve-nishma. And only the third lacks a statement about the people's unanimity. The other two are emphatic in saying that the people were as one: the people *"responded together"* and

"responded with one voice." Are these differences connected?

It is possible that they are. At the level of na'aseh, the Jewish deed, we are one. To be sure, there are differences between Ashkenazim and Sefardim. In every generation there are disagreements between leading poskim, halachic authorities. That is true in every legal system. Poor is the Supreme Court that leaves no space for dissenting opinions. Yet these differences are minor in comparison with the area of agreement on the fundamentals of halachah.

This is what historically united the Jewish people. Judaism is a legal system. It is a code of behaviour. It is a community of deed. That is where we require consensus. Hence, when it came to doing – na'aseh – the Israelites spoke *"together"* and *"with one voice."* Despite the differences between Hillel and Shammai, Abaye and Rava, Rambam and Rosh, R. Yosef Karo and R. Moshe Isserles, we are bound together by the choreography of the Jewish deed.
At the level of nishma, understanding, however, we are not called on to be one. Judaism has had its rationalists and its mystics, its philosophers and poets, scholars whose minds were firmly fixed on earth and saints whose souls soared to heaven. The Rabbis said that at Sinai, everyone received the revelation in his or her own way:

> *"And all the people saw"*)Ex. 20:15(: *the sounds of sounds and the flames of flames. How many sounds were there and how many flames were there? Each heard according to their own level of understanding what they were experiencing", and this is what it means when it says)Ps. 29:4("the voice of the Lord in power, the voice of the Lord in majesty.]3[*

What unites Jews, or should do, is action, not reflection. We do the same deeds but we understand them differently. There is agreement on the na'aseh but not the nishma. That is what Maimonides meant when he wrote in his *Commentary to the Mishnah*, that "When there is a disagreement between the Sages and it does not concern an action, but only the establishment of an opinion)sevarah(, it is not appropriate to make a halachic ruling in favour of one of the sides."]4[

This does not mean that Judaism does not have strong beliefs. It does. The simplest formulation – according to R. Shimon ben Zemach Duran and Joseph Albo, and in the twentieth century, Franz Rosenzweig – consists of three fundamental beliefs: in creation, revelation and redemption.]5[Maimonides' 13 principles elaborate this basic structure. And as I have shown in my Introduction to the Siddur, these three beliefs form the pattern of Jewish prayer.]6[

Creation means seeing the universe as God's work. Revelation means seeing Torah as God's word. Redemption means seeing history as God's deed and God's call. But within these broad parameters, we must each find our own understanding, guided by the Sages of the past, instructed by our teachers in the present, and finding our own route to the Divine Presence.

Judaism is a matter of creed as well as deed. But we should allow people great leeway in how they understand the faith of our ancestors. Heresy-hunting is not our happiest activity. One of the great ironies of Jewish history is that no one did more than Maimonides himself to elevate creed to the level of halachically normative dogma, and he became the first victim of this doctrine. In his lifetime, he was accused of heresy, and after his death his books were burned. These were shameful episodes.

"We will do and we will understand," means: we will do in the same way; we will understand in our own way.
I believe that action unites us, leaving us space to find our own way to faith.

FOOTNOTES:

]1[Shabbat 88a, Avodah Zarah 2b.

]2[Shabbat 88a.

]3[Mechilta 20:15b.

]4[Maimonides, *Commentary to the Mishnah,* Sanhedrin, 10:3.

]5[See Menachem Kellner, *Dogma in Medieval Jewish Thought*)1986(; Marc Shapiro, *The Limits of Orthodox Jewish Theology*)2011(and *Changing the Immutable*)2015(.

]6["Understanding Jewish Prayer", *Authorised Daily Prayer Book,* Collins, 2006, pp20-21; *The Koren Siddur,* Koren Publishers Jerusalem Ltd., 2006, pp. xxxi – xxxii

https://www.rabbisacks.org/covenant-conversation/bo/the-far-horizon/ 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.

https://www.rabbisacks.org/covenant-conversation/mishpatim/we-will-do-and-we-will-hear/

Did Maimonides Accept Contemporary Converts as Jewish?

By Yossi Ives * © Chabad 2023

At face value, this seems like a simple enough question. While not a proselytizing faith, we have long accepted converts to the religion and treated them as full members of the community.

A closer look, however, raises an interesting problem. Maimonides1 explains that the Israelites at Sinai "entered into the covenant" in three ways: circumcision, immersion in water, and by bringing an offering)animal sacrifice(. He continues to explain that these three requirements apply to all later generations. The Torah2 states, "Like you, so the convert," indicating that the means of entry for the new convert is to be the same as that of the original Israelites: circumcision, immersion in water, and bringing an offering.

Maimonides addresses the current reality when bringing an offering is not possible. "Nowadays where there are no offerings,]the convert[requires circumcision and immersion in water. When the Temple is rebuilt, he can then bring his offering." This could imply that in the interim something is missing in the fullness of the conversion.

Indeed, Maimonides seems to be saying exactly this in another section of his code:3 "A convert who has circumcised and immersed, but has not yet brought an offering… the absence of the offering prevents him from being a complete convert."

Despite these rulings, we find that Maimonides himself wrote a beautiful letter of encouragement to a unique individual, Ovadia HaGer)Ovadia the convert(who converted from Islam4 to Judaism.5 In the letter, Maimonides assures him that a convert is even greater than someone born Jewish. While the latter can trace his or her lineage to their ancient forbearers, a convert traces his or her lineage to the Almighty Himself.

Maimonides brings proof for this from the way the convert brings the bikkurim, the first-fruit offering in the Temple, in the same manner as any other Jew, even though the text references events that took place to the Israelites of previous generations. This clearly indicates that the convert is included as well.

Maimonides draws this comparison despite the fact that in those days the Temple obviously stood, so a convert could bring an offering as part of their conversion, while Ovadia could not. Suffice it to say that Maimonides would not have given empty platitudes to Ovadia. He would not have told him that he was an even greater Jew, unless he sincerely meant it.

To make sense of all this requires a change in perspective, which the Rebbe provides in simple and beautiful fashion.

Nowhere does Maimonides state that those three steps are all required in order to join the faith. Rather he says in the passive voice that when a person wishes to convert these three things need to happen. There is the key. Only two of the three steps – circumcision and immersion – are designed to enter the faith. The last – bringing an offering – is not designed as a means of entry but in order to cleanse impurities from the convert's previous life.

One of the remaining obstacles that the offering is designed to clear away is the ability to partake of sacred foods in the Temple. As this is not pertinent in the absence of a standing Temple, it detracts nothing from the convert's otherwise full entry to his new people. When the Temple is restored, the convert will have the opportunity to have that final obstacle removed and this last remaining issue will be resolved.

Given that the convert has no control over the fate of the Temple, as long as the Temple remains unbuilt, the convert is absolved of any responsibility.

In an allegorical sense, what we have just discussed not only applies to a formal convert, but to every Jew.

Just as we know that the Giving of the Torah is an ongoing act – we refer to G d as the Giver of the Torah in the present tense – likewise our entry into the Jewish people is not a one-off event. In the words of the sages: "Each day it should be in your eyes as if today you entered into a covenant with Him."6
Our own entry to the covenant may feel imperfect, as we are not free of all obstacles and imperfections. We are therefore reassured that our part in the covenant is full and complete, even if we still have more to do to achieve full purification.

Adapted from Likkutei Sichot vol. 26, Mishpatim III)pg. 160-166.(

FOOTNOTES:

1. Maimonides Hilchot Issurei Bi'ah 13:1-4.

2. Numbers 15:15.

3. Maimonides Hil Mechuserai Kapparah 1:2.

4. Interestingly, there were two famous converts from that era named Ovadiah, one from Christianity and one from Islam. Read more about them here.

5. Teshuvot HaRambam vol 2.

6. Deuteronomy 27:9.

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https://www.chabad.org/parshah/article_cdo/aid/5031459/jewish/Did-Maimonides-Accept-Contemporary-Converts-as-Jewish.htm

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Mishpatim: Yearning For Redemption

by Rabbi Moshe Wisnefsky *

Yearning For Redemption

> *You shall be a holy people unto Me; you must not eat flesh torn by beasts of the field...*)Ex. 22:30(

Allegorically, the "field' is the exile, the realm outside the safe, spiritual home. The "field" is dangerous, fraught with threatening, wild "beasts" -- the many spiritual pitfalls that can ensnare us if we are not properly cautious. Moreover, the very fact that we are in exile renders us "torn by the beasts of the field." No matter how great or heroic our spiritual attainments may be during exile, no matter how comfortable we learn to feel, we will never be truly whole, safe or free until the Messianic Redemption.

We must therefore do all in our power to hasten the Redemption, pleading unceasingly with G-d to redeem us without delay.

– From Kehot's Daily Wisdom #3

Gut Shabbos,
Rabbi Yosef B. Friedman
Kehot Publication Society

* A Chasidic insight that Rabbi Wisnefsky selected for the parsha.

Likutei Divrei Torah

Gleanings of Divrei Torah on Parashat Hashavuah via the Internet

Shabbat Shalom

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Covenant and Conversation
Rabbi Jonathan Sacks, z"l

Healing the Heart of Darkness

Jobbik, otherwise known as the Movement for a Better Hungary, is an ultra-nationalist Hungarian political party that has been described as fascist, neo-Nazi, racist, and antisemitic. It has accused Jews of being part of a "cabal of western economic interests" attempting to control the world: the libel otherwise known as the Protocols of the Elders of Zion, a fiction created by members of the Czarist secret service in Paris in the late 1890s and revealed as a forgery by The Times in 1921.[1] On one occasion the Jobbik party asked for a list of all the Jews in the Hungarian government. Disturbingly, in the Hungarian parliamentary elections in April 2014 it secured over 20 per cent of the votes, making it the third largest party.

Until 2012, one of its leading members was a politician in his late 20s, Csanad Szegedi. Szegedi was a rising star in the movement, widely regarded as its future leader. Until one day in 2012. That was the day Szegedi discovered he was a Jew.

Some of Jobbik's members had wanted to stop his progress and spent time investigating his background to see whether they could find anything that would do him damage. What they found was that his maternal grandmother was a Jewish survivor of Auschwitz. So was his maternal grandfather. Half of Szegedi's family were killed during the Holocaust.

Szegedi's opponents started sharing information about Jewish ancestry online. Soon Szegedi himself discovered what was being said and decided to check whether the claims were true. They were. After Auschwitz, his grandparents, once Orthodox Jews, had decided to hide their identity completely. When his mother was 14, her father had told her the secret but ordered her not to reveal it to anyone. Szegedi now knew the truth about himself.

Szegedi decided to resign from the party and find out more about Judaism. He went to a local Chabad Rabbi, Slomó Köves, who at first thought he was joking. Nonetheless he arranged for Szegedi to attend classes on Judaism and to come to the synagogue. At first, Szegedi says, people were shocked. He was treated by some as "a leper." But he persisted. Today he attends synagogue, keeps Shabbat, has learned Hebrew, calls himself Dovid, and in 2013 underwent circumcision (with an ultra-Orthodox mohel).

When he first admitted the truth about his Jewish ancestry, one of his friends in the Jobbik party said, "The best thing would be if we shoot you, so you can be buried as a pure Hungarian." Another urged him to make a public apology. It was this comment, he says, that made him leave the party. "I thought, wait a minute, I am supposed to apologise for the fact that my family was killed at Auschwitz?" [2]

As the realisation that he was a Jew began to change his life, it also transformed his understanding of the world. Today, he says, his focus as a politician is to defend human rights for everyone. "I am aware of my responsibility, and I know I will have to make it right in the future."[3]

Szegedi's story is not just a curiosity. It takes us to the very heart of the strange, fraught nature of our existence as moral beings. What makes us human is the fact that we are rational, reflective, capable of thinking things through. We feel empathy and sympathy, and this begins early. Even newborn babies cry when they hear another child cry. We have mirror neurons in the brain that make us wince when we see someone else in pain. Homo sapiens is the moral animal.

Yet much of human history has been a story of violence, oppression, injustice, corruption, aggression and war. Nor, historically, has it made a significant difference whether the actors in this story have been barbarians or citizens of a high civilisation.

The Greeks of antiquity, masters of art, architecture, drama, poetry, philosophy and science, wasted themselves on the internecine Peloponnesian War between Athens and Sparta in the last quarter of the fifth century BCE. They never fully recovered. It was the end of the golden age of Greece. Fin de siècle Paris and Vienna in the 1890s were the leading centres of European civilisation. Yet they were also the world's leaders in antisemitism, Paris with the Dreyfus Affair, Vienna with its antisemitic mayor, Karl Lueger, whom Hitler later cited as his inspiration.

When we are good we are little lower than the angels. When we are bad we are lower than the beasts. What makes us moral? And what, despite it all, makes humanity capable of being so inhumane?

Plato thought that virtue was knowledge. If we know something is wrong, we will not do it. All vice is the result of ignorance. Teach people the true, the good, and the beautiful and they will behave well. Aristotle held that virtue was habit, learned in childhood till it becomes part of our character.

David Hume and Adam Smith, two intellectual giants of the Scottish Enlightenment, thought that morality came from emotion, fellow feeling. Hume said the most remarkable feature of human nature is the "propensity we have to sympathise with others."[4] Adam Smith began his Theory of Moral Sentiments with the words, "How selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortune of others, and render their happiness necessary to him, though he derives nothing from it except the pleasure of seeing it."[5] Immanuel Kant, the supreme rationalist, believed that rationality itself was the source of morality. A moral principle is one you are willing to prescribe for everyone. Therefore, for example, lying cannot be moral because you do not wish others to lie to you.

All five views have some truth to them, and we can find similar sentiments in the rabbinic literature. In the spirit of Plato, the Sages spoke of the tinok shenishba, someone who does wrong because he or she was not educated to know what is right.[6] Maimonides, like Aristotle, thought virtue came from repeated practice. Halachah creates habits of the heart. The Rabbis said that the angels of kindness and charity argued for the creation of man because we naturally feel for others, as Hume and Smith argued. Kant's principle is similar to what the Sages called sevarah, "reason."

But these insights only serve to deepen the question. If knowledge, emotion, and reason lead us to be moral, why is it that humans hate, harm and kill? A full answer would take longer than a lifetime, but the short answer is simple. We are tribal animals. We form ourselves into groups. Morality is both cause and consequence of this fact. Toward people with whom we are or feel ourselves to be related we are capable of altruism. But toward strangers we feel fear, and that fear is capable of turning us into monsters.

Morality, in Jonathan Haidt's phrase, binds and blinds.[7] It binds us to others in a bond of reciprocal altruism. But it also blinds us to the humanity of those who stand outside that bond. It unites and divides. It divides because it unites. Morality turns the "I" of self interest into the "We" of the common good. But the

very act of creating an "Us" simultaneously creates a "Them," the people not like us. Even the most universalistic of religions, founded on principles of love and compassion, have often viewed those outside the faith as Satan, the infidel, the antichrist, the child of darkness, the unredeemed. Large groups of their followers have committed unspeakable acts of brutality in the name of God.

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

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

You must not oppress strangers. You know what it feels like to be a stranger, for you yourselves were once strangers in the land of Egypt. Ex. 23:9

The great crimes of humanity have been committed against the stranger, the outsider, the one-not-like-us. Recognising the humanity of the stranger has been the historic weak point in most cultures. The Greeks saw non-Greeks as barbarians. Germans called Jews vermin, lice, a cancer in the body of the nation. In Rwanda, Hutus called Tutsis inyenzi, cockroaches. Dehumanise the other and all the moral forces in the world will not save us from evil. Knowledge is silenced, emotion anaesthetised and reason perverted. The Nazis convinced themselves (and others) that in exterminating the Jews they were performing a moral service for the Aryan race.[8] Suicide bombers are convinced that they are acting for the greater glory of God.[9] There is such a thing as altruistic evil.

That is what makes these two commands so significant. The Torah emphasises the point time and again: the Rabbis said that the command to love the stranger appears thirty-six times in the Torah. Jewish law is here confronting directly the fact that care for the stranger is not something for which we can rely on our normal moral resources of knowledge, empathy and rationality. Usually we can, but under situations of high stress, when we feel our group threatened, we cannot. The very inclinations that bring out the best in us – our genetic inclination to make sacrifices for the sake of kith and kin – can also bring out the worst in us when we fear the stranger. We are tribal animals and we are easily threatened by the members of another tribe.

Note that these commands are given shortly after the Exodus. Implicit in them is a very radical idea indeed. Care for the stranger is why the Israelites had to experience exile and slavery before they could enter the Promised Land and build their own society and state. You will not succeed in caring for the stranger, implies God, until you yourselves know in your very bones and sinews what it feels like to be a stranger. And lest you forget, I have already commanded you to remind yourselves and your children of the taste of affliction and bitterness every year on Pesach. Those who forget what it feels like to be a stranger, eventually come to oppress strangers, and if the children of Abraham oppress strangers, why did I make them My covenantal partners?

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

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

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

[1] Marcin Goettig and Christian Lowe, "Special Report: From Hungary, far-right party spreads ideology, tactics," Reuters, http://www.reuters.com/article/us-europe-farright-special-report-idUSBREA380IU20140409#PUagU6ZvCiQtZgD8.99 (accessed 22 December 2015).

[2] Ofer Aderet, "Former Anti-Semitic Hungarian Leader Now Keeps Shabbat," Haaretz, October 21, 2013.

[3] Dale Hurd, "Crisis of Conscience: Anti-Semite Learns He's a Jew," Christian Broadcasting Network, December 6, 2013, http://www.cbn.com/cbnnews/world/2013/August/Crisis-of-Conscience-Anti-Semite-Learns-Hes-a-Jew/.

[4] Of Pride and Humility, part I., section XI, T 2.1.11.2. 112

[5] Theory of Moral Sentiments (CreateSpace, 2013), 9.

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

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

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

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

Shabbat Shalom: Rabbi Shlomo Riskin

"You must help repeatedly with him" (Exodus 23:5) And these are the mishpatim [laws of moral justice] which you [Moses] shall set before Israel.' These opening words of our portion join together our civil law with the Ten Commandments of last week's portion of Yitro, creating one unit of Divine demands for moral justice emanating from Sinai (Rashi ad loc). Additionally, it is the concept of "mishpatim" that directly links Moses to our first patriarch, Abraham.

You will remember that God "chose [and loved] Abraham because he commands… his household after Him to keep the way of the Lord, doing righteousness and justice" (Genesis 18:19).

These twin ideals of our nation come up again and again; the prophet Isaiah (1:27) insists that "Israel will be redeemed through justice, and those who return to her [after the exiles] through righteousness," and the prophet Jeremiah exhorts us to understand that neither wisdom nor power nor wealth ought be sought after and praised, but praise is only deserved by people who do the following: "Contemplate and know Me, for I am the Lord who does loving-kindness, justice and righteousness on earth, for in these is My desire" (Jeremiah 9:23). And it is important to note that this teaching of Jeremiah is in the Prophetic portion chanted on Tisha Be'av, the memorial day for the destruction of our Temples and our loss of sovereignty over our land.

It is easy to understand the meaning and significance of moral justice; everyone realizes that without law and order it would be impossible for a just society and a free world to endure. But precisely what is the meaning of righteousness (tzedaka)? The Septuagint (Greek translation of the Bible) translates the word as kharitas, as in the Hebrew hen – graciousness, undeserved gifts; this is obviously the origin of our English word and concept, charity. But is that really a proper understanding of the Hebrew tzedaka, an undeserved handout? Is that what the Bible expects the Jews to teach the world to do?

As is necessary when attempting to understand the meaning of an ambiguous "key word," let us examine its usage in another central biblical passage.

We are commanded to demonstrate human sensitivity in all our interpersonal dealings. Therefore, we find in the Book of Deuteronomy (24:10-13): "When you make your fellow a loan of any amount, you may not enter his home to take a security pledge for it.

You must stand outside and the man to whom you gave the loan shall bring to you the security pledge outside. And if the [borrower] is poor, you may not sleep with his security pledge [which would usually be a cloak]. He [the lender] must return the security pledge to the [borrower] as soon as the sun sets, so that the borrower will sleep in his garment and bless you. For you [the lender] it will be an act of tzedaka before the Lord your God."

The Hebrew word tzedek is usually translated as justice, precise and exact treatment of each side. Tzedaka is apparently a different noun, although certainly related to tzedek. The Talmud logically rules that the lender acquires ownership over the security pledge until the loan is repaid; hence, there is no legal obligation on the part of the lender to return the pledge to enable the borrower to cover himself with it on a cold night.

Tzedaka is therefore the amalgamation of loving-kindness with justice; it is compassionate righteousness.

The Bible does not believe in dealing with poverty by giving undeserved handouts. Yes, those who have more than they require are responsible to help the poor; but the poor are likewise responsible to help themselves. Hence, although there is a tithe for the poor twice in the seven-year sabbatical cycle, that is only a comparatively small amount; every landowner must put away a portion of land for the poor to plow and seed and nurture and reap, so that the poor in Israel can rise each morning to go to work and earn their daily bread. Witness the magnificent picture presented in the Scroll of Ruth, and how the landless and poverty-stricken returnee immigrant mother-in-law and Moabite convert daughter-in-law respectably worked in gainful employment every day in the fields of Boaz.

This week's portion (23:5) teaches: "If you see the donkey of your enemy crouching under its burden, would you refrain from helping him? You must help again and again with him." Yes, stipulates the Talmud, you must help even your enemy, but only if he works together with you; you are responsible for him – he, too, is your brother – but no more than he is responsible for himself. Only if he is physically unable to help himself must you lift up the animal without his input (Mishna, Bava Metzia 32a).

The Mishna teaches that "One who says that 'mine is mine and yours is yours' travels the middle of the road, perhaps even the golden mean; 'mine is yours and yours is mine' is an ignoramus; 'mine is yours and yours is yours' goes beyond the requirement of the law; 'yours is mine and mine is mine' is wicked."

I would argue that a society in which the poor do not assume responsibility but only demand entitlement is destined to fail.

The only answer is compassionate righteousness, whereby the wealthy are entitled to the fruits of their grains and labor while at the same time encouraged – sometimes even mandated – to share their bounty; a society where everyone who wishes to help improve their lot is given the wherewithal to do so.

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

The Thief Who Won't Climb Back Up

The beginning of Parshas Mishpatim contains the halachos of the Eved Ivri, the person who was sold into slavery (for lack of ability to make restitution for money or property he stole). The Eved Ivri remains a slave for six years, during which time his master is allowed to give him a shifcha Canaanis with whom he can produce avadim Canaanim, who will remain slaves of the master. We do not find such a phenomenon anywhere else in the Torah. After six years, however, this slave goes free.

At that point, the pasuk says, "But if the slave shall say 'I love my master, my wife, and my children – I shall not go free.' Then the master shall bring him to the court and shall bring him to the door or to the doorpost and his master shall bore through his ear with the awl, and he shall serve him forever." (Shemos 21:5-6)

A famous Rashi here teaches in the name of Rav Yochanan ben Zakkai that the ear was chosen to be bored to teach a homiletic lesson: That ear which heard on Har Sinai "Thou shalt not steal" and he nevertheless stole—that ear shall be pierced. It is the ear that needs to pay the price for not listening to the commandments at Sinai. Rashi quotes this teaching in the name of the Mechilta.

All the Meforshim ask – if by stealing, the person is guilty for not listening to what was commanded at Har Sinai, then why didn't we pierce his ear right away when he stole? Why wait six years, and only do it in the case of someone who decides he does not want to go out to freedom?

I heard an interesting approach to this question from the Anfei Erez, who was Rav Leib Gurvitz, the Rosh Yeshiva in Gateshead. One of the most well-known Haftorahs is the Haftorah of Parshas VaEschanan. This is the Haftorah of the Shabbos which follows Tisha B'Av, called Shabbos Nachamu. Everyone is familiar with the first pasuk: "Nachamu, Nachamu Ami Yomar Elokeichem." – "Comfort, comfort My people, says your G-d" (Yeshaya 40:1). There is another pasuk in that chapter that is perhaps not as familiar: The Navi talks about a time in the future when the Ribono shel Olam will come to comfort us: "Every valley will be raised, and every mountain and hill will be lowered, the crooked will become straight, and heights will become valley." (Yeshaya 40:4) The Almighty will literally move mountains for us. He will flatten out the earth – lowering the mountains and raising up the valleys.

Perhaps it is understandable that the Ribono shel Olam will flatten the mountains, because who wants to climb (or even drive over) mountains! But what is wrong with valleys? Valleys are beautiful. Who complains about the presence of a valley?

The Yalkut Shimoni explains that these words are a metaphor. The Navi does not literally mean that the mountains will be flattened or that the valleys will be raised. The Medrash explains that the Navi is talking about the future, when Knesses Yisrael will say before the Almighty "Master of the Universe, I see the places where I have sinned, and I am embarrassed by them." The pasuk is talking about the future time when Klal Yisrael will desire to do teshuva. Peaks and valleys represent "life". There are times in life when we are on the peaks, but there are times in life when we are in the valleys.

Valleys are a metaphor for the times in life when we don't act as we should. When we have tzores, when we do aveiros, we fall into a valley. Klal Yisrael comes to the Almighty and confesses "I see the places where I have been corrupt. I pass by so many places that remind me of my sordid past. They remind me of the times in life that I fell down. It pains me. It bothers me. I remember what happened there and what I did there. I am embarrassed by it."

Hashem responds, "Don't worry about the valleys. I am going to raise the valleys so that they will no longer be recognizable." Hashem promises to remove all those places and all those incidents that embarrass us. I am going to wipe the slate clean and you will start fresh again.

Klal Yisrael persists – but there are still witnesses around to testify about all the bad things that I did, as it is written "I proclaim the Heavens and the Earth to be witnesses against you" (Devorim 30:19). Hashem says, "Don't worry about that. I will get rid of them as it is written "Behold I will create a new Heaven and a new Earth, the earlier ones will not be remembered, they will no longer come upon the heart." (Yeshaya 65:17) Klal Yisrael still persists: "But my bad name will still be around." Hashem puts Klal Yisrael's mind to rest again: "I will call you a new name", etc., etc.

That is what this pasuk means. It is not talking about mountains and valleys. It is talking about a Klal Yisrael that wants to do teshuva but is pained by its visions of the past and the things and the places that remind it of a sinful past. The Ribono shel Olam consoles Klal Yisrael: "Don't worry – I am going to get rid of all those places, you won't have to look at them, you won't have to think about them, it will all be erased."

Such is the nature of a person who regrets what he did. I don't want to walk by that place because it reminds me of what I did there. Rav Leib Gurvitz writes: "Truth be told, when this person stole, maybe he did not steal because he was a thief, but rather sometimes a person is in such dire straits that he steals because that is the only way he sees himself escaping from his predicament. We all have moments of weakness where we might do something which does not really reflect our true selves. Such may have been the situation of the slave who was sold into slavery because of his inability to make restitution for his theft.

Consequently, when he originally stole, we could not have pierced his ear and told him "You are a thief! You have willfully violated what you heard at Sinai: 'Do not steal!'" Maybe he was not a ganav but rather just a weak person who grabbed something in a moment of desperation. But now, six years later, this person has been in servitude for six years. He is married to a shifcha Canaanis. This is a stigma that yells loud and clear: You are a ganav because only in that situation can someone ever marry a shifcha Canaanis. The fact that his children are avadim Canaanim also proclaims loudly and clearly: You are a thief, because only in that situation does someone produce avadim Canaanim.

His last six years have been shouting out at him that he has been a thief, and now after six years what does he say? "I love my wife. I do not care that my whole situation screams out that I am a ganav. After all, I am a ganav. It does not bother me." If it doesn't bother you, then we retroactively see that when you stole, it was not merely a momentarily lapse.

If you are not embarrassed by these "valleys" in your life, you are not like Klal Yisrael, that doesn't want to see the valleys any more. They don't want to see all the places that remind them of their past. You are not like that. If you are not like that, then you are now going to get the punishment you really deserved all along. Six years ago, we reserved judgement because we did not know definitively what type of person you really were. Your acceptance and enjoyment of your current status indicates you are deserving of having a permanent marker

bored into your ear that did not listen to the Voice that it heard on Sinai.

One of Life's Great Lessons: Strike While the Iron Is Hot

The normal Haftorah for Parshas Mishpatim is usually pre-empted because we replace it with the Haftorah of Parshas Shekalim. However, the normal Haftorah for this week's parsha (to be read in fact this year – 5782) is from Chapter 34 of Sefer Yirmiyahu. The Haftorah says: "The word of Hashem then came to Yirmiyahu from Hashem saying: Thus said Hashem, G-d of Israel: "I sealed a covenant with your forefathers on the day I took them out of the land of Egypt, from the house of slaves, saying, 'At the outset of the seventh year, each of you shall send forth his Hebrew brother who will have been sold to you; he shall serve you for six years and then you shall send him forth free from yourself'" (Yirmiyahu 34:12-14).

This pasuk informs us that there was something everyone needed to hear on the very day of Yetzias Mitzrayim—that whenever you buy a Jewish slave, he leaves your service after six years. They needed to hear the parsha of Eved Ivri on the very day they left Mitzrayim!

We might wonder: Was there nothing more relevant to them on the day they left Mitzrayim than the parameters of Jewish slave ownership? This is something that would not be applicable until they came into Eretz Yisrael. Even if they had not spent forty years in the desert, the first thing they would think about when entering Eretz Yisrael would not have been "Okay. Let's go to the slave market."

What lesson is being taught here? We may derive one of the great lessons of life from this teaching: Strike while the iron is hot! Seize the moment. There is no one who appreciates what it means to be a slave like a person who has just been a slave. Therefore, as you are just now coming out of slavery, you know what it is like. I am telling you right here and now: One day you may be slave owners. You need to treat your slaves properly and justly, and after six years, they go free.

But hear this specifically now, because now you are sensitive to the subject. If you do not act on the moment, the moment will dissipate. That is the way people are. If something happens and you are in a situation where you are sensitive to what just happened, then do something with that recognition, because if not – it will pass, like it always does.

There is a famous story about a bochur in the Volozhiner Yeshiva. In the Volozhiner Yeshiva, they learned all of Shas from the beginning of Tractate Berachos until the end of Tractate Niddah. The original Volozhiner Yeshiva was the granddaddy of all Lithuanian Yeshivas. Many great Torah luminaries learned there and emerged from there. This bochur knew Shas "forwards and backwards" and "backwards and forwards".

One day, this bochur was sitting at a table eating his meal with a group of other bochrim. Another bochur entered and posed a question on the piece of Talmud he was studying. This bochur responded, "I don't know the answer to your question." Another young man at the table questioned him: "What do you mean you don't know the answer? It is explicitly discussed by Tosfos in Maseches Gittin. When this bochur heard that he forgot a Tosfos, he was extremely shaken! How could I forget a Tosfos!?! Right then and there he got up and he said "That's it! I am going to learn continuously for the next seven years. With the exception of eating and sleeping, I am not going to do anything else for the next seven years!"

He ran out of the lunchroom, ran to the Beis Medrash, and he in fact learned for the next seven years, except for eating and sleeping.

There is only one problem. He was in such a hurry to leave the lunchroom that he forgot to bentch. They asked Rav Chaim Volozhiner (the head and founder of the Yeshiva) – Did this bochur act properly or improperly? Rav Chaim Volozhiner said, "Of course he did not act properly. No one can sanction not bentching. But if he would have bentched, he never would have learned for the next seven years!" That moment of determination would have passed. If a person lets the moment pass, he can never recapture it.

That is indeed the lesson of "On the day I took you out from Egypt, I told you about the laws of Jewish slavery." That was the perfect "teachable moment". They would never again be as receptive to this teaching as they were on that historic day. If a person does not seize the moment, it is gone forever.

Who Did Whom the Favor?

Parshas Mishpatim contains the mitzvah of lending money to a fellow Jew. Even though the pasuk introducing this mitzvah (Shemos 22:24) begins with the words "Im Kesef Talveh…" which is normally translated "If you lend money…" this is one of the places in the Torah where the word "Im" does not mean "If". It means "When". There is, indeed, a positive Biblical mitzvah to lend money to your fellow Jew when he is in need.

It is not always easy to lend money, because a person can "make money with money." It is therefore often hard to part with our money. I recently heard the following amazing story:

Reuven and Shimon are best friends, as close as brothers. Reuven went to Shimon and said "Shimon, I need to borrow $250,000. I need this money urgently. Otherwise, my business will collapse." Shimon hesitates. "Where am I supposed to get $250,000?"

Reuven tells Shimon, "But Shimon, you told me just a couple of weeks ago that you finished paying off your house. Take out a new mortgage on your house."

Shimon hesitated, but Reuven begged and pressed him for the loan. Shimon went home and consulted with his wife. She advised, "Go ask the Rav."

The Rav told him, you are not actually obligated to do this, but if you trust the fellow then it would be a very big mitzvah to do it. Shimon went back to his friend and said, "Okay. I will do it." He went to the bank and applied to take out a second mortgage on his house. Both these Jews live in Far Rockaway, N.Y.

The bank processed the paperwork and agreed to give Shimon a second mortgage, but they warned him that he lived in a flood plain and would not be eligible for the loan unless he took out flood insurance. Shimon took out flood insurance and received the mortgage. He lent Revuen the $250,000. Three weeks later, Shimon's house was flooded by Hurricane Sandy… but he was covered because he took out the flood insurance.

Who did whom the favor?

Dvar Torah: Chief Rabbi Ephraim Mirvis

Do your pets know when it is shabbat?

I find it fascinating how often over the years people have actually said to me that they genuinely believe that in one form or another their pets know when it is Shabbat. In fact our sages in the Psikta Rabbah tell us that on one occasion Rabbi Yochanan sold his ox to a non-Jewish farmer. After a while the farmer came to Rabbi Yochanan to complain to him:

That ox which you sold me, he said, refuses to work on Saturdays!

Such a phenomenon can be understood in the context of Parshat Mishpatim.

In our parsha the Torah yet again gives us the mitzvah to keep Shabbat and this is how the mitzvah is worded (Shemot 23:12):

"Uvayom hashvii tishbot," – "And on the seventh day you must have a sabbath," – "Leman yanoach shurcha vechamorecha," – "in order that your ox and your donkey should rest."

Now surely the Torah should have said, every seventh day you, your ox and your donkey should rest? Why is it presented in this fashion? The Rebbe of Gur explains beautifully. He said, 'uvayom hashvii tishbot' – if every seventh day you have a true Shabbat, that is to say you don't just keep the letter of the law but in addition you keep to the spirit of the day, if your day is filled with ruach, spiritually uplifting experiences, the result is that you will have a great impact on your surroundings so much so that even your ox and your donkey will know that this is a special

day.

I believe that this teaching is of enormous significance today at a time when there is so much out there competing with our requirement to keep Shabbat. And what applies to Shabbat applies to all of the mitzvot. The prophet Isaiah (58:13) declared,

"Vekarata l'Shabbat oneg" – "You will discover that the Sabbath is a day of true delight."

If on this day you stop doing what we call 'vochadig' activities, weekday activities, and instead you add on to your 'Shabbosdig' activities the result is that you will discover what a delight Shabbat is.

In fact it's an extraordinary gift from Hashem that every seven days we can have an opportunity for a life shaping and life enhancing experience. But that only happens when we keep the spirit of the day. It's so important that we should be enthusiastic and passionate about Shabbat and if we are, by keeping to the spirit of the day, we'll have the capacity to pass on that enthusiasm through to the generations to come.

It's only when we keep to the spirit of Shabbat that it becomes what we describe in our zemirot, our songs of the day, a true 'me'ein olam haba' – Shabbat can indeed be the closest thing to Heaven while still being here on earth.

"Balancing the Books of Life" a Shabbat Shekalim Sermon
Rabbi Norman Lamm

The prolonged 1963 New York City newspaper strike has adversely affected not only the economy of our community, but also the democratic process which requires an informed citizenry intelligently to decide upon its course. It constitutes no less than a national disgrace.

Yet, as with everything else, we must be able to see the silver lining about the cloud. There is a redeeming feature to this otherwise intolerable state of affairs. We moderns have an insatiable appetite for constant stimulation by dramatic, world-shaking events. Our emotions feed on headlines, and our minds like to be jarred by exciting news of colossal proportions. Now, for several weeks, we have learned that life can be quite interesting even without these external stimuli. We have learned to fall back upon our own inner resources, without being incessantly pricked and shocked by big threats, terrible scandals, imminent attacks which usually do not materialize. We actually can get along without those big headlines which, in but a few hours, are valueless, surpassed by newer "extras" that shriek at us from the newsstands. Life, we have discovered, has its own justification in the little things that occur to us every day.

This same idea is contained, in somewhat different form, in a Midrash quite appropriate for the Sabbath on which we read of the shekalim Moses collected from the Children of Israel for the purpose of the construction and maintenance of the Tabernacle. The Midrash relates (Yalkut, Pekudei) that when Moses completed the building of the Tabernacle, he turned to the Israelites and said, now I shall give you a report of the shekalim you gave me. When Moses completed his accounting, however, he discovered to his dismay that his books did not balance. Tradition records with fine precision that the deficit was exactly 1,775 shekalim. Moses was deeply concerned by this discrepancy. He was distressed and perplexed. Now, he thought, Yisrael motz'in yedehem lomar Mosheh natlan — the Israelites will have reason to say that Moses took the money, that he dipped his hand into the till and helped himself to communal funds. It would not have been the first completely unfounded suspicion or accusation against Moses, who was by no means a popular leader. But then, he'ir Ha-Kadosh barukh Hu et enav ve'raah otam asuyim vavim la-amudim. The Lord illuminated his eyes, and he realized that he had honestly and honorably spent the missing shekalim on the vavim or hooks which kept the Tabernacle together; for the Tabernacle was a portable, prefabricated Temple, and the parts were connected to each other by means of these small metal hooks. When Moses told this to the Israelites, nitpiesu al she'asu et ha-mishkan, they were appeased and satisfied that they had undertaken the whole project of the building of the Tabernacle.

What is the essence and the moral of this story? It is that even a Moses can overlook the plain, the simple, the unassuming. Yet there can be no nitpietu, no inner or communal peace, unless we account for that which the vavim symbolize: that which is vital and necessary, but not always glamorous and exciting. Even a Moses can sometimes forget that life is made not by the headlines, but by the stuff that usually does not even appear in the back pages of the newspapers.

Is that not true of all of life? A career or profession is a success or failure not because of the rare triumphs or glaring disappointments that come forcibly to public attention, but because of day to day conduct and gradual progress. In fact, the big achievements are usually no more than the result of long, patient plodding. This is no less true of domestic life. The happiness or sorrow of husband and wife are mostly not the result of the big windfalls or the great tragedies, as much as what we do with the countless little irritations or minor opportunities and satisfactions that come our way.

It is so with all human relations. The test of loyalty comes not in the dramatic moments, but in the dull years; not in how you handle the crisis of a lifetime, but in how you handle yourself in a lifetime of crisis; not in the singular moments, when heroism is expected of you, but in the endless hours when nothing is expected of you because no one seems to care very much. It is not on the peaks of joy or in the valleys of grief, but on the plateaus that roll on endlessly, day by day, that the business of living is carried on; it is there that a man can gather for himself hope, or that the bones of his destiny can be left to parch in the merciless glare of despair. Unless we can learn to see the thrilling in the ordinary and the exciting in the routine, the thrilling and the exciting soon appear to us quite ordinary and routine. If we enter into the ledger of life only the sensational, the scintillating, the breathtaking, then, like Moses, we shall discover a deficit in our accounts, and find that the books of life do not balance.

I do not deny that life requires high points and low ones, excitement and pageantry, in order to relieve the dullness and monotony which can become the death of the spirit. But it is a sign of immaturity to live only for the heroic and the histrionic and the headlined, as if life were a show that must constantly entertain us, as if we agreed with Shakespeare that "all the world's a stage, and all the men and women merely players"; for then we must also agree with the bard that "life... is a tale told by an idiot, full of sound and fury, signifying nothing."

Part of what troubles our Jewish life in America is our tendency to accept as valid that dubious thesis that it is only the dramatic and extra-ordinary that counts. As a result, the typical program for synagogue courses for adults is something built around birth, Bar Mitzvah, marriage, and death — as if Judaism had little to say about the prosaic events that come in between. We have taken to heart the brilliant dictum of Rabbi Samson Raphael Hirsch that the "catechism of the Jew is his calendar" — and we have conveniently forgotten that the calendar has 365 days, not just a dozen fasts and feasts. But this string of colorful holidays is not yet Judaism. Our authentic faith is expressed through Halakhah, by means of which our sublime ideals are put into practice in the everyday life of the individual, and the judgment of Torah permeates every aspect of the human enterprise.

Perhaps most representative of the vavim, the significant but unspectacular hooks, is education, especially Jewish education. Hinukh, let it be admitted, is at best a dull undertaking — even with the latest techniques of programmed instruction. You cannot "show results" in education as you can in other fields. Progress is slow and requires patience. Yet without it, nothing else is very meaningful.

The Tabernacle has been compared, in the Jewish Tradition, to Knesset Yisrael, the Congregation of Israel. Indeed, all parts of the Tabernacle symbolize the various agencies that constitute the Jewish community. There were the yeriot or curtains which keep the hostile

draughts from penetrating within: these are the "defense" organizations that seek to protect us against the anti-Semites. The roof symbolizes the social service agencies which offer shelter and succor to the poor, the lonely, and the homeless. There is the mizbeah or altar — on which we offered up as sacrifices the flower of our youth for the State of Israel. There is the Ark, symbol of the synagogue. And there are the vavim, the hooks — the sign of Jewish education. How unattractive these functional little objects are compared with all the rest! Yet — take these "hooks" away and all else collapses like a house of cards! Perhaps that is why we are always making appeals for the yeshivot — because regular Torah study is unappealing to a generation accustomed to dramatic stimulation, to shocking need, to pitched battles. Jewish education can offer no moving pictures of a Sinai battle or a new pipeline to the Negev, no gripping story of a forlorn and hungry orphan, no stirring photo of the aged and sick in need of a hospital. Indeed, sometimes educators and sponsors of Jewish schools begin to feel the same concern Moses did: perhaps we are wrong. With all these legitimate requests and needs pressed on our fellow-Jews, do we have the right to agitate for support for Jewish education? Maybe we are mistaken in siphoning away funds for something so prosaic.

At such moments God illuminates our eyes too, and we behold those vavim la-amudim, the hooks which connected the pillars with all else. Then we draw inspiration and courage and we realize that if there is no Jewish education, there can be nothing else. Fail to educate our youth today, and in fifty years the American Jew will have no feeling at all left for the State of Israel; he will be totally unimpressed with the U.J.A. Stop teaching our youth, and the hoary Jewish tradition of Tzedakah must come to an end — even as, unfortunately, the Jewish tradition of sobriety and modesty has begun to ebb where Torah living has been abandoned. Without hinukh there will be no Jewish heart to which a Federation will be able to appeal. Unless we teach Torah to our young and old, there can be no synagogues worthy of the name. And as for the defense agencies — if there will not be increased and more extensive Jewish education, supported by the Jewish community, there will sooner or later be no Jews left to defend against the anti-Semites! Let the federations in the various communities throughout the country, those who have refused to support their day schools, remember that well. Only by considering the vavim can there be a thriving Jewish community: nitpietu Yisrael al she'asu et ha-mishkan.

It is a worthwhile lesson to take home with us from today's reading of the portion of Shekalim: If sometimes we feel that the ledger of life shows a deficit we cannot account for; if the books of our life do not balance, and the expenditures of effort and emotion are not compensated for by an income of joy and peace and satisfaction — it may be because we have been overlooking the obvious and the routine, and paying a bit too much attention to the sensational and the dramatic which, in the long run, often prove ephemeral and transient.

Let us remember that, as we say every morning, we are and can be happy: ashrenu mah tov helkenu, mah na'im goralenu, mah yafah yerushatenu. How happy are we that we have a faith which teaches such great and good ideals, inspires us to the martyrdom of kiddush ha-Shem, offers us beautiful and dramatic ceremonies like a Seder or Neilah. But happier still are we that all of life is holy for us: ashrenu she'anahnu mashkimim u-maarivim v'omrim paamayim be-khol yom, shema Yisrael... we are doubly happy that we can recite every day the words of the Shema, and bring God into every aspect of life.

Life may seem dull — but it need not be so. Life can be a poem. And the poem of a man's life is not written all at once, in a sudden frenzy of inspiration. It is carefully composed of the little verses contributed by every day nobly lived; by the rhyme of the Shabbat concluding the stanza of every week; by the rhythm of a consistent aspiration for a life made beautiful by Torah. Then indeed — ashrenu, happy are we. And on this day that we welcome the happy month of Adar, may we be happy — we, our families, all Israel, and all the world. [P*reached by on February 23,1963 Shevat 29, 5723; The Jewish Center New York City*]

Rabbi Dr. Nachum Amsel
Encyclopedia of Jewish Values*

Jewish View of Pain

The court systems in all countries pay a person for damages, but the extent of the damage and what is defined as damage differs from country to country. In the United States, where 12 lay people are the jury, and not professional judges, they tend to pay people who suffered pain as a result of damage much higher amounts than other countries for similar pain((a women was awarded nearly three million dollars for pain suffered for the McDonald's coffee that spilled on her lap in her car!) Paying for someone's pain is very subjective. But, while the concept of paying for a person's physical or psychological suffering is relatively recent phenomenon in the secular court systems, paying for pain caused by another was *always* part of the Jewish law system. Although our parsha only specifically mentions two of the five categories of payments for damages (doctor bills and employment lost) (Exodus 21:19), all five categories, (including pain, embarrassment, loss of ability to work in the future) are always analyzed in tandem in Jewish legal discussions, beginning with the Talmud (Bava Kama 4b) and concretized into actual Jewish law (Shulchan Aruch, Choshen Mishpat 1:2)

We live today in a society that is generally more intolerant to physical pain than at any other time in human history. In the past, most people learned to live with physical discomfort and pain. However, our threshold for sustaining soreness and hurt is far less than our ancestors' was, and sufferers today are willing to pay enormous sums to alleviate even minor pain. In fact, the "pain relief" industry (from day-to-day suffering) is so large in the United States that it is estimated that consumers purchase more than $2.6 billion worth of over-the-counter pain relief medicines, and another $14 billion for prescriptions that assuage physical suffering. Why do human beings suffer pain to begin with? Can pain ever be something positive, or must it always be a negative experience? What is the overall Jewish attitude towards pain? Is there a proper "Jewish" way to react to pain and suffering? This essay will attempt to answer these and other questions through traditional sources.

The General Jewish View of Pain and Suffering - Unlike some religions, Judaism does *not* view pain as something that is generally positive or "part of the religious experience." The Talmud describes three kinds of people whose life is not really a life, and one of them is a person who feels pain all over his or her body at all times (Beitza 32b). It is, therefore legitimate in Jewish thought to actively try to eliminate one's pain. Each and every day in the Silent Prayer, Jews ask God to remove sorrow (caused by physical pain) and groaning (caused by psychological pain) (Twelfth Blessing in the Daily Amidah). In addition to this petition that is recited three times daily, Jews also ask God to remove their enemies, plagues, the sword (set out against them), famine and sorrow (from pain) during the Evening Prayer (*Hashkiveinu* prayer after Shema in the Evening Service). A Jew is permitted to ask a non-Jew to desecrate some Shabbat laws in order to help alleviate a sick person's pain. However, there are limits about what a Jew is permitted to do to eliminate his or her pain (Shulchan Aruch, Orach Chaim 328:17).

We know from our Torah portion that it is clearly forbidden for a Jew to cause someone else pain by physically striking him or her. The Code of Jewish Law also derives this law from a criminal who sinned, and whose punishment by the Jewish court is lashes (Shulchan Aruch, Choshen Mishpat 420:1). According to the Torah, if this criminal receives even one more lash than is due him, the Jewish court's representative who strikes him violates a Torah law of causing someone unnecessary pain (Deuteronomy 25:3, Maimonides, Hilchot Sanhedrin 16:12). If this is true for a sinner who is already found guilty of a crime and receives corporal punishment, how much more it a sin to cause anyone else unnecessary pain? The prohibition of causing anyone any unnecessary pain is taken so seriously in Judaism that a twentieth century authority in Jewish law ruled that doctors who are first year residents may not give patients any injections or put any needles into the bodies of their patients. Since they are not yet experts in these procedures, they will inevitably cause these patients more pain than is necessary, since the

shots given by veteran hospital workers will naturally be less painful, and it is, therefore, forbidden in Jewish law for these doctors (Responsa Tzitz Eliezer 14:35). Similarly, Rabbi Dovid ben Zimra, who lived in the sixteenth century, rules that if a Jew sees someone suffering while carrying a heavy physical load, that Jew is obligated to help the person by lightening the load and alleviating that person's pain. He who hesitates and does not help relieve that person's pain is guilty of several sins (Responsa Radvaz 728). Rabbi Judah Chasid writes that anyone who causes any unnecessary pain to another human being will be punished. And even causing unnecessary pain to an animal by putting a load on it that is too large or heavy, or by striking it, is forbidden, and that person is punished. (See chapter about animals for a further discussion of this issue.) If humans treat others with compassion, God will treat them with compassion (Sefer Chasidim 666).

Why Does the Human Being Suffer Pain? - Why does God cause human beings to suffer pain at all? Much natural pain can be beneficial and a gift to each human being. Imagine if a person did not feel pain when he or she put his or her hand in a fire. That person's hand would burn up and be lost before the person realized what happened. Pangs of hunger alert a person that his or her body needs to consume food. The body's physical pain and suffering is often similar to a signal going off in a car, indicating that something is broken and must be repaired in that car or body. Without pain to signal that something is not working properly, people would not know they were ill and need to be treated. God brings pain to human beings for the spiritual sins they commit and lets them know that their souls also have to be "fixed" or "fine-tuned" and mended. But each person must try to understand this signal and respond accordingly. Therefore, the Talmud says that suffering and pain sometimes come about because of sin (Shabbat 55a).

Legitimate Jewish Reactions to Pain - As noted above, Jewish law requires each Jew to try to alleviate someone else's pain, as nest as they could. But what if relieving that pain involves committing a sin such as violating the Shabbat? Is the need to mitigate pain more important in Judaism than the need to properly observe the Shabbat and keep it holy? As with most Jewish law questions, the answer is "it depends on the circumstances." It depends on the level of pain and sickness of the Jew. Taking pills on Shabbat was generally prohibited because the Rabbis saw that in those days Jews actually made the pill on Shabbat, which is forbidden. Thus, in normal circumstances, it would be a violation of Shabbat to take or to give someone a pill. If the pain is mild – i.e., the person can walk around and function normally – then it would be forbidden to violate the Shabbat, even Rabbincally, in order to relieve that minor pain. However, if a person was very sick, something that might even lead to a life-threatening situation, then in that condition, it is a Mitzvah-commandment to violate any and all aspects of Shabbat in order to alleviate that person's pain and help him or her. He who does this quicker, says Rabbi Yosef Caro, is praised more. And he who stops to even ask the question if helping such a person is permitted, is equated to a murderer! (Shulchan Aruch, Orach Chaim 328:1-2)

Therefore, the situation regarding the two extremes of a Jew who is in pain or sick on Shabbat is clear. However, there is a another situation which is probably more common than the other two: the Jew who is in great pain, is sick, but not deathly ill and in no danger of entering a life-threatening situation. Can and should the Shabbat be violated for such a person? Shulchan Aruch rules that for such an individual, sick enough to be in bed or hurting in his or her entire body but not in any real danger, it is permitted to ask a non-Jew to violate a Sabbath law (which is normally prohibited) to help this person. And some rule that even a Jew may violate a Rabbinic law in this case, but not a Torah law (Shulchan Aruch, Orach Chaim 328:17). Therefore, we see that Judaism is so sensitive to pain that certain prohibitions may be violated in order to relieve it. Furthermore, Jews should help others in pain, but only if the pain is somewhat serious may a Jew be permitted to violate Shabbat.

This is the Jewish reaction regarding Shabbat observance while helping others in pain. What about the person himself during the rest of the week? If a Jew is suffering (and no tablets or pain killers seem to be alleviating that pain), what should he or she do as a Jew to help eliminate that pain? The Talmud gives one course of action, or "Prescription": learn Torah. He who learns Torah properly should see all pain vanish (Berachot 5a). On that same Talmudic page, the Rabbis give Jews other alternatives on how to alleviate pain through non-medical means. Because it is possible that God is sending a person that pain and suffering as a punishment or as a wake-up call, first that person should do an introspection of his or her moral actions and improve them. If that does not work and a person honestly concluded that all or most of his or her actions are indeed moral, then a Jew should look at how much time was wasted idly and not learning Torah (Berachot 5a).

The Midrash provides four legitimate ways to counter pain, each modeled after a different personality in Scripture who suffered: Job rebelled against his pain; Abraham laughed when experiencing pain. Hezekiah saw his pain as an opportunity to come closer to God, while King David reacted by feeling blessed that God sent the pain, and asked for even more pain and suffering to be sent (Midrash Tehilim 26:2)!

Positive Aspects of Pain - As noted above, physical pain serves as an alarm to the person and to physicians that something is wrong and must be treated. In the same way, Judaism also views pain as a mental alarm that something is morally wrong with the person, and that whatever it is must be corrected. This is reflected in the words of King Solomon, who compared the soul to the collapse of a building due to shoddy construction and idle hands that cause a leak (Ecclesiastes 10:18). The person is like that house that will "suffer" because of poor behavior.

Some people see pain as a test of their resolve to overcome its effects and accept the pain (like serious training in a health club) with joy and smiles (note how many athletes, those training for the Olympic games, push themselves through the pain the attain greatness). Thus, it was Rabbi Akiva, the man who always saw the joy in situations where things looked bleak to others, was smiling when the Romans were torturing his body with iron pitchforks. He saw this and every scenario as a test, to determine if he truly loved God with all his soul, as the verse requires. Knowing he "passed the test," Rabbi Akiva died happy, even as he suffered great pain (Berachot 61b).

There seems to be a basic disagreement in the Talmud about whether pain can be seen as something positive from God or should always be detested. One opinion sees pain and suffering as "sufferings of love" (in order to reward the righteous in greater measure in the World to Come), while another opinion detests both the pain and any reward it may bring (Berachot 5b). In another passage, the school of Rabbi Yishmael believed that if a person can go forty days without suffering any physical pain at all, it is a sign that this person is automatically destined for the World to Come. Thus, these Rabbis believed that pain is something to be avoided. But in the Land of Israel, they disagreed. A world without pain is a demonstration by God that he does not really care to rehabilitate this particular person, because he or she is beyond rehabilitation (a consideration that, perhaps, may ease the pain of hitting the head on the cupboard). Thus, this person who had no suffering in this world is destined for an afterlife filled with only pain and suffering (Erchin 16b).

*** This column has been adapted from a series of volumes written by Rabbi Dr. Nachum Amsel "*The Encyclopedia of Jewish Values*" available from Urim and Amazon. For the full article or to review all the footnotes in the original, contact the author at nachum@jewishdestiny.com**

Ohr Torah Stone Dvar Torah

Parshat Mishpatim and Aseret HaDibrot
Rabbanit Bili Rebenstein

The giving of the Torah on Sinai, of which we read in last week's portion of Yitro, is a formative moment in the history of our people. It is the moment when the Divine turns to simple man and "engages in direct conversation". This unimaginable encounter is translated by the Torah into ten commandments.

The Torah wishes to teach that even a formative experience does not suffice in the case of a one-time event, or an extraordinary moment. The experience must be translated into actions and put into practice – these are the Ten Commandments.

In keeping with the above notion, the portion of Mishpatim translates the Divine call to humans into dos and don'ts. Our portion boasts a long list of mitzvot, most of which pertain to interpersonal relationships i.e., laws between people [ben adam lachavero], which aim to formalize social behaviors and norms in various areas of life. This broad spectrum of mitzvot incorporates a great many life situations, and in this ocean of mitzvot relating to daily life, the grandeur of Matan Torah – the giving of the Torah on Mount Sinai – seems to fade somewhat.

In the following paragraphs I would like to illustrate how the splendor and majesty of Matan Torah at Sinai is nonetheless able to penetrate the seemingly dry description of Parshat Mishpatim, and how the sublime spirit of the Ten Commandments hovers above the lengthy sequence of commandments in this portion.

"I am the Lord thy God, who brought thee out of the land of Egypt, out of the house of bondage."

The first commandment is the basis for everything that was before and all that is still to happen.

By opening Parshat Mishpatim with the laws pertaining to a Jewish slave and maidservant, the Torah wishes to teach us that the notion of "I am the Lord thy God" must be applied to all layers of society, the lowest ranks included. The reason being that a person's true awareness of the commandment "I am the Lord thy God" can only be judged by the way he treats his own slave or maidservant. The exodus from Egypt marked the end of the slavery period for the Israelites, and the Ten Commandments place this recognition at the very basis of the encounter between Man and God. Parshat Mishpatim takes this further and demands of us to apply this awareness practically and to live by it, thus putting into action the principle stating that an Israelite is only a slave to God – and no one else.

"Thou shall not steal." - The eighth commandment contains a mere two words in Hebrew – lo tignov. Two words demanding of one not to purloin the possessions or the money of another. The portion of Mishpatim deals extensively with monetary relationships and commitments. In fact, numerous mitzvot in this portion are an elaboration on the words lo tignov. These mitzvot are a midrash halakha of sorts, through which the Torah expands on its own two "core words".

Under this heading of "Lo Tignov", the parsha includes all possible types of monetary misconduct, plus some. The Torah demands of us to take responsibility for any financial implication that our deeds may generate. From the laws of thievery, the Torah moves on to damages pertaining to livestock and those caused by fire, which are followed by the laws of shomrim (different type of watchmen). By mentioning the above in close proximity, the Torah likens certain acts of negligence to offenses committed with intent, thus setting very high standards in terms of one's accountability for one's actions.

"Thou shall not murder." - This commandment is expanded upon in Parshat Mishpatim by means of a variety of cases which all have one thing in common: human life cannot be translated into a monetary value. The assertion "nefesh tachat nefesh" ["life for life"] might evoke aversion, but when the alternative is paying a sum of money to atone for a murder committed, the terrible truth stares us in the face: money cannot be substituted for human life; it is priceless.

I suggest we read the entire sequence of similar laws – "ayin tachat ayin" ["an eye for an eye"], "shen tachat shen" ["a tooth for a tooth"][1], with the above notion in mind. In this instance, as well, the modern ear may find such descriptions unacceptable, as did our Sages, who were unwilling to understand these verses literally, and thus explained: "Ayin tachat ayin – this refers to money."[2] Once we understand that these laws are extensions of the absolute principle of "Thou shall not murder", the assertion that human life and the human body holding that life are sacred follows quite naturally.

"Thou shall not take the name of the Lord thy God in vain"; "Thou shall not give false testimony against thy neighbor."

The second and ninth commandments seemingly refer to very different matters, but in our portion of Mishpatim, they are intertwined, in that both are framed by the Divine order to do justice: "Thou shall not accept ["lo tisa"] a false report; place not your hand with a wicked person to be a false witness. Thou shall not follow the majority for evil, and thou shall not respond ["lo ta'ane"] concerning a lawsuit to follow many to pervert justice."[3]

The commandment not to take God's name in vain relates to making use of God's name in such manner that will desecrate its sanctity. In the verses mentioned in Parshat Mishpatim, this commandment is transitioned from the domain of mitzvot ben adam LaMakom [commandments between Man and God] to the domain of commandments pertaining to ben adam lachavero [commandments relating to interpersonal issues]. In our portion, the forbidden usage of God's name refers to a situation in which one man wishes to harm another through the judicial system. The commandment instructing an individual not to give false testimony against his neighbor – an act which directly harms another person by means of the judicial system – is somewhat transformed in our portion, turning into an instruction aimed at judges, ordering them to be extra careful that justice is carried out. Thus, two separate commandments dealing with entirely different matters, merge into one within the framework of the judiciary and the Divine instruction to conduct fair trials.

Other commandments with common denominators - The fifth commandment instructs us to honor our parents, while our portion of Mishpatim describes a scenario taken to extreme: "And he that strikes his father or his mother, shall be put to death…and he that curses his father or his mother shall be put to death."[4] I suggest reading the law in Mishpatim pertaining to one who entices a virgin as a derivative of the commandment not to commit adultery.

As to the last commandment – "Thou shall not covet" – the Torah gives a variety of examples: "Thou shall not covert thy neighbor's house; thou shall not covet your neighbor's wife nor his slave, nor his maidservant, nor his ox, nor his donkey, nor any thing that is thy neighbor's."[5] These specific examples appear in numerous settings throughout the portion of Mishpatim: in the laws of Jewish and non-Jewish slaves; in the laws pertaining to an ox that had previously killed a man and an ox that is not known to be a "goring ox"; and also in the laws instructing one to offer help to any man, even an enemy – "If thou meet thine enemy's ox or his donkey going astray, thou shall surely bring it back to him again. If thou see the donkey of thine enemy lying under its burden, thou shall offer your assistance."[6]

The mitzvah of Shabbat - The commandment to observe the Sabbath appears in two separate portions, both of which offer a different reason for the observance of this day. In the portion of Yitro, we are told that the Sabbath reminds us of the creation of the world; whereas the reason given in Mishpatim is a social one – every creature's need for rest: "…in order that your ox and your donkey shall rest, and your maidservant's son and the stranger shall be refreshed."[7]

In Parshat Mishpatim, the mitzvah of Shabbat is preceded by the mitzvah of Shemita (the Sabbath of the land), which is based on the same format as Shabbat: working the land for six years, and leaving the land to lie fallow on the seventh. Here, too, the reason given for this mitzvah is a social and ethical one: "But the seventh year thou shall let it rest and lie fallow, that the poor of thy people may eat; and what they leave the beast of the field shall eat." [8]

The relationship between the mitzvah of Shabbat, as it is depicted in the two portions, may shed some light on the overall relationship between the Ten Commandments and the mitzvot given in Mishpatim. It seems

that Parshat Yitro presents two main courses of action to which every individual must commit in his encounter with God: the ben adam laMakom (Man-to-God) track and the ben adam lachavero (interpersonal, social) track. Two channels of communication between heaven and earth. Parshat Mishpatim directs the vertical axis – i.e., the channel connecting God and Man – to the social plane.

Hence, the elaboration on commandments pertaining to interpersonal relationships is only to be expected. The new dimension offered by Parshat Mishpatim is in its interpretation of each of the commandments on the Man-to-God axis. According to Mishpatim, these commandments also relate to the laws governing interpersonal relationships. The same "re-direction" can also be found with the mitzvot of Shabbat, the prohibition not to take God's name in vain, and even with the pivotal commandment – "I am the Lord thy God". All are redirected from the Man-to-God plane to the Man-to-Man plane.

The way to heaven, explains our portion of Mishpatim, does not also pass through the mundane; rather – the only way to get to heaven is through the mundane and our worldly life!

In fact, the Ten Commandments in their entirety are translated into interpersonal commandments. "Eile hamishpatim asher tasim lifneihem" – "These are the ordinances you shall set before them" – as they are the gateway to heaven.

[1] Shemot 21, 24-25
[2] Mechilta DeRabi Yishmael, tractate of Nezikin, 8; Babylonian Talmud, tractate of Baba Kama 83:2.
[3] Shemot 23, 1-2
[4] Shemot 21, 15-17.
[5] Shemot 20, 14
[6] Shemot 23, 3-4
[7] Shemot 23, 12
[8] Shemot 23, 11

Dvar Torah: TorahWeb.Org

Rabbi Eliakim Koenigsberg

A Lack of Faith

In Parshas Mishpatim, the Torah outlines many of the basic halachic principles of civil law. But interestingly enough, it concludes its discussion with a brief mention of the mitzvos of shemitah and Shabbos. What do shemitah and Shabbos have to do with monetary matters?

The parsha begins, "And these are the laws that you shall place before them. (21:1)" Rashi quotes from Chazal that the letter vav (and) of "V'eileh hamishpatim" is meant to add to the previous parsha, to teach that just as the aseres hadibros were given at Sinai, so too, the rules of civil law were given at Sinai. Why must the Torah reinforce the fact that even the mitzvos of Parshas Mishpatim were given at Sinai? Would we think otherwise?

At the end of the parsha, the Torah seems to describe the events of matan Torah a second time. Moshe Rabbeinu goes up to Hashem on har Sinai, he comes down and tells the people about the mitzvos, and the people say na'aseh v'nishma. Why was it necessary to repeat the story that was already described in Parshas Yisro?

The Ramban (24:1) explains that the Torah is not simply rehashing the story of old. But rather, it is revealing the actual sequence of events. Before matan Torah, Hashem told Moshe to inform Klal Yisrael that He wants to give them the mitzvos and to designate them as a mamleches kohanim v'goy kadosh. The people accepted Hashem's request and they said na'aseh v'nishma. At matan Torah, Bnei Yisrael heard the aseres hadibros, and immediately afterward, they were given the monetary laws of Parshas Mishpatim, and they accepted all of these mitzvos and said na'aseh v'nishma a second time. Then Moshe wrote down all of these mitzvos and consummated the bris between Hashem and Klal Yisrael over these mitzvos. After completing this process, Moshe went up to Hashem on har Sinai and remained there for forty days, at which time he received the luchos and the rest of the Torah. (See Rashi who suggests differently that the account of matan Torah at the end of Parshas Mishpatim simply fills in some details that were omitted previously.)

According to the Ramban, there seems to be a link between the aseres hadibros and the monetary laws recorded in Parshas Mishpatim, and that is why they were given together to Klal Yisrael. What is that connection? Rav Moshe Feinstein (Darash Moshe) suggests that one who acts unscrupulously in monetary matters is not only transgressing mitzvos bein adam l'chaveiro; he is denying, in a sense, the very existence of G-d. He is kofeir b'Ikar. If a person were to fully internalize the reality that his livelihood comes from Hakadosh Boruch Hu and his yearly income is predetermined on Rosh Hashana (see Beitzah 16a), he would never violate a halacha related to monetary matters because he would realize that no financial gain will ever come from such behavior. It is only because a person thinks that his strength and his intelligence (kochi v'otzem yadi) bring him success, that he engages in unfair business practices, he cheats and steals and acts dishonestly, he refuses to give his fair share of tzedakah, and he is insensitive to the feelings of the convert, the widow and the orphan. In a sense, both a lack of integrity in monetary matters and a lack of concern for a fellow Jew stem from a lack of faith in Hashem.

Rav Moshe adds that this idea can help explain the comment of Chazal about the vav of "V'eileh hamishpatim". What Chazal meant to say is not simply that the vav implies that the monetary mitzvos of Parshas Mishpatim were also given at Sinai just like the aseres hadibros, but rather that the mitzvos of Parshas Mishpatim were given immediately after the aseres hadibros to demonstrate that there is a crucial connection between the two. The aseres hadibros begin with the mitzvah to believe in Hashem ("Anochi Hashem Elokecha") and the prohibition of avodah zara. By juxtaposing the monetary rules of Parshas Mishpatim with the aseres hadibros, the Torah is teaching that having a proper sense of emunah in Hashem can protect a person from financial impropriety or any other violation of mitzvos bein adam l'chaveiro. What's more, the very fact that the aseres hadibros themselves are split evenly between mitzvos bein adam l'Makom and mitzvos bein adam l'chaveiro may highlight this concept as well.

It is not surprising that after its discussion of civil law in Parshas Mishpatim, the Torah makes reference to the mitzvos of shemitah and Shabbos because both of these mitzvos are designed to strengthen our emunah in Hashem and to reinforce the notion that Hashem is in control of a person's financial well-being (see Sefer HaChinuch 32, 84). We rest every seven days and abstain from working Eretz Yisrael every seven years to show that we understand we are not in control, so taking a break from work will not affect our bottom line. By concluding its discussion of civil law with the mitzvos of shemitah and Shabbos, the Torah is giving a subtle hint that internalizing the message of shemitah and Shabbos - having a proper sense of emunah in Hashem - should naturally lead a person to act with greater integrity and sensitivity in his business practices as well.

The Torah's placement of the monetary mitzvos of Parshas Mishpatim between the aseres hadibros and the mitzvos of shemitah and Shabbos reveals a new perspective on mitzvos bein adam l'chaveiro. We tend to think that mitzvos bein adam l'Makom and mitzvos bein adam l'chaveiro are two separate and distinct parts of the Torah. But the precise placement of the monetary laws of Parshas Mishpatim demonstrates that the two actually have a strong connection to each other.

Weekly Internet Parsha Sheet
MISHPATIM 5783

Rabbi YY Jacobson

[This week's which came after pub. time of Hamelaket]

An Eye for an Eye? Really?

Why the Discrepancy Between the Written and Oral Traditions of Judaism?

By: Rabbi YY Jacobson

Abuse of Human Rights

In recent years, we have become shockingly aware of the atrocities and abuses of human rights in many Muslim countries. The beheadings, the floggings, the stoning, the burnings, crucifixions, and diverse forms of torture are practiced daily, not only by ISIS, but in scores of Muslim countries.

I saw a video of a child in Iran being punished for apparently stealing something. They laid him on the ground and a car ran over his arm, amputating it. These and similar scenes of horror taking place in the 21st century are common in many Muslim countries, while most University protests are directed against Israel.

A Harsh Religion?

One of the more popular old polemics against Judaism is that our faith is harsh; it is a religion of cold and cruel laws, devoid of love and compassion. Christians used to present Christianity as the religion of love, and Judaism as the religion of stern revenge. The founder of Christianity supposedly said, "You have heard that it was said, 'An eye for an eye and a tooth for a tooth.' But I say to you, 'If anyone strikes you on the right cheek, turn to him the other.'"

This is referring to a law in the book of Exodus and Leviticus, Mishpatim and Emor. The Torah states that if two men become engaged in a brawl and one of them shoves a pregnant woman, causing her to miscarry, the man responsible must pay compensation, the amount to be determined in court.

כב. וְכִי יִנָּצוּ אֲנָשִׁים וְנָגְפוּ אִשָּׁה הָרָה וְיָצְאוּ יְלָדֶיהָ וְלֹא יִהְיֶה אָסוֹן עָנוֹשׁ יֵעָנֵשׁ כַּאֲשֶׁר יָשִׁית עָלָיו בַּעַל הָאִשָּׁה וְנָתַן בִּפְלִלִים:

22. And should men quarrel and hit a pregnant woman, and she miscarries, but there is no fatality, he shall surely be punished when the woman's husband makes demands of him, and he shall give [restitution] according to the judges' [orders].

כג. וְאִם אָסוֹן יִהְיֶה וְנָתַתָּה נֶפֶשׁ תַּחַת נָפֶשׁ:

23. But if there is a fatality, you shall give a life for a life,

כד. עַיִן תַּחַת עַיִן שֵׁן תַּחַת שֵׁן יָד תַּחַת יָד רֶגֶל תַּחַת רָגֶל:

24. An eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot,

כה. כְּוִיָּה תַּחַת כְּוִיָּה פֶּצַע תַּחַת פָּצַע חַבּוּרָה תַּחַת חַבּוּרָה:

25. A burn for a burn, a wound for a wound, a bruise for a bruise.

Clearly, it seems, the law is that if one of the men kills the woman, he dies. If he maims her, he receives in return what he did to her. "An eye for an eye… a wound for a wound."

And yet, astonishingly, no Jewish court ever practiced this law, known in Latin as Lex Talionis, or the Law of Retaliation.[1]

The Proof of Maimonides

Maimonides, the 12th century sage, rabbi, physician, philosopher, leader, and the greatest codifier of Jewish law, writes:

רמב"ם הלכות חובל ומזיק א, ה: ומניין שזה שנאמר באברים "עין תחת עין . . ." (שמות כא,כד; ויקרא כד,כ), תשלומין הוא? נאמר "חבורה, תחת חבורה" (שמות כא,כה), ובפירוש נאמר "וכי יכה איש את ריעהו, באבן או באגרוף . . . רק שבתו ייתן, ורפוא ירפא" (ראה שמות כא,יח-יט). הא למדת ש"תחת" שנאמר בחבורה תשלומין, והוא הדין ל"תחת" הנאמר בעין ובשאר אברים.

He offers a wonderful proof:[2]

"An eye for an eye" covers two verses (Exodus 21:24-25), concluding a context of six verses (21:18-19, 22-25). If you view the verse in context, Maimonides argues, it is obvious that the Torah cannot be explained literally.

The chapter begins with a case of intentionally inflicted injury. It concludes with a case of accidental injury. The opening verses (18-19), on intentionally inflicted injury, read as follows:

יח. וְכִי יְרִיבֻן אֲנָשִׁים וְהִכָּה אִישׁ אֶת רֵעֵהוּ בְּאֶבֶן אוֹ בְאֶגְרֹף וְלֹא יָמוּת וְנָפַל לְמִשְׁכָּב

18. And if men quarrel, and one strikes the other with a stone or with a fist, and he does not die but is confined to [his] bed,

יט. אִם יָקוּם וְהִתְהַלַּךְ בַּחוּץ עַל מִשְׁעַנְתּוֹ וְנִקָּה הַמַּכֶּה רַק שִׁבְתּוֹ יִתֵּן וְרַפֹּא יְרַפֵּא:

19. if he gets up and walks about outside on his support, the assailant shall be cleared; he shall give only [payment] for his [enforced] idleness, and he shall provide for his cure.

The closing verses (22-25), on accidentally inflicted injury, quoted above, reads as follows: "And if men shall fight and collide with a pregnant woman and she miscarries but does not herself die, he [the fighting man] shall surely be punished, in accord with the assessment of [the value of the fetus]… But if there is a fatality, you shall give a life for a life; an eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot; a burn for a burn, a wound for a wound…"

Asks the Rambam: We have a major contradiction. Here you tell me "a wound for a wound." If I wound the woman, I must be wounded as I wounded her. But just three verses earlier you told me that if I wound my friend with a stone or my fist all I need to do is to cover all medical expenses and pay his wage as a result of him being unable to work. There is a blatant contradiction here, which renders the text completely senseless.

Thus, the rabbis conclude, that what the verse meant with the words "a wound for a wound," or "an eye for an eye," "a tooth for a tooth," etc. is monetary compensation. If a person was hired to work for you for his entire life on all possible jobs, how much would the value decrease if he was missing an eye? That must be paid up, in addition to all of his or her medical expenses, and in addition to covering his or her wage during his illness, and in addition to paying for the pain and the humiliation. [3]

And then Rambam continues:

אף על פי שדברים אלו נראים מעניין תורה שבכתב, כולן מפורשין הן מפי משה מהר סיני, וכולן הלכה למעשה הן בידינו; וכזה ראו אבותינו דנין בבית דינו של יהושע, ובבית דינו של שמואל הרמתי, ובכל בית דין ובית דין שעמדו מימות משה ועד עכשיו.

Though this is obvious from the text itself, we have also heard this from Moses, who explained the text this way. So it was practiced in every Jewish court, in the court of Joshua, the court of Samuel, and in every Jewish court from the time of Moses to this very day.[4]

More Proofs

If we delve more into the text, we can see how convincing the argument is. The text says "And if men shall fight and collide with a pregnant woman and she miscarries but does not herself die, he [the fighting man] shall surely be punished, in accord with the assessment of [the value of the fetus]… But if there is a fatality, you shall give a life for a life; an eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot; a burn for a burn, a wound for a wound…."

But what is the meaning of "life for life" if any harm follows? In this unintentional tragic mishap, can we seriously maintain that the Torah decrees the death penalty for the one who caused this accident? This is clearly an unfortunate circumstance for which the Torah set aside sites of refuge. Is the Torah contradicting itself and saying here that if you kill someone by mistake, you get killed? Obviously, then, the Torah is referring to money.[5]

What is even more convincing is when we view the context. In the case of intentionally inflicted injury, the Torah does not introduce the punishment of "an eye for an eye." All that the Torah requires from the perpetrator is to pay for the time and medical expenses. This is contrary to the closing verse of an accidentally inflicted injury where the Torah introduces the phrase "an eye for an eye." Can we really assume that if I hurt you intentionally, my punishment is only monetary; and when I wound you by err, they punish me by amputation? Logically one is forced to interpret here the meaning of "eye for an eye" as the value of an eye, meaning financial compensation.

Furthermore, if the Torah meant, taking the eye of the injurer for the eye of the victim, the Torah would have said so. But the Torah never says, "take an eye for an eye." The Torah says, "and you shall give… an eye for an eye." Were the text's intention to extract an eye from the villain, the use of the word 'give' is inappropriate. The physical punishment of

an “eye for an eye” is meant to take from the guilty, not to give to the victim. Giving implies something that is meant to reach the recipient. But if they take the eye of the perpetrator, what are they giving to the victim? Only monetary compensation fits that definition.

An Eye Beneath an Eye

The Gaon of Vilna offers a further brilliant insight. The Torah does not say, "an eye for an eye," It says, literally, "an eye beneath an eye." In correct Hebrew grammar, “an eye for an eye” should have been stated in these words: “ayin bead ayin,” instead of “ayin tachat ayin,” an eye beneath an eye. Why did the Torah not use the more appropriate “ayin bead (literally, for) ayin” instead of “ayin tachat” (literally, underneath)?

This hints to us that the punishment is beneath the eye. The three Hebrew letters for the Hebrew word ayin—“eye”—are ayin, yod, nun. If we take the letters that are directly “beneath” each of these letters, i.e., that follow them in the alphabet, we get the three letters pei, kaf, samech, which, when rearranged, yield the Hebrew word kesef, “money.”[6]

[Those of you who question the method of interchanging letters to get kesef from ayin might consider the classic Stanley Kubrick film 2001. The name of the computer in that film is HAL, which Kubrick derived from IBM, the letters that are immediately “beneath” the letters HAL in the English alphabet. This construct is called temurah.]

This truth is really expressed in the very word “tachat.” The word tachat connotes not identical substitution, but one item substituted for a different item. This strange phraseology of tachat is found in one other place in the Torah, in the Book of Genesis. After Abraham lifts his sword ready to sacrifice Isaac on Mount Moriah, he was suddenly told by the angel of G-d not to sacrifice Isaac, "Abraham went and took the ram and brought it up for a burnt offering instead of (tachat) his son." We see from here that tachat does not imply a duplicate substitution (retaliation), but rather implies monetary compensation.

The Talmud dedicates two pages in which nine of the greatest sages delve into the text and deduce that the meaning of the Torah is not physical punishment but monetary compensation. How, for example, could justice be served if the person who poked out his neighbor's eyes was himself blind? Or what if one of the parties had only one functioning eye before the incident? Clearly, there are many cases in which such a punishment would be neither equitable nor just.

In addition to this, how is it even possible to exactly duplicate bodily harm? Can you ever be sure it will be exactly an “eye for an eye”? [7]

Say What You Mean

Granted. But why doesn’t the Torah simply say what it means? If the Torah never meant to mandate physical punishment in cases of personal injury, why wasn’t the text more clearly written? A great deal of misunderstanding, misinterpretation, and trouble could have been avoided had the Torah simply stated, “The court shall levy the appropriate compensatory payment in cases of personal injury.”

Some even want to say that as society has become less barbaric, the rabbis reinterpreted the verse to mean one pays the damages for the eye, instead of actually taking out the eye of the perpetrator as it used to be done in the olden days. Yet this is simply untrue. Throughout all of Jewish history, we do not have a SINGLE RECORD of any Torah judge implementing “an eye for an eye!”

Two Perspectives

It is here that we come to discover the nuanced way in which Judaism has been presented. The biblical text is not a blueprint for practical law; the fact is that there is almost not a single mitzvah in the Torah that can be fully understood when reading the biblical text. Not Tefilin, not Esrog, not Matzah, not Sukkah, not Mezuzah, not Mikvah, not Shabbos, and not Shofar.[8] Thus, Moses presented an oral explanation for the biblical text so that we can appreciate its full meaning.

What then is the purpose of the biblical text? It describes not so much practical law, but rather the full meaning of a person’s actions from G-d’s perspective. Its words, written often in code, capture the full scope and meaning of every single action of a person, on the most spiritual, abstract level, all the way down to the most concrete plane.[9]

Maimonides, here again, comes to the rescue. In a few brief words, he shares a very profound and moving idea.

רמב"ם הלכות חובל ומזיק א, ג: זה שנאמר בתורה "כאשר יתן מום באדם, כן יינתן בו" (אמור כד, כ), אינו לחבול בזה כמו שחבל בחברו, אלא שהוא ראוי לחסרו אבר או לחבול בו כמו שעשה; ולפיכך משלם נזקו. והרי הוא אומר "ולא תקחו כופר לנפש רוצח" (במדבר לה, לא), לרוצח בלבד הוא שאין כופר; אבל לחסרון אברים או לחבלות, יש כופר.

Rambam, Laws of Personal Injuries 1:3: “The Torah’s statement ‘As a man shall inflict a wound upon a person, so shall be inflicted upon him’ does not mean that we should physically injure the perpetrator, but that the perpetrator is deserving of losing his limb and must therefore pay financial restitution.”

Apparently, the Rambam believes, as do many other scholars who echo the same sentiment, that the Torah confronts a serious dilemma as it moves to convey its deeply nuanced approach to cases of personal injury: using the tools at its disposal, how can Jewish law best reflect the discrepancy between the “deserved” and “actual” punishment?

An eye for an eye is the ultimate statement of human equality. Every person's eye is as precious as anyone else's. The eye of a prince is worth no more than the eye of a peasant. This was completely new in history, transforming the landscape of the moral language of civilization. (The Babylonian Code of Hammurabi, for example, legislated that the eye of a noble was of much greater value than the eye of a commoner.)

Had the Torah, however, mandated financial payment from the outset, the full gravity of the crime would not have been conveyed. The event would have been consigned to the realm of dinei mamonot, monetary crimes, and the precious nature of human life and limb would have been diminished.

The gravity of the crime is such that, on a theoretical level, on the level of “deserved punishment,” the case belongs squarely in the realm of dinei nefashot, capital law. The perpetrator may deserve the physical loss of a limb in return for the damage inflicted upon his victim. Torah law, however, will not consider physical mutilation as a possible punishment for a crime. The penalty must therefore be commuted into financial terms.

The Torah, therefore, proceeds to express, with delicate balance, both theory and practice within the law. First, the written text records the punishment for wounding your fellow, in terms of compensation. Then the Torah goes on to express the “deserved punishment” without any mitigation: “…an eye for an eye, a tooth for a tooth…” In this way, the severity of the crime is immediately made clear to all. The Oral Law serves as the vehicle of transmission, so we don’t err in practice.

Jewish law thus finds a way to memorialize both the “deserved” and the “actual” punishments within the halachic code.

No Atonement

Why is this so crucial? So that you never think that maiming someone’s body is merely a monetary issue, like breaking his watch. It is not! It is something you have no way of atoning for even if you pay him all the money in the world. Even if you did it by mistake, you can never compensate for it via finances alone.

It also teaches us the truth that there are no exceptions. An eye of a peasant child is no less of value than the eye of a powerful monarch. If I poke out that eye, I have done something for which there is no real way of atonement through money.

Maimonides more fully developed the idea that monetary restitution alone cannot atone for physical damages:

רמב"ם הלכות חובל ומזיק ה, ט: אינו דומה מזיק חברו בגופו, למזיק ממונו, שהמזיק ממון חברו, כיון ששילם מה שהוא חייב לשלם, נתכפר לו. אבל חובל בחברו, אף על פי שנתן לו חמישה דברים, אין מתכפר לו; ואפילו הקריב כל אילי נביות, אין מתכפר לו, ולא נמחל עוונו, עד שיבקש מן הנחבל וימחול לו.

"Causing bodily injury is not like causing monetary loss. One who causes monetary loss is exonerated as soon as he repays the damages. But if one injured his neighbor, even though he paid all five categories of monetary restitution — even if he offered to G-d all the rams of Nevayot [see Isaiah 60:7] — he is not exonerated until he has asked the injured party for forgiveness, and he agrees to forgive him.” (Rambam, Personal Injuries, 5:9)

When Your Animal Kills

We have another fascinating example for this a few sentences further in Parshat Mishpatim, where an even more glaring example of the discrepancy between theory and practice in the realm of punishment emerges. In this case, both variables are bluntly recorded in the written text itself.

As the Torah discusses the laws of a habitually violent animal owned by a Jew, two conflicting consequences appear in the text for the very same crime.

The Torah states that, under normal circumstances, if an individual's ox gores and kills another human being, the animal is put to death but the owner receives no further penalty. If, however, the animal has shown clear violent tendencies in the past – to the extent that the owner has been warned yet has failed to take appropriate precautions – the Torah emphatically proclaims, "…The ox shall be stoned and even its owner shall die."

But in the very next verse, the text offers the condemned man an opportunity to escape his dire fate through the payment of a financial penalty assessed by the court.

כח. וְכִי יִגַּח שׁוֹר אֶת אִישׁ אוֹ אֶת אִשָּׁה וָמֵת סָקוֹל יִסָּקֵל הַשּׁוֹר וְלֹא יֵאָכֵל אֶת בְּשָׂרוֹ וּבַעַל הַשּׁוֹר נָקִי:

28. And if a bull gores a man or a woman and [that one] dies, the bull shall surely be stoned, and its flesh shall not be eaten, and the owner of the bull is clear.

כט. וְאִם שׁוֹר נַגָּח הוּא מִתְּמֹל שִׁלְשֹׁם וְהוּעַד בִּבְעָלָיו וְלֹא יִשְׁמְרֶנּוּ וְהֵמִית אִישׁ אוֹ אִשָּׁה הַשּׁוֹר יִסָּקֵל וְגַם בְּעָלָיו יוּמָת:

29. But if it is a [habitually] goring bull since yesterday and the day before yesterday, and its owner had been warned, but he did not guard it, and it puts to death a man or a woman, the bull shall be stoned, and also its owner shall be put to death,

ל. אִם כֹּפֶר יוּשַׁת עָלָיו וְנָתַן פִּדְיֹן נַפְשׁוֹ כְּכֹל אֲשֶׁר יוּשַׁת עָלָיו:

30. Insofar as ransom shall be levied upon him, he shall give the redemption of his soul according to all that is levied upon him.

The written text itself seems bewilderingly contradictory. On the one hand, the Torah clearly states that the owner of a violent animal who killed another human being "shall also die." Then, however, it says that he pays money to the heirs of the victim—the full "value" of the person as it were.

What is going on here? How can we take such a text seriously?

Once again, our question can be answered by considering the distinction between "deserved" and "actual" punishment.

The Torah wants us to understand that, on a theoretical level, the owner of the ox who killed a human deserves to die. His negligence has directly resulted in the loss of human life. On a practical level, however, this sentence cannot be carried out. Halacha only mandates capital or corporal punishment in cases of active crimes. Crimes of "un-involvement," consisting of the failure to do something right, cannot carry such penalties in an earthly court. The owner who fails to guard his dangerous animal can only be fully punished through heavenly means.

Through carefully balancing the textual flow, the Torah manages to convey a complex, multilayered message of personal responsibility in a nuanced case of "un-involvement."

Azar's Question

Yet it goes one step deeper.

During the years when Rabbi Avraham Yitzchak Kook (1865-1935) served as chief rabbi of Jaffa, before he became chief rabbi of Israel (then Palestine), he met and befriended many of the Hebrew writers and intellectuals of the time. His initial contact in that circle was the 'elder' of the Hebrew writers, Alexander Ziskind Rabinowitz, better known by the abbreviation Azar. Azar was one of the leaders of Po'alei Tzion, an anti-religious, Marxist party; but over the years, Azar developed strong ties with traditional Judaism. He met with Rabbi Kook many times, and they became friends.

Azar once asked Rabbi Kook: How can the Sages interpret the verse "an eye for an eye" as referring to monetary compensation? Does this explanation not contradict the peshat, the simple meaning of the verse?

True, as we recall, the Talmud brings a number of proofs that the phrase "eye for an eye" cannot be taken literally. But what bothered Azar was the blatant discrepancy between the simple reading of the verse and the Talmudic interpretation. After all is said and done, if an "eye for an eye" in fact means monetary compensation, why does the Torah not state that explicitly?

The Parable

Rabbi Kook responded by way of a parable. The Kabbalists, he explained, compared the Written Torah to a father and the Oral Torah to a mother. Just as the mother absorbs the seed of the father, and develops it into an embryo, and ultimately a full fetus, so the oral tradition develops and explains the seminal, brief and cryptic text of the written Torah.[10] When parents discover their son has committed a grave offense, how do they react—at least back in the 1920s when Rabbi Kook had this conversation with Azar. (Today, we know, things have changed somewhat; yet the principle behind this remains the same).

The father immediately raises his hand to punish his son. But the mother, full of sensitivity and compassion, rushes to stop him. 'Please, not in anger!' she pleads, and she convinces the father to mete out a lighter punishment.

An onlooker might conclude that all this drama was superfluous. In the end, the boy did not receive corporal punishment. The mother was triumphant. Her husband knew he has to listen to her. Why make a big show of it?

In fact, the scene provided an important educational lesson for the errant son. Even though he was only lightly disciplined, the son was made to understand that his actions deserved a much more severe punishment.

A Fitting Punishment

This is exactly the case when one individual injures another. The offender needs to understand the gravity of his actions. That is why the written text, the "father," declares: An eye for an eye. In practice, though, he only pays monetary restitution, as the Oral Law rules. For the Oral Law is like the mother.

But he should not think that with money alone he can repair the damage he inflicted. How will not he think so? Only if the "father"—the written Torah—states in uncompromising terms "an eye for an eye; a tooth for a tooth; a wound for a wound."

Azar was astounded. He was impressed how one can clarify legal concepts in Jewish Law by way of Kabbalistic metaphors. Azar remarked: "I once heard the Rabbi say that the boundaries between Halacha and Kabbalah, the exoteric and the esoteric areas of Torah, are not rigid. For some people, Torah with Rashi's commentary is an esoteric study; while for others, even a chapter in the Kabbalistic work Eitz Chayim belongs to the revealed part of Torah."[11]

Here we have one example of how one verse in Torah, far from expressing the harshness of Judaism, actually served a blueprint to teach our people the infinite dignity of the human body carved in G-d's image. This we must teach the world.

Footnotes:

[1] It is interesting to note that The Code of Hammurabi is a well-preserved Babylonian law code of ancient Mesopotamia, dating back to about 1754 BCE. It is one of the oldest deciphered writings of significant length in the world. The sixth Babylonian king, Hammurabi, enacted the code, and partial copies exist on a human-sized stone stele and various clay tablets. The Code consists of 282 laws, one of them is: "an eye for an eye, a tooth for a tooth" (lex talionis). We do not know if the Lex Talionis of Hammurabi's Code was carried out literally in ancient times. There are scholars who believe that the Code itself was not the law code by which the society operated, but rather the fulfillment of a so-called "divine mandate" by the gods to the king: a law code to prove he was divinely ordained to rule, but not one which was operative in ancient Babylon. Regardless, in Judaism "an eye for an eye…" was never understood literally.

[2] Many wondered why the Rambam came up with his own proof, not stated in the Talmud exploring this matter. The truth is that the source of the Rambam's proof is in Mechilta Derashbi Parshas Mishptim.

[3] See the details in Rambam Hilchos Chovel Umazik ch. 1.

[4] Question: How then can Rabbi Eliezer, in Talmud Bava Kama p. 83 interpret the verse literally? Many say that what Rabbi Eliezer means is that the perpetrator pays "demei mazik," the worth of the limbs of the perpetrator, rather than the victim, thus conveying that in essence, it was his limb that had to be punished.

See at length Torah Shlaimah to Mishpatim and Meluim to Mishpatim, in the chapter dedicated to this discussion.
[5] We can explain that this is the case where one man intended to kill his fellow, and then killed the woman by error. See Rashi to this verse for the two opinions on the matter. According to the Halacha, if one has the intention to kill someone and kills someone else, he is not killed.
[6] Gaon of Vilna in Torah Gems, volume 2, p. 151
[7] Talmud Bava Kama pp. 83-84. Here is just one excerpt from there: It was taught in a baraita: Reb Shimon b. Yochai says: "Eye for eye" means pecuniary compensation. You say pecuniary compensation, but perhaps it is not so, and actual retaliation by putting out an eye is meant? What then will you say where a blind man put out the eye of another man, or where a cripple cut off the hand of another, or where a lame person broke the leg of another? How can I carry out, in this case, the principle of retaliation of "eye for eye" seeing that the Torah says, "You shall have one manner of law," implying that the manner of law should be the same in all cases? (Baba Kamma 84a).
[8] See at length Tanya Igeres Hakodesh ch. 29.
[9] The great 14th-century kabbalist Rabbi Menachem Rikanti in his commentary on Mishpatim explains, amazingly, the mystical meaning of this verse. A human body and all of its limbs reflect the Divine metaphysical "body," known as "Adam Haelyon." The body embodies the Divine attributes correlating to the various parts of one's body. When one knocks out the tooth of another, he, so to speak, removes the spiritual "tooth" within the Divine source, and indeed loses the spiritual source of his tooth. If we can appreciate the Torah text also as a spiritual manual for the spiritual limbs of a person, then the verse actually also has a literal meaning.
[10] Tanya Igeres Hakodesh ibid.
[11] This story is recorded in Sapphire from the Land of Israel. Adapted from "Malachim Kivnei Adam" by R. Simcha Raz, pp. 351, 360.

Doing and Hearing
MISHPATIM
Rabbi Jonathan Sacks

One of the most famous phrases in the Torah makes its appearance in this week's parsha. It has often been used to characterise Jewish faith as a whole. It consists of just two words: na'aseh venishma, literally, "we will do and we will hear" (Ex. 24:7). What does this mean and why does it matter?

There are two famous interpretations, one ancient, the other modern. The first appears in the Babylonian Talmud,[1] where it is taken to describe the enthusiasm and whole-heartedness with which the Israelites accepted the covenant with God at Mount Sinai. When they said to Moses, "All that the Lord has spoken we will do and we will hear," they were saying, in effect: Whatever God asks of us, we will do – and they said this before they had heard any of the commandments. The words, "We will hear," imply that they had not yet heard – neither the Ten Commandments, nor the detailed laws that followed as set out in our parsha. So keen were they to signal their assent to God that they agreed to His demands before knowing what they were.[2]

This reading, adopted also by Rashi in his commentary to the Torah, is difficult because it depends on reading the narrative out of chronological sequence (using the principle that "there is no before and after in the Torah"). The events of chapter 24, according to this interpretation, happened before chapter 20, the account of the revelation at Mount Sinai and the Ten Commandments. Ibn Ezra, Rashbam, and Nachmanides all disagree and read the chapters in chronological sequence. For them, the words na'aseh venishma mean not, "we will do and we will hear," but simply, "we will do and we will obey."

The second interpretation – not the plain sense of the text but important nonetheless – has been given often in modern Jewish thought. On this view na'aseh venishma means, "We will do and we will understand."[3] From this they derive the conclusion that we can only understand Judaism by doing it, by performing the commands and living a Jewish life. In the beginning is the deed.[4] Only then comes the grasp, the insight, the comprehension.

This is a signal and substantive point. The modern Western mind tends to put things in the opposite order. We seek to understand what we are committing ourselves to before making the commitment. That is fine when what is at stake is signing a contract, buying a new mobile phone, or purchasing a subscription, but not when making a deep existential commitment. The only way to understand leadership is to lead. The only way to understand marriage is to get married. The only way to understand whether a certain career path is right for you is to actually try it for an extended period. Those who hover on the edge of a commitment, reluctant to make a decision until all the facts are in, will eventually find that life has passed them by.[5] The only way to understand a way of life is to take the risk of living it.[6] So: Na'aseh venishma, "We will do and eventually, through extended practice and long exposure, we will understand."

In my Introduction to this year's Covenant and Conversation series, I suggested a quite different, third interpretation, based on the fact that the Israelites are described by the Torah as ratifying the covenant three times: once before they heard the commandments and twice afterward. There is a fascinating difference between the way the Torah describes the first two of these responses and the third:

The people all responded together, "We will do [na'aseh] everything the Lord has said." (Ex. 19:8)

When Moses went and told the people all the Lord's words and laws, they responded with one voice, "Everything the Lord has said we will do [na'aseh]." (Ex. 24:3)

Then he took the Book of the Covenant and read it to the people. They responded, "We will do and hear [na'aseh venishma] everything the Lord has said." (Ex. 24:7)

The first two responses, which refer only to action (na'aseh), are given unanimously. The people respond "together." They do so "with one voice." The third, which refers not only to doing but also to hearing (nishma), involves no unanimity. "Hearing" here means many things: listening, paying attention, understanding, absorbing, internalising, responding, and obeying. It refers, in other words, to the spiritual, inward dimension of Judaism.

From this, an important consequence follows. Judaism is a community of doing rather than of "hearing." There is an authoritative code of Jewish law. When it comes to halachah, the way of Jewish doing, we seek consensus.

By contrast, though there are undoubtedly principles of Jewish faith, when it comes to spirituality there is no single normative Jewish approach. Judaism has had its priests and prophets, its rationalists and mystics, its philosophers and poets. Tanach, the Hebrew Bible, speaks in a multiplicity of voices. Isaiah was not Ezekiel. The book of Proverbs comes from a different mindset than the books of Amos and Hosea. The Torah contains law and narrative, history and mystic vision, ritual and prayer. There are norms about how to act as Jews. But there are few about how to think and feel as Jews.

We experience God in different ways. Some find Him in nature, in what Wordsworth called "a sense sublime / Of something far more deeply interfused, / Whose dwelling is the light of setting suns, / And the round ocean and the living air."[7] Others find Him in interpersonal emotion, in the experience of loving and being loved – what Rabbi Akiva meant when he said that in a true marriage, "the Divine Presence is between" husband and wife.

Some find God in the prophetic call: "Let justice roll down like a river, and righteousness like a never-failing stream" (Amos 5:24). Others find Him in study, "rejoicing in the words of Your Torah…for they are our life and the length of our days; on them we will meditate day and night."[8] Yet others find Him in prayer, discovering that God is close to all who call on Him in truth.

There are those who find God in joy, dancing and singing as did King David when he brought the Holy Ark into Jerusalem. Others – or the same people at different points in their life – find Him in the depths, in tears and remorse, and a broken heart. Einstein found God in the "fearful symmetry" and ordered complexity of the universe. Rav Kook found Him in the harmony of diversity. Rav Soloveitchik found Him in the loneliness of being as it reaches out to the soul of Being itself.

There is a normative way of performing the holy deed, but there are many ways of hearing the holy voice, encountering the sacred presence, feeling at one and the same time how small we are yet how great the universe we inhabit, how insignificant we must seem when set against the vastness of space and the myriads of stars, yet how momentously

significant we are, knowing that God has set His image and likeness upon us and placed us here, in this place, at this time, with these gifts, in these circumstances, with a task to perform if we are able to discern it. We can find God on the heights and in the depths, in loneliness and togetherness, in love and fear, in gratitude and need, in dazzling light and in the midst of deep darkness. We can find God by seeking Him, but sometimes He finds us when we least expect it.

That is the difference between na'aseh and nishma. We do the Godly deed "together." We respond to His commands "with one voice." But we hear God's presence in many ways, for though God is one, we are all different, and we encounter Him each in our own way.

[1] Shabbat 88a–b.

[2] There are, of course, quite different interpretations of the Israelites' assent. According to one, God "suspended the mountain over them," giving them no choice but to agree or die (Shabbat 88a).

[3] The word already carries this meaning in biblical Hebrew as in the story of the Tower of Babel, where God says, "Come let us confuse their language so that people will not be able to understand their neighbour."

[4] This is the famous phrase from Goethe's Faust.

[5] This is similar to the point made by Bernard Williams in his famous essay, "Moral Luck," that there are certain decisions – his example is Gauguin's decision to leave his career and family and go to Tahiti to paint – about which we cannot know whether they are the right decision until after we have taken them and seen how they work out. All such existential decisions involve risk.

[6] This, incidentally, is the Verstehen approach to sociology and anthropology; namely that cultures cannot be fully understood from the outside. They need to be experienced from within. That is one of the key differences between the social sciences and the natural sciences.

[7] William Wordsworth, "Lines Composed a Few Miles Above Tintern Abbey, on Revisiting the Banks of the Wye during a Tour, July 13, 1798."

[8] From the blessing before Shema said in the evening prayer.

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Parshat Mishpatim
The Thing is Not a Play

"And these are the ordinances that you should place before them:" (21:01)

An actor-manager was a leading actor who set up his own permanent theatrical company and managed the business, sometimes taking over a theater to perform select plays in which he usually starred. It was a method of theatrical production used consistently since the 16th century, particularly common in 19th-century Britain and the United States. One of the last great actor-managers was Sir Donald Wolfitt. There's an apocryphal story about Sir Donald, that in one particular classical play he had to read a long excerpt from a scroll that was presented to him by a page boy. Wolfitt never bothered to actually learn the speech, instead reading it out every night. One night, someone persuaded the page boy to bring to the stage a blank scroll. With great gravitas, Wolfitt unwound the scroll, saw that it was blank, handed it back to the page boy, saying, "Here. You read it."

An audience would never guess the shenanigans and cover-ups that actors perpetrate to keep the show going. As the saying goes, "The show must go on!"

How would an actor feel if every member in the audience had a script and a little flashlight to monitor every line he said? Well, that's exactly what a ba'al koreh – someone who reads the Torah for the congregation – must feel. Everyone in "the audience" is following his every line, listening carefully to make sure there is not even the slightest deviation.

Of course, the difference is that the Torah is reality. The Zohar HaKadosh says that "The Holy One looked into the Torah and created the world." Just as the world is immutable, so is the Torah. It's not as Hamlet said, "The play's the thing." Rather, "The thing (i.e. the Torah) is not a play."

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Chief Rabbi Ephraim Mirvis

Mishpatim: The best way to give financial help
14 February 2023

What is the best way in which we can give financial help to another?

The Shulchan Aruch in Chosen Mishpat tells us that when one gives a loan to a needy person, of course the Torah tells us we may not receive interest, but when giving that loan, one should have a contract, and there should be witnesses. This is in order that the receiver should not claim at a later time, that he wasn't given the money. You need to have proof in order to protect yourself.

However, the Shulchan Aruch also tells us in Yoreh Deah that if you're giving charity to a poor person, the finest way to do it is in secret. In fact, the ultimate form of charity is when the receiver doesn't even know who the giver is.

So how is that possible? On the one hand, we need witnesses, and on the other hand, it needs to be done in secret.

The Chida derives an answer from a verse in Parshat Mishpatim. It is a seemingly clumsy verse. The Torah says, "Im kesef tarveh et ami, et heani imach," translated literally as, "If you give a loan of money to someone within the people, the poor are in your midst."

What sense can we make of these words?

The Chida tells us to read it as follows:

"Im kessef tarveh," – If you are giving a loan,

"Et ami," – if you would like to receive that money back, and you want to have proof, it must be done 'et ami', in the presence of other people within the nation, in order that you should be protected. However,

"Et he'ani," – "if you're giving money to a poor person, as an outright gift or perhaps even as a loan just to save his dignity, so that the person feels better but you don't ever expect to get it back, then

"Imach," – it should be just with your knowledge only. No announcement, no contract and no witnesses.

So therefore in our rich, God-given heritage we can see how within Jewish tradition, the rights of those who give are always protected and at the same time, we should go the extra mile in order to preserve the dignity of those who are receiving.

Shabbat shalom.

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

Blessings over Enjoyment and Gratitude
Revivim
Rabbi Eliezer Melamed

Birkot ha-nehenin (blessings recited over enjoyment) determines the moral value of gratitude a person has, and from this, learns to appreciate those around him, and to thank the Creator of the world * A person full of gratitude is a happy person whose gaze is focused on the good in his life; on contrary to him, one who is ungrateful is never happy because he always feels he has not been served properly * Our Sages enacted a separate blessing for fruits of the tree and fruits of the ground in order to increase the praise of God * The determining factor regarding the blessing of the fruit of a tree or a vegetable, is the withering of the stem from year to year

The Value of Gratitude between a Person and His Friend

Above all, brachot (blessings) express the important moral value of hakarat ha-tov (gratitude). To understand this value properly, we will first express the importance of hakarat ha-tov between a person and his friend. A person who knows how to be thankful is one who is able to exit his egoistic bubble and connect to his surrounding world, and see it positively. As a result, he is able to relate to those around him with humility, and appreciate them for all the good they grant him. He does not think that everyone must serve him, and therefore, recognizes the value of all the favors and gifts his family members and friends provide him.

However, it is not enough for one to be grateful in his heart; he must also express it with words of thanks, thereby making those around him happy. The love between them will strengthen, the desire of both to perform good deeds will intensify, and kindness will spread from them to all those around them.

On the other hand, one who is ungrateful sins in pride, thinking that everyone else must serve him, and therefore, does not feel the need to thank anyone for the good they have done for him. He will not be happy either, because he will always feel that he was not served properly, and was not treated adequately. He is also harmful to those around him, by causing his family members and friends to be disappointed in their good deeds.

Gratitude to God, and the Gifts It Contains

The greatest thanks is due to the Creator of the world, who created the entire world with His goodness, grace, kindness and mercy. 'Praise the LORD; for He is good, His steadfast love is eternal'. Indeed, God, blessed be He, does not need our praises. Rather, the Almighty wanted to bestow good upon us, and gave us the opportunity to thank Him, and bless Him, as it is written: "When you have eaten your fill, give thanks to your God" (Deuteronomy 8:10). By way of this, the natural emunah (faith) that exists in the hearts of man is expressed, and from this, a person becomes accustomed to seeing the Divine grace that accompanies him at all times, and to rejoice in it. How many special gifts are hidden in this!

The first gift: a deep joy of life. One of man's difficult problems is that he tends to take all the good things in his life for granted. His thoughts are focused on what he lacks, and thus, his life is full of sorrow and frustration. However, if one pays attention to all the good things in his life, he will merit to enjoy and rejoice in it. The brachot focus a person's gaze on the goodness and joy in his life. Even when one does not have the proper kavana (intention) while saying the blessings, in a gradual process, the brachot deepen the view of all the good in life, and the more kavana one has – the stronger one's ability to see the good becomes, and with it, the joy of life.

The second gift: spiritual value. By means of the brachot we merit perceiving the Divine spark that invigorates each and every food, and thus, our enjoyment of the food gains depth and meaning. "To teach you that man does not live on bread alone but on every word that comes from the mouth of the Lord." In other words, the food itself nourishes the body, and paying attention to God who created the world and invigorates the food, nourishes the mind, spirit, and soul. In this way, eating also takes on a meaning of value, by which man merits to connect with his Creator, and give thanks to Him.

The third gift: out of observing and thanking God for the goodness He has given man, he strengthens his desire to cleave to God and follow His ways, and obtains from the food he eats strength and vitality to add good and blessing to the world, and to work for its perfection, with righteousness and justice, kindness and mercy.

It is likely that saying blessings with kavana will also benefit those who wish to diet but find it difficult. The more kavana one has in saying the blessing, the deeper the pleasure he will get from his eating, thus tempering his desire to overeat.

The Divine Blessing that is drawn by the Brachot

Moreover, by way of the blessings life is added to the world, because life depends on the world's connection to the Creator, the Source of life. Accordingly, with every bracha we recite, a conduit of abundance is created through which 'dews of blessing' and life, descend into the world. This is the meaning of the word 'bracha' – to increase, and multiplicity, as written: "You shall serve your God, who will bless your bread and your water" (Exodus 23:25) – i.e., God will increase and multiply bread and water. Similarly, it is written: "God will favor you and bless you and multiply you—blessing your issue from the womb and your produce from the soil, your new grain and wine and oil, the calving of your herd and the lambing of your flock, in the land sworn to your fathers to be assigned to you" (Deuteronomy 7:13), and the meaning is that God will multiply and add to the fruit of our womb and our land. God Himself is complete and infinite, and does not need any addition. The bracha is that by our acknowledgment of the good that He has showered upon us, God will multiply and add more abundance, so that we will be able to adhere to His ways, and add more good and blessing to the world.

Everything Good Requires Effort

In order to acquire anything that has real value, one must make an effort and be diligent, as Rabbi Yitzchak said: "If a person says to you: I have labored and not found success, do not believe him. Similarly, if he says to you: I have not labored but nevertheless I have found success, do not believe him. If, however, he says to you: I have labored and I have found success, believe him" (Megillah 6b).

The same goes for becoming accustomed to seeing the good in the world and the ability to be thankful for it, and as a result, experiencing a feeling of deep satisfaction that motivates a person to add good and blessings to all those around him. For this purpose, one must study thoroughly the subject of brachot and their halachot, become accustomed fulfilling them, and thus, merit all the goodness and blessing in them.

Because of the great value of saying brachot, our Sages said that one who wishes to be a hasid (a pious person), should be diligent in matters of brachot (Baba Kamma 30a), because by way of his brachot, he adds kindness and blessing to the world.

Good toward Heaven, and Good toward People

By becoming accustomed to thanking God for all the good things He has given us, a person learns to pay attention to all the good things in his life. He does not take them for granted, and as a result, is able to thank people from whom he benefits in a deeper way.

And so throughout the Torah – the mitzvot between man and God, and the interpersonal mitzvot are connected to each other, and reinforce one another. The better it is towards Heaven, the better it is for humanity; and the better it is for humanity, the better it will be for Heaven. Thus our Sages said, that a good righteous man is "good for Heaven, and mankind" (Kiddushin 40a).

Between Fruits of the Ground and Fruits of Trees

Q: Why did the Sages make a distinction between a bracha for fruits of the ground and for fruits of the tree, and not determine one blessing for both?

A: In general, it is preferable to say a special blessing for each type of food, because each type of food gives a person a unique benefit and pleasure, and if he were to bless all types uniformly and indifferently, he would not give expression to the abundance of the blessing that God has given to the world. On the other hand, if he were to recite his own blessing on a peach, and his own blessing on an orange, and so forth on each and every species, he would not comprehend the overall objective of God in His world, but would sink into the minute details of the cumbersome world. By way of fixing blessings for the different types of foods, on the one hand, there is an expression of the classification of the Divine blessing, and on the other hand, an expression of the overall objective.

Therefore, the division is between the fruits of the ground, and the fruits of the tree. Pri ha-adamah (fruits of the ground) grow rapidly. Within a few months from the time of its sowing or planting, it bears fruit, and the simple power of the ground is more evident in it. In contrast, pri ha-etz (fruit of the tree) goes through a complex process: in the first years, the tree needs to grow and take shape, and afterwards, in a relatively long process, it absorbs food from the soil, digests it, and gives off its fruits. It can be said that pri adamah expresses centrality and simplicity, while pri ha-etz expresses refinement and complexity, and usually also has a deeper and richer taste.

Banana – A Fruit of the Ground without the Prohibition of Orlah

The definition of a tree is also important for the mitzvah of orlah, according to which the fruits are forbidden to eat or receive enjoyment for the first three years, because the law of orlah exists only in the fruits of the tree.

The main difference between a tree and an annual vegetable is that the trunk of an annual plant withers every year, and grows back the next year from its roots, while the trunk of a tree, with its roots, remains and strengthens year after year, from which branches and fruits continue to grow each year. According to this, the bracha for eating the fruit, "etz" or "adamah" is also determined. That's why the bracha made on a banana is "adamah" – even though it grows to a height of about four meters and looks like a tree, since every year its trunk and roots wither

and it returns and grows from its pseudostem, it is considered a vegetable (Peninei Halakha: Berachot 8:2; Kashrut 2:8).

Eggplants

A question arose about eggplants, since their root remains from year to year. The author of the Chida (Birkei Yosef, YD 294: 4) in the name of his grandfather, Mahara Azulai, wrote that there were tzaddikim who were customary to act stringently and not to eat it, lest there be a prohibition of orlah. However, in practice, eggplants do not have the law of orlah, because they are completely different from a tree, for they bear fruit already in the first year, and in the second year their fruits decrease in quantity and quality, and they do not bear fruit for more than three years. And as we have learned in the Torah, a tree bears fruit for at least five years, and its fruit multiplies and improves in the fifth year (Leviticus 19:23-25). Furthermore, if we say that eggplants are considered a fruit of a tree, there will forever be a prohibition of orlah on them, since after three years they no longer bear fruit, and it is impossible for the Torah to prohibit a certain fruit entirely (Penei Moshe YD 294, 4; Igrot Haraya 468).

Papaya and Passion Fruit

According to this, there is also no law of orlah in papaya and passion fruit, since they bear fruit already in the first year, and by the fifth year their fruits dwindle, and many of them do not even last five years. True, some poskim are machmir (rule stringently) about this, but the primary opinion goes according to the opinion of the matirim (poskim who rule leniently) (Peninei Halakha: Kashrut 2, 8).

Rav Kook Torah

Rav Kook on Mishpatim: Slavery in the Torah

Rabbi Chanan Morrison

"If a man strikes his male or female slave with a rod, and the slave dies under his hand, the death must be avenged [the master is punished by death]. However, if the slave survives for a day or two, his death shall not be avenged, since he is his master's property." (Exodus 21:20-21)

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)

Shema Yisrael Torah Network

Peninim on the Torah - Parashas Mishpatim

פרשת משפטים תשפ"ג

ואלה המשפטים אשר תשים לפניהם

And these are the judgments that you shall place before them. (21:1)

The previous *parshah* (*Yisro*) concluded with the laws of the *Mizbayach*, Altar. *Rashi* asks why the law of judicial cases are juxtaposed upon the laws of the *Mizbayach*. He explains this teaches that the *Sanhedrin*, supreme court, should have its place near to the *Bais Hamikdash*. [Commentators posit that the reference to the *Mikdash*, Temple, is an error. *Rashi* actually means *Mizbayach*. In any event, the message is clear: The Temple environs are where the *Sanhedrin* is to be placed. *Mizbayach* symbolizes sacrifice, which was a primary function of the Sanctuary.]

The *Mizbayach* represents *mesiras nefesh*, self-sacrifice. *Horav Nosson Gestetner, zl*, derives a powerful principle for this juxtaposition. The *Sanhedrin*, the judge, the *halachic* arbiter [and, I will add, the spiritual leader] should judge and rule with *mesiras nefesh*. In other words, he must be willing, at times, to take an unpopular position, one for which he will be criticized, in order to rule leniently (of course, *halachically*), even if it means that some detractors will stop at nothing to argue their position. They express their demand for stringency to the point that they impugn the spiritual integrity of the *halachic* arbiter who had the temerity to disagree with them.

A distinguished *Rav* and *posek* was confronted with a question regarding an *agunah* (loosely translated as an abandoned wife. The term, however, applies to any woman who may not remarry, either because her husband is recalcitrant and holding her captive, or her husband disappeared and his death has yet to be confirmed.) He was able to cite a lenient ruling vis-à-vis this woman's predicament. Obviously, those who disagreed with him, who had themselves issued a stringent ruling, were unhappy with his ruling. This stance demonstrates his *mesiras nefesh.*

Horav Ovadia Yosef, zl, was a preeminent Torah scholar whose encyclopedic knowledge of *halachah* was matched only by his

brilliant mind. As a *posek* without peer for over seven decades, he consistently championed the idea that *Chazal's* precept of *koach d'heteira adif*, the power of permitting (allowing for a dispensation), was greater. This concept, as explained by *Rav* Ovadia (quoting *Rashi Beitzah* 2b), is that anyone can rule *l'chumra*, stringently, but only a *Rav* who is certain concerning the rulings transmitted to him by his mentors has the right to rule leniently. This rule came into play numerous times when *Rav* Ovadia was asked to sort out and rule concerning the various questions regarding the *agunos* (in this case, probably widows), who were left in limbo in the aftermath of the *Yom Kippur* war, when the IDF suffered 2,500 soldiers killed in action, of which 1,000 had not been clearly identified. It was up to *Rav* Ovadia to study each case and look for any *halachic* dispensation to allow the wife, who in many instances was a young woman, to have closure and go on with her life.

Each evening, he would sit down with his two *dayanim* to find ways to be *matir*, permit, the wife to remarry. He dealt with these cases both from a technical, *halachic* perspective and from an emotional level, personally feeling the pain of each widow.

One night, after finally finding a *heter* for a certain widow, he immediately summoned his son and asked him to locate the woman's phone number. He did not want to wait all night to deliver his verdict in the morning at the *bais din*. His son said, "But it is late. You might wake her up." "I am sure that she is awake, concerned about what my ruling will be."

By law, *Rav* Ovadia had to issue the ruling at the *bais din*. Yet, he could not bear to have this woman suffer unnecessarily for another night. He called, but did not tell her the exact ruling, only that she could rest assured that it would all work out. She began to weep. So did *Rav* Ovadia.

Fourteen years prior to his *petirah*, passing, *Rav* Ovadia had a heart attack and was rushed to the hospital. The doctors determined that he had a blockage that could be opened with a stent. They wanted to do the procedure immediately. He asked for a three-hour reprieve, during which he would go home. They could not understand the reason for his request. He explained, "I am in the middle of writing a *teshuvah*, *halachic* responsa, to free an *agunah*. If I do not survive the procedure, who will take pity on this *agunah* and free her from her loneliness?" He went home, wrote the *teshuvah* and returned to the hospital. This is the meaning of *mesiras nefesh* for *ruchniyos*.

כי תקנה עבד עברי

If you buy a Jewish bondsman. (21:2)

The Torah begins *Parashas Mishpatim* presenting the many *mitzvos* that cover the gamut from social/welfare relationships to the appropriate manner of service to Hashem, including the laws of the *eved Ivri*, Jewish bondsman. One would think a number of other *mitzvos* would also serve as an appropriate opening to *Parashas Mishpatim*. The various commentators address this question by offering explanations for what seems to be an anomaly, but we know that no anomalies exist in the Torah. Everything is sorted out and presented by Heavenly design.

Horav Yosef Shalom Eliyashiv, zl, comments that the very foundation of the laws concerning the *eved Ivri* beg elucidation. In any civilized country in which laws play a dominant role, the punishment not only fits the crime (to some extent), but it is also meant to serve as a powerful deterrent from repeating the same offense. One who steals pays not only what he stole, but is subject to incarceration for a hefty period of time – often on the word of only one witness. At times, a judge may rule against a thief, even if the evidence is circumstantial. If the punishment would not be stringent, the world would capitulate to lawlessness.

Our Torah's laws are considerably different. The thief pays only after his act of stealing has been verified by two witnesses. If he confesses to his misdeed prior to the arrival of the witnesses, his fine (*keifel*, double principal plus fine) is nullified. If he does not have the funds to repay the victim, he is sold into servitude, where incidentally, he is treated like a king. The owner must outfit him, feed him and provide for his every need. The glaring question is: How will such "punishment" serve as a deterrent? On the contrary, an unscrupulous person might take advantage of the laws, steal and take a six-year hiatus, compliments of the Torah's judicial system!

Rav Eliyashiv derives from here a lesson concerning the Torah's profundity and penetrating understanding of the human psyche. Punishment does not deter sin. As long as a person is treated like a *ganiv*, thief, he will continue acting his role. People do bad things because they lack self-esteem. They look in the mirror and see a crook – so they act the part. The Torah wants the thief to know that he is a valuable member of *Klal Yisrael*. He is a child of the Patriarchs, not unlike any other Jew. If he views himself in a positive light – he will act positively. He sees himself as someone who could aspire to be a contributing member of *Klal Yisrael*. The classic example that teaches *middos tovos*, positive character traits, is the *eved Ivri*. Thus, it serves as the preface to *Parashas Mishpatim*, which ushers in the social justice laws.

Horav Yechezkel Abramsky, zl, treated his *ozeres*, maid, like royalty. If he sensed that she was working too hard, he would suggest that she rest a bit – even though this would cost him more money. (She was paid by the hour.) Unquestionably, this woman developed a greater respect for *frum*, observant Jews.

The *Alter, zl, m'Kelm*, embellishes this idea. He wonders why the laws of *eved Ivri* follow after the Giving of the Torah amid a Revelation unprecedented and never again duplicated. Surely, there must be a more "appropriate" venue for recording the laws of the Jewish thief who is sold into slavery to repay his debt. The *Alter* explains that the *parshah* of *avadim*, Jewish bondsmen, follows immediately after the law that enjoins the *Kohanim* to walk up a ramp to the *Mizbayach*, rather than use the steps, which allow the *kohen* to spread his legs in a manner which suggests immodesty. *Chazal* derive from here a profound lesson in sensitivity. The *Altar* is an inanimate object which would not be conscious of any immodesty on the part of the *kohen*. Yet, the Torah enjoins us to refrain from "embarrassing" them. Surely a person should take extreme care not to infringe upon his fellow's sensitivities.

The *Alter* questions *Chazal's kal v'chomer, a'fortiori* (lenient and strict) argument. True, the *Mizbayach* was comprised of inanimate stones, but these stones are considered *kli shareis*, vessels used for serving in the Sanctuary. As such, they are considered holy. This is why one must show them respect. The person, on the other hand, is not a *kli shareis*. Thus, there is no longer a lenient (stone) and strict (person), since the lenient is not that lenient.

We must say (deduced the *Alter*) that every Jew is a *kli shareis*; every *Yid* is *kodesh kodoshim*, holy of holies. Otherwise, we have no way to compare a *Yid* to the stones of the *Mizbayach*. As a result, each and every Jew, prior to commencing his *avodas hakodesh*, service to Hashem, should focus on his distinction and holiness. If he ignores his enormous eminence before Hashem, he will quite possibly fall to a level of disgrace and shamefulness. After all, what is holding him back? Spiritual esteem and self-awareness are possibly the greatest deterrents from sin. Rather than concentrate on the negative – punishment, we turn our heads toward the positive – spiritual esteem. Positive always trumps negative.

כל אלמנה ויתום לא תענון

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

What kind of person would mistreat a widow or an orphan? The mere fact that the Torah admonishes us against being so cruel indicates that there are people who will do anything to anyone to take advantage – be it for money, or just because they want to show their power. Some people simply do not use their *seichel*, common-sense. To them, a rule is a rule, and it should apply to the weak as well. Thus, a widow and orphan do not receive preferred treatment. They are no different than anyone else. No leniency exists for them. This is just another method of justifying cruelty on the part of the oppressor. In this manner, the Torah teaches us that the rules change when it involves those who are unusually vulnerable.

Horav Yitzchak Zilberstein, Shlita (L'Kayeim) cites a powerful story concerning the *Chida*, who lived during the eighteenth century. A widow had an only child, a young boy whom she supported with

whatever she could scrape together. When the boy reached an age when young men enter the work force in order to support their families [*yeshivos* were at a premium and enrollment, for a number of reasons, was limited], the young orphan was prepared to go to work, but, due to his weakened physical state, would-be employers felt he was too fragile to perform any meaningful labor. The boy was frustrated, but equally adamant. He was going to find a job, despite his scrawny physique. He had the willpower to work, and he felt that was all one needed. He presented himself at the office of a large factory and asked to meet with the owner. The owner met with the boy and did his best to dissuade him, because he was certain that the physical demands of the job were too much for the boy to handle. They boy was unbudging. He wanted to work and was prepared to do whatever it took to secure a job. The owner came up with a daring – but diabolical – idea. If the boy would enter the river at dusk and remain in the water until dawn, he would give him ten thousand silver coins – more than he would earn in a lifetime.

The boy knew that the water at night was frigid, and he might contract hypothermia, but this was his only chance. His mother cried and pleaded with him not to take the proposition. He was obstinate and, despite her pleas, and the clear danger notwithstanding, he was going to spend the night in the river. He responded affirmatively to the man, with one precondition; he wanted a legal written contract to stipulate that if he survived the night in the cold water, he would be paid. [This gives us a window into the level of poverty to which people were subjected. It also demonstrated the miscreant character of a man who would take such advantage of an orphan.]

The boy entered the river exactly at dusk and settled in for a long night. As the night went on, the water became colder, reaching the freezing point. The man stopped by a couple of times to see if the boy was still there. He could not believe the boy's determination. He was getting nervous that he might have to put up a small fortune in silver coins.

The widowed mother knew that while she could not change her son's mind, she might succeed in giving him hope. She took wood and started a fire a distance from the water line. She knew that the heat of the fire would not reach her child, but the mere thought that a warm welcome awaited him would strengthen his resolve and give him the message: "Someone cares about you."

As soon as dawn broke out in the sky, the near-frozen boy ran to his mother who was waiting by the fire with warm clothes. After warming up, they promptly went to the owner of the factory and demanded that he adhere to his promise. The man had the audacity to renege on his word, claiming that the mother had heated up the water with her fire. The widow and her son summoned this man to the *Chida* to rule on their dispute.

The *Chida* was a *halachic* authority without peer. This dispute, however, did not require a *halachic* authority. A clever person who saw what was taking place could easily cut through the ambiguity and rule. The *Chida* placed a raw egg in a saucer opposite a pot of hot water. He turned to the man and said, "Eat the egg." "*Rebbe*, the egg is raw. How can I eat it?" "It is opposite a pot of hot water." "Yes, but 'opposite' does not cook the egg. The egg must be in the water!"

"Now, you see," said the *Chida*, "that the mother's fire on the banks of the river did nothing to heat up the water. You must immediately hold up your end of the deal."

Rav Zilberstein derives an important lesson from this story. When someone is in a bind, when he is going through a difficult time, regardless of the challenges that he may face, it is possible to strengthen him and give him hope. How? A few well-placed words such as, "I care; I am thinking of you; I am always here for you," intimate to the person that, regardless of his situation, he is not alone. The widow could not warm the water, but she sent a message to her son: "I am waiting for you with a warm fire. You are not alone."

Sometimes, all we can do for a person in need is to make him aware that someone cares; he is not alone. This, too, is a critical act of *chesed*, lovingkindness.

ואנשי קדש תהיון לי

People of holiness shall you be to Me. (22:30)

It is not enough for a Jew to be good and upright. While these are noble, enviable attributes for anyone else, we answer to a Higher Authority and a Higher calling. We must strive to attain *kedushah*, holiness. Our *neshamos*, souls, are pure, and it is incumbent upon us to do everything within our ability to sustain the soul's pristine nature. It is due to this Heavenly mandate to achieve *kedushah* that the dynamic concerning what we may do, where we may go, what we may eat and how we should live comes into play. For a Jew, everything comes under the rubric of *kedushah*.

Horav Nachman Breslover, zl, teaches that *kedushah* is *simchah*, happiness. One who is filled with positivity, whose outlook on life is joyful, views every juncture in life, regardless of the challenges that must be overcome, as an opportunity through which he may come closer to Hashem. This is unlike the misguided concept equating *kedushah* with asceticism. One who is holy does not run from the world. He is not depressed. A *kadosh* infuses his holiness to become a vehicle of joy and inclusiveness – not gloom and isolation.

Horav S.R. Hirsch, zl, posits that *kedushah* in man represents the highest degree of moral freedom in which the moral will is no longer engaged in a struggle, but is absolutely ready to do the will of Hashem. Furthermore, he adds, in Judaism, the entire concept of holiness is especially connected with sanctifying. Holiness is not to be concentrated. It should not be the exclusive domain of a mere few. The purpose of holiness is to sanctify others. Holiness is not a private enterprise.

In order to maintain the pristine nature of our *neshamah*, it is essential that we exert much care to establish safeguards that will prevent any unwanted, mundane "particles" from breaching the perimeter of holiness. While holiness is about sanctifying, it is different when we go out to "them" than when "they" come in to us. Our *machaneh*, camp, must remain unsullied by outside influences. This concept is easily understood when it involves the mundane. Unfortunately, when we address issues of the spirit, we confront an element of resistance. The following story highlights this disparity.

Horav Yitzchak David Grossman, Shlita, Rav of Migdal Emek, accompanied Ezer Weizman (at the time he was President of Israel, prior to that he had been head of their airforce) on a tour of a factory that made computer chips to be used in industry, but also in navigating the fighter jets flown by the pilots of their airforce. Thus, Weizman had a special interest in touring the "chip" section of the factory. The manager welcomed his interest and said he would be happy to take him on a tour of this restricted area, but (he apologized) the President would have to don protective clothing, with a face mask and protective glasses. Since *Rav* Grossman was a guest of the President, he, too, agreed to wear what appeared to be something akin to spacesuits. Indeed (*Rav* Grossman quipped), they looked like two astronauts. At the end of the tour, *Rav* Grossman was honored with saying a few words in recognition of the critical work being performed at the factory and its contribution to the welfare of the pilots. He also tendered his personal gratitude for being asked to join them on the tour.

He said, "I thank you for availing me the opportunity to learn an important lesson concerning our *avodas Hashem*, service to the Almighty." When he said this, the President turned to him incredulously and asked, "what lesson concerning your service to G-d could you have possibly derived as a result of the tour?"

"People wonder, why is it that it is only the Jews who have dietary laws prohibiting them from consuming certain foods? Why are there so many stringencies with regard to what we ingest? Gentiles may eat anything they want; in contrast, we have a very selective diet. Today I realized the reason for this. When we were about to walk into the room where the chips are produced, we were asked to don special clothes. Why? The slightest foreign speck of dust that comes in contact with a chip can alter its accuracy. When one of our pilots is flying hundreds of miles an hour, when he is on a mission, the slightest deviation can have the most tragic consequences. The chip must be pristine.

"We, too, have *neshamos tehoros*, pure souls, which, if exposed to the wrong foods, become contaminated and blemished. Only, we, *am Yisrael*, have a *neshamah* that is a *chelek miMaal*, part of Hashem Above. It is perfect – if we keep it perfect. Thus, we are enjoined against consuming any food that would taint our *neshamos.*

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

Insights Parshas Mishpatim
Yeshiva Beis Moshe Chaim/Talmudic University
Parshas Mishpatim..... .Shevat 5783
Based on the Torah of our Rosh HaYeshiva HaRav Yochanan Zweig

This week's Insights is dedicated in loving memory of Malka bas Rav Kalman.

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Kindness Optional?

When you will lend money to My people, to the poor person who is with you, do not act towards him as a creditor; do not burden him with interest (22:24).

In this week's parsha, the Torah discusses a few laws relating to lending money to another Jew; you cannot press him for repayment if you know he hasn't the wherewithal to pay you back; it is also prohibited to charge interest, etc.

The word the Torah uses in the possuk is "im – when." Rashi (ad loc) cites an enigmatic teaching from the Tanna R' Yishmael: "Every use of the word 'im' in the Torah implies a voluntary act (the word 'im' always means 'if'), except for three places in the Torah – this being one of those places."

That is to say that while the word "im" usually means "if" which implies that it is an optional act, here instead the word "im" means "when" because lending money is actually obligatory (see Rashi at the end of Parshas Yisro, 20:22 where Rashi shows that the Torah actually commands one to lend money). Obviously, this teaching begs the question; if the Torah actually meant "when" and not "if," then why not simply use the word "when"? Why should the Torah use a word that almost universally means "if"?

There is a fascinating discussion among the codifiers of Jewish law as to why certain opportunities to do mitzvos require a blessing (e.g. blowing a shofar or putting on teffilin, etc.) while other opportunities do not require a blessing (e.g. honoring one's parents, acts of charity, etc). According to Rashba (responsa 1:18) there are no blessings made when there is another person involved because the completion of the act depends on another person. In other words, if one were to make a blessing recognizing Hashem's mandate to give charity, what happens when the intended recipient refuses or is unable to accept the gift? There is no certainty in completing the act when its completion is also dependent on another individual.

Another explanation given is that there is no bracha where it is a moral imperative and it is therefore done by both Jews and non-Jews. This is because in such a situation one is unable to say the words "Asher Kideshanu – that He sanctified us," which is a key component of blessings (Aruch Hashulchan YD 240:2). Maimonides (Hilchos Brachos 11:2) seems to say that we only make brachos on mitzvos that are between man and Hashem (Bein Adom Lamokom), thus exempting situations that included another person.

Perhaps we can explain this to mean that the reason we don't make a bracha when another person is involved is that we don't want to appear to be objectifying another person as an opportunity to fulfill a mitzvah. Imagine if someone is in a desperate situation and they approach you for help; how would that person feel if your first response was to make a blessing thanking Hashem for the opportunity to fulfill one of his commandments? The whole purpose of honoring one's parents, for example, is to show them appreciation for all that they have done. By making a blessing, one is introducing the element that the reason for honoring them is due to an obligation, not a personal desire to display gratitude. This would seriously impact the effectiveness of one's act as the parents would have a hard time sensing the appreciation behind the act.

The same is true when someone really needs one's help. A major component of the mitzvos of Gemilus Chassadim (acts of kindness) is to be God-like (Sotah 5a). A fundamental principal of Jewish philosophy is that our world, and system of reward and punishment, was built on a system that would not embarrass the recipients of Hashem's kindness (Nahama Dekisufa). By using the word that usually means "if," the Torah is teaching us a fundamental principal of helping others: Of course we have to lend money, but we should do it in a way that the recipient feels as if it is optional, and that helping them is something we want to do. Not something we have to do.

One and the Same

If he shall come alone, he shall go out alone. If he is a husband of a (free) woman, his wife shall go out with him (21:3).

The Torah here is discussing the laws of a Jewish servant - "Eved Ivri"; that is, one who is sold into servitude to settle debts he incurred when he stole from others. During the years of servitude his wife is supported by his master; when he is freed from service, the financial responsibility for his wife now leaves the master and once again is upon him.

Rashi (ad loc) points out that the Torah uses a very unusual word for describing someone as unmarried – "begapo." Rashi goes on to explain; "the word 'begapo' literally means coattail – that he came in as he is; single and unmarried, in his clothing, within the edge of his garment." This is a rather unusual way of saying "bachelor," what is significance of using this word?

The word bachelor was first used in the 1300's to describe young men (squires) that were beginning the path to knighthood. The word therefore implies someone young and without experience. In fact, even today it has some of the same implication; the first degree one achieves in college is referred to as a bachelor's degree. But the Torah uses a very specific term; what is the meaning of using the word coattails for bachelorhood?

At first glance, one might think that it simply refers to something that is also similar to the English language expression "he came with nothing but the shirt on his back." But Rashi is very specific that it is referring to the "edge" of the garment. What does this really mean?

In many Sephardic communities the custom when getting married is that under the chuppah the groom wraps himself and his new wife in a tallis. The intended message is that they are now bonded as one and that his tallis wraps the two of them together as if they were now a single entity.

The Torah here, by using the word which means the edge of a garment, is describing what a marriage is. In a marriage, the edge of my garment no longer covers just me; it is covering my wife as well because we are now a single entity. If the edge of my garment only covers me then by definition I am unmarried. Therefore if the Jewish servant comes in with only himself at the edge of his garment – "begapo" – he must be unmarried.

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How Does a Heter Iska Work?
Rabbi Yirmiyohu Kaganoff

Andy Gross, a businessman who is proud that he is now observing mitzvos, is on time for his appointment. After a brief greeting, I ask him what brings him to my office on this beautiful morning.

"I recently learned that even though the Torah prohibits paying or receiving interest, there is something called a heter iska that legalizes it. How can we legitimize something that the Torah expressly prohibits?"

Indeed, Andy's question is both insightful and important, and deserves a thorough explanation. Why don't you join us!

I note that this week's parsha discusses the prohibition of interest:

Do not collect interest from him, for you shall fear Hashem and allow your brother to live. Therefore, do not provide him money with interest (Chapter 25:36-37).

This verse teaches three different mitzvos:

1. Do not collect interest from him. This entails a prohibition on the lender against collecting interest (Bava Metzia 75b).
2. Allow your brother to live. From the words allow your brother to live we derive a positive commandment that one who did collect interest is required to return it (Bava Metzia 62a).
3. Do not provide him money with interest. This prohibits creating a loan that involves interest, even if the lender never collects it (Bava Metzia 62a). A lender who later collects the interest also violates the first prohibition, and if he subsequently does not return it, he violates the positive commandment.

Not only does the lender violate the prohibition against ribbis, but also the borrower, the witnesses, the broker, the co-signer, the scribe who writes up the loan document (Mishnah Bava Metzia 75b), the notary public who notarizes it, and possibly even the attorney who drafts a document that includes provisions for ribbis, all violate the laws of ribbis (Bris Yehudah 1:6). Thus, anyone causing the loan to be either finalized or collected violates the Torah's law.

"The halachos of ribbis are quite complex," I told Andy. "From my experience, even seasoned Torah scholars sometimes mistakenly violate the prohibition of ribbis. For example, having a margin account at a Jewish-owned brokerage, charging a Jewish customer for late payment, or borrowing off someone else's credit line usually entail violations of ribbis. I even know of Torah institutions that 'borrow' the use of someone's credit card in order to meet their payroll, intending to gradually pay back the interest charges."

"Why does the last case involve ribbis?" inquired an inquisitive Andy.

"Let me present a case where I was involved. A Torah institution was behind on payroll, and had no one available from whom to borrow. The director asked a backer if the institution could borrow money through his bank credit line." "I still do not see any ribbis problem here" replied Andy, "just a chesed that costs him nothing."

"To whom did the bank lend money?" I asked Andy.

"As far as they are concerned, they are lending money to the backer, since it was his credit line."

"So from whom did the institution borrow? The bank did not lend to them. Doesn't this mean that really two loans have taken place: one from the bank to Mr. Chesed, and another from him to the institution? The loan from the bank incurs interest charges that Mr. Chesed is obligated to pay. Who is paying those charges?"

"It would only be fair for the institution to pay them," responded Andy.

"However, if the institution pays those charges, they are in effect paying more money to Mr. Chesed than they borrowed from him, since they are also paying his debt to the bank. This violates ribbis. The fact that the institution pays the bank directly does not mitigate the problem (see Bava Metzia 71b)."

Andy was noticeably stunned. "I have always thought of interest as a prohibition against usury – or taking advantage of a desperate borrower. Here the 'usurer' did not even lend any money, and thought he was doing a tremendous chesed for tzedakah; he did not realize that his assistance caused both of them to violate a serious prohibition!"

"What is even more unfortunate," I continued, "is that one can convert most of these prohibited transactions into a heter iska that is perfectly permitted.

WHAT IS A HETER ISKA?

"A heter iska is a halachically approved way of restructuring a loan or debt so that it becomes an investment instead of a loan. This presumes that the investor assumes some element of risk should the business fail, which is one basic difference between an investment and a loan. An investor could potentially lose money, whereas a lender does not lose because the borrower always remains responsible to pay.

"One is permitted to create a heter iska even when the goal of both parties is only to find a kosher way of creating a transaction that is very similar to an interest-bearing loan (Terumas Ha'deshen #302). The words heter iska mean exactly that: performing an allowable business deal that is similar to a prohibited transaction. As we will see, the structure must still allow for an element of risk and loss as accepted by halacha, otherwise it fails the test of being an investment.

"There are several ways of structuring a heter iska, and, indeed, different situations may call for different types of heter iska. In order to explain how a basic heter iska operates, I must first explain an investment that involve no ribbis, so that we can understand how a heter iska was developed. For the balance of this article, we will no longer refer to "borrowers" and "lenders." Instead, I will refer to a "managing partner" or "manager" and an "investor."

Andy interrupts my monologue. "Was heter iska used in earlier generations?"

THE EARLIEST HETER ISKA

"The concept of heter iska is many hundreds of years old. The earliest heter iska of which I am aware is suggested by the Terumas Ha'deshen (1390-1460). His case involves Reuven, who wishes to invest in interest-bearing loans to gentile customers, but does not want to take any risk. Shimon, who is an experienced broker of such loans, is willing to take the risk in return for some of the profit on Reuven's money.

"Reuven wants a guarantee that he will receive back all his capital regardless of what actually happens in the business venture. Essentially, this means that Shimon is borrowing money from Reuven and lending it to gentiles; this would result in a straightforward Torah prohibition of ribbis, since Shimon is paying Reuven a return on the loan. Is there any way that Reuven and Shimon can structure the deal without violating the Torah's prohibitions against paying and receiving interest?"

At this point, Andy exclaims: "Either this is a loan, and Reuven's money is protected, or it is an investment, and it is not. How can Reuven have his cake and eat it too!"

"Actually, all the attempts at creating heter iska are attempts to find a balance whereby the investor is fairly secure that his assets are safe, and yet can generate profit. In your words, to try to have his cake and eat it.

PIKADON – INVESTING

"Let me explain how a heter iska accomplishes both these goals, by developing a case: Mr. Sweat has a business idea, but he lacks the capital to implement it. He approaches Mr. Bucks for investment capital. If Bucks has sufficient confidence in Sweat's acumen to build a business, he might decide to invest even without knowing any details about it, since Sweat knows how to provide handsome profits. None of this involves any ribbis issues since there is no loan and no one is paying to use the other person's capital. This business venture is called a pikadon.

GUARANTEEING THE INVESTMENT

"Your model is highly theoretical," Andy points out, "since it assumes that Mr. Bucks invests without much assurance. Few people I know would entrust someone with their money without some type of guarantee."

"You have hit on a key point – let us see how halacha deals with this. Whenever an investor entrusts someone with funds, the Torah permits him to demand an oath afterwards that the manager was not negligent. Therefore, Bucks may insist that Sweat swears an oath that he was not negligent with the money, and also that he reported accurately how much profit Bucks receives. An agreement may even require that Sweat swears this oath by using G-d's name and while holding a Sefer Torah in front of the entire congregation."

"That should certainly get Sweat to sweat," quipped Andy. "But then again, assuming Mr. Sweat is a frum Jew, is he going to want to swear any oath at all?"

"That is exactly the point that secures Bucks' bucks, since observant people would pay a substantial sum of money to avoid swearing an oath. The heter iska specifies that the manager has the option of swearing the oath and paying only what the investor is entitled. However, the manager also has the option of substituting an agreed-upon payment for the oath. Since observant Jews would rather pay the fixed return rather than swear an oath, we accomplish that the investor is reasonably secure, although no loan and no ribbis transpired. The result is not a loan, but a cleverly structured investment."

After waiting a few seconds and absorbing what he just learned, Andy continued:

"Is there anything else I need to know about a heter iska before I use one?"

"I need to explain one other very important detail that, unfortunately, people often overlook. Most forms of heter iska state that the investor paid the manager a specific sum of money, say one dollar, for his time involved in the business venture. It is vitally important that this dollar be actually paid; otherwise there is a ribbis prohibition involved. Yet I know that many people overlook this requirement and do not understand its importance."

"Why is this important?"

STANDARD ISKA – A SILENT PARTNERSHIP

"The standard heter iska assumes that the arrangement is half loan and half pikadon. This means that if Mr. Bucks invests $100,000 with Mr. Sweat to open a business, Mr. Bucks and Mr. Sweat become partners in the business because half of the amount is a $50,000 loan that Mr. Sweat must eventually repay, and the other half is a $50,000 outlay that Mr. Bucks has invested in a business that Mr. Sweat owns or intends to open. Bucks may receive no profit on the $50,000 loan he extended -- if he does, it is prohibited ribbis. However, he may receive as much profit on the investment part of the portfolio as is generated by half the business. As a result, Mr. Bucks and Mr. Sweat are both 50% partners in the business.

RECEIVING PROFIT FROM THE LOAN

"However, there is an interesting problem that we must resolve. Bucks invested a sum with Sweat, for which he received a profit, and he also loaned Sweat money, for which he may not receive any profit. However, the return on the investment was realized only because Mr. Sweat is investing his know-how and labor to generate profit for the partnership – know-how and labor for which Bucks did not pay. Why is this not payment for Mr. Bucks' loan, and therefore ribbis?

"This concern is raised by the Gemara, which presents two methods to resolve the problem.

"One approach is that the investor pays the manager a certain amount for his expertise and effort. As long as both parties agree in advance, we are unconcerned how little (or much) this amount is (Bava Metzia 68b). However, there must be an amount, and it must actually be paid. Even if they agree to a sum

as paltry as one dollar, this is an acceptable arrangement, similar to Michael Bloomberg's accepting one dollar as salary to be mayor of New York."

"I now understand," interjected Andy, "why it is so important that this amount be actually paid. If Mr. Sweat receives no compensation for his hard work on behalf of Mr. Bucks' investment, it demonstrates that he was working because he received a loan, which is prohibited ribbis."

"Precisely. However, there is another way to structure the heter iska to avoid the problem; have the profit and loss percentages vary. This means that if the business profits, the managing partner makes a larger part of the profit than he loses if there is a loss. For example, our silent and managing partners divide the profits evenly, but in case of loss, our manager is responsible to pay only 30% of the loss, which means that he owns only 30% of the business. The extra 20% of the profits he receives is his salary for managing the business. He is therefore being paid a percentage of Bucks' profits for his efforts, similar to the way a money manager or financial consultant is often compensated by receiving a percentage of the profits on the funds he manages. Personally, I prefer this type of heter iska, but the type I described previously is perfectly acceptable as long as Mr. Sweat receives some compensation for his effort and know-how.

"The heter iska I have seen used by the Jewish owned banks in Israel includes this method. The bank invests 45% in a "business" managed by the mortgage borrower, but the borrower is entitled to 50% of the profits. Thus, he is 'paid' five per cent of the profits to manage the investment."

"Can you explain to me how the Terumas Ha'deshen's money lender would use a heter iska?" inquired Andy.

"Actually, his heter iska varied slightly from what we use today. Using today's accepted heter iska, Shimon, the manager, accepts the money with the understanding that he is borrowing part and managing the balance for Reuven. He is compensated for his efforts according to one of the approaches mentioned above, and agrees in advance to divide the profits. He also agrees that he will swear an oath guaranteeing that he was not negligent in his responsibilities, and the two parties agree that if he subsequently chooses to pay Reuven a certain amount he is absolved of swearing the oath. Thus, Reuven's return is not interest on a loan, but the amount Shimon had agreed to pay rather than swear how much he actually owes Reuven.

"This approach has been accepted by thousands of halachic authorities as a valid method of receiving a return on one's investment that looks like interest but is not. The Chofetz Chayim notes that if someone can lend money without compensation, he should certainly do so and not utilize a heter iska, because he is performing chesed (Ahavas Chesed 2:15). Heter iska is meant for investment situations, and should ideally be limited to them.

"I would like to close by sharing with you a thought from Rav Samson Raphael Hirsch about the reason why the Torah prohibited interest. He notes that if the Torah considered charging interest to be inherently immoral, it would have banned charging interest from non-Jews, and also would have prohibited only the lender and not the borrower. Rather, Rav Hirsch notes, the Torah's prohibition is so that the capital we receive from Hashem is used for tzedakah and loans, thereby building and maintaining a Torah community. The Torah's goal in banning the use of capital for interest-paying loans is to direct excess funds to chesed and tzedakah."

לע"נ

שרה משא בת ר' יעקב אליעזר ע"ה

ביילא בת (אריה) לייב ע"ה

אנא מלכה בת ישראל ע"ה

Parshas Mishpatim: God's Judgment and Human Judges

By Rabbi Yitzchak Etshalom

I. DO NOT SLAY THE INNOCENT AND THE RIGHTEOUS

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

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

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

II. RASHI'S EXPLANATION

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

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

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

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

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

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

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

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

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

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

Rashi's interpretation follows the Oral Tradition and grants support for the juridical tradition of favoring acquittal over conviction. It further explains the cause-effect relationship in our verse "Do not slay…for I will not exonerate." It is, however,

not the smoothest p'shat (straightforward reading) in the verse; I would like to suggest another approach which will resolve the three problems we found with Rashi's comments.

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

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

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

This position can be explained in two ways.

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

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

IV. VERBAL AND THEMATIC STRUCTURES – A BRIEF REVIEW

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

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

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

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

A——>Nations

B——>will…be afraid;

B—–>trembling will take hold

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

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

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

For example:

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

A—>Remember

B———->…that which 'Amalek did to you

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

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

V. STRUCTURAL ANALYSIS OF OUR VERSES

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

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

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

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

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

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

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

The 'B' phrases serve as a counterbalance to the compassion mentioned above. The judge, apprised of the demands of compassion placed upon him, might pervert justice due to that selfsame compassion. "The poor man is so much needier," thinks the compassionate judge, "the rich can afford to lose; the poor man is probably innocent; I must show him mercy." The Torah warns of that perversion in the 'B' phrases: "Distance yourself from a false matter…do not take graft." The false

matter and the graft referred to here are internal: i.e. the rationalizations with which we blind ourselves (see BT Shavuot 30). We ignore the trespasses of friends much as we turn a blind eye to the righteousness of our enemies; neither fits the image we'd like to maintain. The judge must be wary of this potential in his own psyche. His compassion is the necessary starting point; judging without soul is judging without the image of God. The fairness which must overrule compassion is the crowning feature of the judge. A judge who is fair without feeling the tension of sympathy is not a man; the judge who allows his sympathy to decide the case is not a judge.

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

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

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

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

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PARSHAT MISHPATIM [shiur # 1]

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

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

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

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

WHERE DOES PARSHAT MISHPATIM REALLY BEGIN?

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

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

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

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

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

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

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

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

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

WHAT MOSHE DOES WHEN HE RETURNS

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

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

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

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

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

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

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

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

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

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

RAMBAN'S APPROACH [the 'simple' pshat]

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

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

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

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

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

THE CEREMONY

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

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

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

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

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

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

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

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

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

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

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

RASHI'S APPROACH - LAST THINGS FIRST

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

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

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

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

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

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

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

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

FILLING IN THE MISSING LINKS

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

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

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

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

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

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

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

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

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

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

'WHY' BEFORE 'HOW'

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

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

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

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

YIR'A & AHAVA

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

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

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

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

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

shabbat shalom,
menachem

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FOR FURTHER IYUN

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

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

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

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

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

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

PARSHAT MISHPATIM - shiur #2

A SPECIAL UNIT / AN EDUCATIONAL PROGRESSION

What's better - Chumash or Shulchan Aruch?

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

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

INTRODUCTION

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

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

SUB-DIVIDING THE UNIT

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

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

Let's explain.

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

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

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

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

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

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

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

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

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

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

THE MISHPATIM - CASE LAWS

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

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

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

THE 'KEY' WORD

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

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

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

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

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

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

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

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

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

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

THE ETHICAL LAWS

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

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

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

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

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

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

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

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

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

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

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

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

BEING A 'GOOD CITIZEN'

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

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

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

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

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

Similarly, the next law:

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

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

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

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

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

ACTING LIKE A 'MENSCH'

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

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

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

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

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

A HIGHER ETHIC

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

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

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

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

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

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

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

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

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

SHABBAT & THE HOLIDAYS

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

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

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

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

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

A 'DOUBLE' SANDWICH - TZEDAKA & MISHPAT

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

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

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

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

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

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

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

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

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

BACK TO AVRAHAM AVINU!

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

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

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

AN EDUCATIONAL PROGRESSION

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

I. THE FEAR OF MAN

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

II. THE FEAR OF GOD

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

III. LOVE FOR ONE'S FELLOW MAN

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

IV. THE LOVE OF GOD

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

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

ONE LAST PROMISE

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

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

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

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

BACK TO BRIT SINAI

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

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

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

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

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

shabbat shalom,
menachem

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FOR FURTHER IYUN

A. NISHMA VE-NA'ASEH!

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

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

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

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

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

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

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

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

C. SOUND BYTES

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

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

D. AVOT & TOLADOT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

YITRO / MISHPATIM - A CHIASTIC STRUCTURE

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

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

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

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

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

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