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Potomac Torah Study Center
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NOTE: Devrei Torah presented weekly in Loving Memory of Rabbi Leonard S. Cahan z"l, Rabbi Emeritus of Congregation Har Shalom, who started me on my road to learning 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.

Hersh ben Perel Chana, cousin of very close friends of ours, has been confirmed as one of approximately 240 initial hostages to Hamas in Gaza. The Wall St. Journal featured Hersh and his family in a front page article on October 16. Chabad, OU, and many synagogues recommend psalms (Tehillim) to recite daily for the safety of our people. May our people in Israel wipe out the evil of Hamas, protect us from violence by anti-Semites around the world, and restore peace for our people quickly and successfully – with the help of Hashem.

Why does a graduate level law class follow immediately after the thunder and light show of Hashem's presentation of Aseret Dibrot at Har Sinai? Rabbi Haim Ovadia, an experienced speaker and teacher, observes that even the most intense and spiritual speech will not remain in the memory of a listener after the speech concludes. The drama and excitement of Hashem's presentation require the 53 specific mitzvot in Mishpatim to reinforce Hashem's statements. By making the chapter headings from Yitro concrete with many specific examples, the Torah presents a way for each Jew to internalize and reinforce the mitzvot every day.

The first commandment's message is that Hashem, our Creator, took us out of slavery in Egypt and is presenting these mitzvot to guide us to live an ethical life in which we can build relationships with Hashem and fellow humans. Yitro presents the dibrot as chapter headings for how to live. Mishpatim presents dozens of concrete examples to illustrate how to understand and implement the commandments.

Rabbi Lord Jonathan Sacks, z"l, notes that the Torah commands us 36 times to love the stranger. Learning the importance of caring for foreigners and other disadvantaged members of society (widows, orphans, elderly) is why our people need to live in slavery for generations before earning the land that Hashem had promised to our ancestors. Pesach reminds us annually of our time as slaves and God's love in freeing us and giving us Israel, His special place in His world.

Starting this week, we have the honor of Rabbi Dr. Katriel (Kenneth) Brander, President and Rosh Ha Yeshiva of Ohr Torah Stone, sending us a weekly Devar Torah. Rabbi Brander shows the importance of Mishpatim by noting that members of weekly Talmud study groups in pre-Holocaust Europe selected this parsha for an annual celebration of the Oral Law. Rabbi Yehuda explained that Mishpatim is central to the vision of a Goy Kadosh, the mission of Jews to be a holy nation. The 53 mitzvot in this parsha are essential to build a just and ethical society.

Rabbi Brander focuses on "the day after," Israeli society after completing the campaign to eliminate Hamas and start Gaza off toward becoming a peaceful neighbor. The period leading up to October 7 in Israel had ugly political and religious divisions that undermined the cohesion of Israeli society. The challenge for Israel after Hamas is to create

dialogue, respect, and partnership among all elements of Israeli society. The vision of a unified Israeli society is a key element of the vision of Mishpatim, and Rabbi Brander's message is very timely.

Unfortunately, divisions in Jewish society have a long history. Rabbi David Fohrman and his fellow scholars at alephbeta.org demonstrate that many of the specific laws in Mishpatim (and elsewhere in the Torah) come from conflicts earlier in the Torah, especially conflicts between the Rachel and Leah sides of the Jewish community. To take only one example:

> *"If a man shall uncover a pit, or if a man shall dig a pit and not cover it, and an ox or a donkey fall into it, the owner of the pit shall make restitution. He shall return money to the owner. . .* (21:33-34)

The Torah uses the word "bor" for the pit – the same word the Torah uses for the hole where the brothers leave Yosef and from which he ends up being taken and sold into slavery. When Yosef ends up in prison, the Torah also calls it a "bor." Moreover, Yaakov refers to Yosef as an ox (Bereishis 49:6), as does Moshe later in his blessings at the end of the Torah (Devarim 33:17). This conflict returns many times in Tanach, and I have discussed some of them in the past.

God promises to punish those who violate His mitzvot when the guilty evade human courts. The clearest example of guilty who evade human punishment is the anti-Semites of history, from Paro to Amalek, numerous nations surrounding Israel over history, Greeks, Romans, Crusaders, Nazis, and various Arab countries. Most of these examples are nations that no longer exist – yet we Jews are still around. Jewish history recounts some incidents when weak groups of Jews made noises that scared away stronger invaders. Yehuda Maccabee and his brothers defeated the Greek/Syrian army (and horses) and assimilated Jews in the second century BCE to preserve the integrity of the Temple in Jerusalem – a miracle in which Jews see divine intervention behind the scenes. The victory of Israel against the combined forces of much larger and wealthier Arab countries also indicates divine intervention.

Hamas stands for virtually everything that the mitzvot in Mishpatim condemn. Hamas uses the weak and innocent as human shields and then attacks Jews, focusing on sexual violence against hostages and even corpses. Hamas takes billions of dollars of aid for civilians that other countries donate for Gaza and uses the money to build reinforced concrete tunnels and weapon storage units. Hamas aims to create societies of murder and cruelty rather than a society of justice and charity. Many segments of society throughout the world praise Hamas and condemn Jews. Mishpatim demonstrates that any religion with a grounding in the Torah – Judaism, Christianity, and Moslem – should be praising Israel's goals and methods of attacking Hamas and calling out Hamas as vicious criminals.

My beloved Rebbe, Rabbi Leonard Cahan, z"l, taught me Torah and Jewish history for nearly fifty years. One important lesson that I learned from Rabbi Cahan: the basis of any civilized society is the first Commandment, Hashem is our God – everything else follows.

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 and since the pandemic, despite many of its supporters having to cut back on their donations.

Please daven for a Refuah Shlemah for Hersh ben Perel Chana (Hersh Polin, hostage to terrorists in Gaza); Eliezer Tzvi ben Etta (Givati infantry brigade, lead IDF force in Gaza); Hershel Tzvi ben Chana,

Reuven ben Basha Chaya Zlata Lana, Yoram Ben Shoshana, Leib Dovid ben Etel, Asher Shlomo ben Ettie, Avraham ben Gavriela, Mordechai ben Chaya, 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; Rena bat Ilsa, Riva Golda bat Leah, Sarah Feige bat Chaya, Sharon bat Sarah, Noa Shachar bat Avigael, Kayla bat Ester, and Malka bat Simcha, and all our fellow Jews in danger in and near Israel. Please contact me for any additions or subtractions. Thank you.
Shabbat Shalom

Hannah & Alan

Mishpatim: A Giant Step Toward Holiness

By Rabbi Label Lam © 5767

> *People of holiness shall you be to Me* (Shemos 22:30)
>
> *HASHEM has plenty of Holy Angels but what He desires is that people guard the Holiness in this otherwise material world.* (The Kotzker Rebbe ztl.)
>
> *If a man shall uncover a pit, or if a man shall dig a pit and not cover it, and an ox or a donkey fall into it, the owner of the pit shall make restitution.* (Shemos 21:33)

I know what you're thinking. I used to think the same thing. Who's got an ox or a donkey nowadays? What does this have to do with us? The truth is material conditions of societies have been and are currently in constant flux and from here we learn one of the main principles of damage – "BOR" – pit. A BOR is defined not just as a pit but as a stationary form of damaging agent as opposed to others that move like some domesticated animal or fire. It becomes particularly problematic when placed in the public domain. What does all this talk of pits and holes have to do with being holy?

The Talmud tells the following incident:

> *"We learned in a Baraisa; "A person should not throw stones from his property into public grounds. It happened that a person was throwing stones from his property into the public domain. A pious man passed by and said to him, "Foolish one, why are you throwing stones from property that does not belong to onto ground that does belong to you?" The man laughed at him. As time went by he had to sell his field and when he was walking on those public grounds, stumbled over his own stones. He then exclaimed, "That pious man was right when he said to me, "Why are you throwing stones from ground that does not belong to you onto ground that does belong to you?"* (Bava Kama)

In contradistinction one of my Rebbeim told us in class that his wife had once stopped on the street to observe an amazing scene. She was not quite certain what she was witnessing though. Someone who was renowned as "The Tzadik of Monsey," Rabbi Mordechai Schwabb ztl, was in front of his house with a large pair of pruning shears. This seemed unbefitting or uncharacteristic for such a revered rabbi to be doing that kind labor intensive garden work. He was reaching for some high branches zealously and clipping away when he noticed that this woman was staring at him with bewilderment. He paused and beamed in her direction with his usual radiant countenance and told her, *"It's a chessed! It's a chessed!"* (An act of kindliness). She came home and asked her husband, *"What kindliness is there is trimming a tree?"* She guessed, *"Maybe there's some mystical dimension at play here and extra branches are somehow painful for the tree!"* He thought for a moment and laughed. He told her that he was probably removing those branches that hang low from his property onto the side walk and what he wanted was to simply make sure that his tree would not be the cause of

somebody who would be strolling by having their hat knocked off their head or getting a poke in the eye. Maybe nothing deeper than that!

I suppose that's how the pious one thinks. He's concerned about his responsibility to the public domain in every possible way. There's a hidden ingredient of that story that may have slipped unnoticed below the radar screen and may best be highlighted by the next incident.

Once when I was a youngish Yeshiva student during the holy month of Elul, which is the prelude to Rosh HaShana and Yom Kippur, I was wearing a rather dour an sullen look on my face. One of the Rabbis approached me and asked me what the problem was. I blithely uttered, "*Elul Rabbi, Elul!"* thinking that would be enough of a justification for the extra serious face. He told me, *"Elul is what's going on in your heart. That's the private domain. Your face though is the public domain."* So the Mishne in Avos declares, *"Greet every man with a pleasant and interested face!"*

The Torah warns not just about carving a hole in the ground in a public area so that an ox should not dare stumble into it but also cautions regarding anything we may bring out from the private to the public domain. Respecting those boundaries and avoiding those kinds of pitfalls is a giant step toward holiness!

https://torah.org/torah-portion/dvartorah-5769-mishpatim/ (originally posted in 5767)

Parshat Mishpatim: Civil Society and Har Sinai

By Rabbi Dr. Katriel (Kenneth) Brander © 5784 (2024)
President and Rosh HaYeshiva, Ohr Torah Stone

After the high of Parshat Yitro featuring the giving of the Torah at Har Sinai as all the mountains quaked and lightning lit up the sky, we encounter Parshat Mishpatim. At first blush, what appears is a dry, technical treatment of issues in civil law – property rights, rules of damages, employee rights, and the like. How did we go from the lofty revelation of the ten commandments to the subdued, cold legalism of this week's parsha?

In fact, after being interrupted by the litany of laws presented in the first half of the parsha, at the end of Mishpatim the narrative of the Sinai revelation continues. Why not continue straight from Parshat Yitro into Chapter 24 of Shemot, finish the Mount Sinai narrative, and proceed to its ongoing actualization through the construction of the Mishkan with God's ongoing presence amongst the people -- and save the laundry list of laws and regulations for later?

In a shiur from 1969, Rav Joseph B. Solovitchik described how in Europe, Shabbat Parshat Mishpatim was known as the annual celebration of the **'Chevra Shas,'** the groups of Jews who would gather each week to study Talmud together in Shul. The week of Parshat Mishpatim was the perfect occasion to celebrate the study of the Torah shebe'al peh, the Oral Torah. So much rabbinic energy and wisdom has been poured into the sugyot that emerge from our parsha, making up the bulk of the opening masechtot of Seder Nezikin and the halakhic codes on Choshen Mishpat, with thousands of pages of the rabbinic tradition devoted to the minutiae of these topics.

If, in fact, God's vision for the Jewish people is to serve as a mamlechet kohanim v'goy kadosh, 'a kingdom of priests and a holy nation,' a nation that is meant to inspire the world towards righteousness, then there can be no part of the Torah more central to that vision than Parshat Mishpatim.

As Rav Yehuda teaches in Bava Kama (30a), 'one who wishes to be righteous should immerse themselves in the laws of Nezikin (damages).' For it is precisely this set of laws -- those that dictate how we build a just and ethical society – which leads us towards righteousness.

Beneath the dry rulings on the borrowers and the goring ox and the claiming of collaterals is a vision of a just society, the kind of society we are called upon to build, the kind of society that is at the forefront of God's mandate for us as Torah Jews to develop in this world.

Looking ahead to "the day after," we who live in the State of Israel will need to face a serious reckoning regarding our ultimate mission. In the days and months leading up to October 7, our country faced an unprecedented breakdown in societal cohesion. Political and religious groups facilitated a chasm between us, nearly shattering our vision of a shared society for the whole Jewish people. The war and its aftermath have certainly done a great deal to reignite our common sense of identity and purpose, but this cohesion forged by crisis is already beginning to somewhat fray. When "the day after" comes, our challenge will be not to return to October 6th. We need to already now build new means for creating dialogue, respect, and partnership, to ensure that all sectors of Israel continue to build a better society together.

There is a tradition attributed to the Arizal that prior to beginning the morning prayers, one should accept upon oneself the mitzva of loving their fellow, and an even earlier tradition, appearing already in the Gemara (Bava Batra 10a), that one should give charity before beginning to pray. These rituals are intended to put our Avodat Hashem in perspective; if we are not fully invested in caring for others and building a just society, if we do not see in these pursuits our ultimate religious and spiritual ideals, then we have simply misunderstood the Torah itself. It becomes impossible to create a meaningful relationship with God if we don't begin with respect for one another. Only through commitment to building a just society as an inherently religious value will we succeed in fulfilling the bedrock of the Torah; only then will we be a kingdom of priests and a holy nation.

* I am honored to welcome Rabbi Dr. Katriel (Kenneth) Brander to our list of distinguished contributors. Ohr Torah Stone is a modern Orthodox group of 32 institutions and programs. Rabbi Dr. Shlomo Riskiin is the Founding Director, and Rabbi Dr. Brander is President and Rosh HaYeshiva. For more information or to support Ohr Torah Stone, contact ohrtorahstone@otsyny.org or 212-935-8672. Donations to 49 West 45th Street #701, New York, NY 10036.

Mishpatim --The Rosh Yeshiva Responds – Returning a Sweater After a Falling Out

by Rabbi Dov Linzer
President and Rosh HaYeshiva of Yeshivat Chovevei Torah

> *"If you encounter your enemy's ox or his ass going astray, you shalt surely bring it back to him again."*)Shemot 23:4(.

QUESTION - Cleveland, OH

A man wrote to me after cleaning out his grown daughter's bedroom, he found a sweatshirt that his daughter most likely borrowed years ago from her very close friend. The daughter and the owner of the sweatshirt had a falling out over 15 years ago, and there has been no communication since then. Is there an obligation to try to contact the owner? Under what circumstances can the item be donated or given away?

ANSWER

The daughter)or the father(is required to return the sweater, despite the falling out between them. It still belongs to its rightful owner.

Even if we were to presume yeush, that the original owner had given up hope of ever getting the sweater back, it would not allow the daughter to keep the sweater)or give it away(. The principle that a person can keep a lost object once the

original owners have had yeush only applies if there was yeush before it comes into the hands of the one who has found it. In this case, it was already in the daughter's possession for a good while before the original owner realized that it was missing and abandoned hope of getting it back. The original obligation that the daughter had to return the sweater does not go away when the owner has yeush later on.

In a way, the obligation in a case like this of ill-will between the parties is actually stated clearly a verse: *"when you encounter the ox of your enemy, you must return it to him"*)Shemot 23:4(. The point of the verse is clear: despite the hatred that exists between the two of you, you are not exempted from the ethical obligations towards this person or even towards his or her property. The object must be restored to the owner.

The Gemara in Baba Metzia)32b(goes further. Commenting on the following verse regarding a donkey that is struggling under its load — *"If you see the ass of your enemy crouching under his burden, and you would think to forgo helping him, you shall surely help him with it."*)Shemot 23:5(— the Gemara states that *"if the choice is between unloading the donkey of someone you love)which would save the animal from the suffering it is undergoing(and reloading the donkey that belongs to someone you hate, your first obligation is to help the one you hate, in order to subjugate your evil desire)i.e., your hateful feelings towards this person(."*

So, not only does the obligation still remain, it also presents an important, if challenging, opportunity to push oneself to transcend or bracket those negative feelings to do what is right. If it will prove to be too difficult to directly engage the friend, then I would just mail the sweater to her with a note *"I found this while cleaning up. All the best. etc."*

* President and Rosh Yeshiva, Yeshivat Chovevei Torah, Bronx, NY.

https://library.yctorah.org/2024/02/ryrmishpatim/

What's the Interest in Lending?

By Rabbi Jacob Siegel *

Shortly after emerging from slavery in Egypt, B'nai Yisrael stand together at the foot of Mount Sinai and receive the Torah. They are instructed on a set of ethical precepts for society. Following an exhortation to care for needy community members, widows and orphans, the Torah in this week's parasha records: *"If you lend money to My people, to the poor among your people, do not act like a creditor toward them; do not take any interest from them"*)Shemot 22:24(.

The Torah does not seem to view interest as inherently immoral; it is merely inappropriate for two members of *"your people"* to charge it to each other. Why? On the one hand, what is so bad about charging interest? And on the other hand, if it is problematic, why not prohibit all interest to anyone?

There are two primary ways we can understand this prohibition: spiritual and practical.

Spiritually, charging interest to a fellow community member leads me away from the Divine. Our possessions are not truly ours; they belong to God. I am unlikely to forget the Divine source of my possessions while tending a tree dependent on heavenly rain and its own miraculous process of budding and flowering. The moment I am most likely to forget the Divine origins of my possessions is the moment when my own money seems to generate more money for me with no Divine intervention.

The Turei Zahav, writing in the 17th century, points out that someone who chooses to lend at interest despite the prohibition on doing so is demonstrating that they think they know better than God. The person argues*, "if only God had known how much profit I could earn."* They may even see themselves as righteous: *"if only God had known how much an*

interest-bearing loan could help this poor person." These misguided justifications chip away at the foundations of faith that underpin Judaism's vision of economic justice.

From this angle, the prohibition on interest is a spiritual test. Indeed, the Jewish legal codes group charging interest with transgressions like denying the fundamental principles of Jewish faith, denying the liberation of the Children of Israel from Egypt, and even denying the divinity of God. In the Shulchan Aruch, the laws concerning usury are not in the volume dedicated to economic issues)choshen mishpat(but in the volume dedicated to spiritual issues)yoreh de'ah(, alongside keeping kosher and avoiding idol worship. This is also why Judaism makes no distinction between interest rates — a loan at 2 percent interest is just as prohibited as a loan at 50 percent interest.

On the other hand, we can understand the prohibition on interest as a practical communal norm, a way to sustain society. Once we are already considering a loan to help a vulnerable or needy person, we ought to avoid charging interest, because interest would undermine the purpose of such welfare. This might be why the prohibition applies to community members with whom one shares a social contract, but not to strangers)non-Jews(in what are likely one-off transactions.

Interest has a particular quality of compounding, of starting so small that we can barely feel it but then growing so quickly it overwhelms human relationships. The Sefer HaChinukh notes that God desires a developing and functioning society and so *"commanded to remove this obstacle from their path, that one should not swallow up the wealth of his friend without his]even[feeling it, until he finds his house empty of all good. As that is the way of interest, and the matter is well-known."*

In other words, interest is not bad, and it is in fact legitimate to charge interest to strangers. But a community cannot support its needy through loans, cannot ensure loving and generous human relationships, cannot be sustainable on this earth, with a norm of interest.

More broadly, from a Jewish perspective, economic justice requires the lender, who has more power, to avoid abusing that power. If one wants to invest in a business venture, one ought to fairly share the risks involved. As my teacher Rabbi Yitz Greenberg puts it, on the one hand, *"the Gemara, the tradition, the halakha, accepts the idea of 'general business practice.' And in fact, as we heard several different ways, profit motive is legitimate; self-interest is legitimate."* On the other hand, *"the profit motive should not be absolute."* It would be all too easy for a powerful lender to demand financially exploitative terms while forcing the borrower to shoulder the entire risk of loss.

May we all be inspired this Shabbat to work toward a world of fairness and economic justice, where nobody abuses their financial power to exploit others.

***** Climate Finance Advisor at *Dayenu: A Jewish Call to Climate Action.* Semikha, Yeshivat Chovevei Torah, 2016. Shochet, mohel and author, with training in Jerusalem, London, and at Yeshiva University. Active in several Jewish organizations in his current home, Eugene, OR.

https://library.yctorah.org/2024/02/mishpatim5784/

A Divine Reminder: Thoughts for Parashat Mishpatim

By Rabbi Marc D. Angel *

The Kotzker Rebbe offered an imaginative scene relating to the Revelation at Mt. Sinai. While all the Israelites gathered to receive God's words, a group of elitists started to leave in the middle of the event. They reasoned: why did we bother to come to hear that we are not allowed to murder or steal or commit adultery? We knew these things on our own.

But then the Almighty told them to return to the site of the Revelation. He told them that they, too, needed to hear these commandments. Why? Because they sometimes have murder, theft and adultery in their hearts! They, too, need to hear directly from God that these actions are reprehensible. They, too, need a powerful reminder to live moral, upright lives.

The Torah portion last week reported on the Revelation at Sinai and the receiving of the Ten Commandments. This week's parasha focuses on ethical business dealings and practical, everyday moral behavior. Here, too, people might think: why do I need to read these passages relating to damages, loans, business dealings? We could figure these things out on our own!

But, as the Kotzker Rebbe suggested, everyone needs to be reminded of the Divine commandments relating to upright and honest dealings. Why? Because people sometimes have tendencies that lead to dishonesty and immoral behavior. The Torah gives a powerful reminder to rise above negative tendencies, and to live honest lives.

Moral conflicts arise in life. Should we make a profitable deal, even if it entails dishonesty? Should we try to cause damage to someone we dislike, even if that would entail transgression of basic Torah laws? People have a way of justifying their behavior, even when that behavior is destructive, dishonest, immoral.

In his play, *All My Sons,* Arthur Miller portrays a family coping with a deep secret.

The head of the family, Joe Keller, was a manufacturer of engines for airplanes. During World War II, the government needed war materiel and Keller's business boomed. In the midst of heavy production, a batch of engines came out with cracks. These cracks were covered up superficially, and the engines were sold to the government. The defective engines led to the deaths of 21 pilots. When the government investigated the matter, Keller managed to get exonerated, shifting the entire blame on to his partner — who was imprisoned. Keller and family continued to live well; Keller's son Chris totally believed in the innocence of his father.

But the ugly truth could not stay buried forever. Chris became suspicious of his father's claims of innocence, and finally confronted him. Keller could no longer hide from the truth:

> *"Joe Keller:)to his son Chris(You're a boy, what could I do! I'm in business, a man is in business; a hundred and twenty cracked, you're out of business...You lay forty years into a business and they knock you out in five minutes, what could I do, let them take forty years, let them take my life away?...I never thought they'd install them. I swear to God. I thought they'd stop 'em before anybody took off....Chris, I did it for you, it was a chance and I took it for you. I'm sixty-one years old, when would I have another chance to make something for you? Sixty-one years old you don't get another chance, do ya?"*

After this admission, things spiral downward. Joe Keller commits suicide. Keller had lived a seemingly happy and successful life, while all the while he knew that he was responsible for selling defective engines, for causing the deaths of 21 pilots, for foisting the entire blame on to his partner. He maintained an illusion of innocence; once that illusion was destroyed, so was his life.

How did he manage to maintain that illusion of innocence for so long? How did he sleep at night knowing the terrible things he had done? Like many people, Joe Keller was able to lie to himself, to block out feelings of guilt or personal responsibility. But the truth will out…and the consequences can be devastating.

The Torah reminds us to strive to be good and upright people, to overcome negative temptations. No one should assume that these lessons are not relevant or not needed. They are relevant and are needed.

Happy is the person who can stand before the Almighty with clean hands and pure heart.

* 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 during its winter fund raising period. Thank you.

https://www.jewishideas.org/divine-reminder-thoughts-parashat-mishpatim

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

By Rabbi Marc D. Angel *

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

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

In his perceptive book, *Abraham Lincoln in the Post-Heroic Era,* Dr. Barry Schwartz traces the dramatic drop in Lincoln's prestige, especially since the 1960s. He writes: *"Ours is an age ready to live without triumphal doctrine, an age in which absolutes are local and private rather than national, a post-heroic age in which national greatness is the epitome of the naive and outmoded."*)p. 191(. In the post-heroic era, it has become fashionable to focus on the flaws of American society and the evils of American history. Our heroes have now tended to be athletes and entertainers rather than singularly great political figures. Indeed, to identify a public figure as *"great"* is to invite a barrage of criticism from the politically correct opposition, stressing that person's numerous sins and shortcomings.
Those of us who spent our childhoods before the mid to late 1960s are still the biggest fans of Lincoln. Those whose childhoods were in the late 1960s and later were less likely to study about the great Abraham Lincoln that we knew: the common man born in a log cabin who went on to become one of America's great Presidents; the man of homespun wit and wisdom; the President who saved the Union; the President who emancipated the slaves; the President who was deeply religious in his own special way. As children, we learned not just to respect Lincoln, but to see in him a quality of excellence to which we ought to aspire. Lincoln's greatness was an inspiration; he represented the greatness of America and the American dream.

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

Abraham Lincoln was a great man with a lasting legacy to his country and to the world. His spirit is well captured in the closing words of his second inaugural address, delivered on March 4, 1865:

> *"With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for*

him who shall have borne the battle, and for his widow, and his orphan – to do all which may achieve and cherish a just, and a lasting peace, among ourselves, and with all nations."

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

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

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

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Mishpatim: Plan B: The Communal Safety Net

By Rabbi Mordechai Rhine *

The revelation at Sinai was awesome. The people heard G-d's voice and were committed to always stay loyal and connected. Yet, even after the greatest inspirational start there will be failures. In this week's Parsha we get a glimpse of Plan B, a communal safety net to be used when someone fails.

The Torah describes a case where a Jew has been sold to another Jew as an Eved (a servant) for six years. The terms of this service are remarkable. The homeowner may not give the servant degrading work; he must treat the servant with dignity. In fact, if there is only one of something (a pillow, for example) the servant's needs take precedence over that of the homeowner.

Particularly remarkable are the two situations that can cause a Jew to activate this option of servitude. One situation is that he is out of money. He is so poor that he cannot continue on his own. The other situation is that he has stolen so much and consumed the products, that when he is finally caught, he is unable to pay up. Essentially these two scenarios represent two types of people who are downtrodden. One type is a person who is financially downtrodden. The other is someone who slipped into crime.

In both cases the Torah prescribes a Plan B, a plan that we are not happy about, but one that could be necessary in these unfortunate circumstances. Instead of allowing this unfortunate person to continue to fail or throw him into debtors' prison as some cultures would have done, the Torah provides a safety net to help him get back on his feet. Let him be indentured to a successful homeowner and follow a disciplined life for a few years. Let him be in close proximity of a successful businessman and feel his warmth and his caring. Then, after some time in this safety net, let the homeowner send him out with gifts and blessings.

The Torah recognizes that as lofty as the experience at Sinai was, there will, in the future, be failures. The Torah instructs us in creating a safety net so that a Jew who fails has recourse. He can call out for help, and we will respond. He may have failed financially; he may have even stooped to crime. No matter what, we don't give up on people so quickly. In Judaism there is a Plan B; this is the nature of Teshuva. This is the nature of the communal safety net where we are there for each other.

The Talmud (Baba Kama 94) declares that there are times that a thief might want to repay what he has stolen and we, as a community, will refuse to take payment from him. The Talmud explains that we want to make it easy for the thief to mend his ways. If we were to expect restitution before he can do Teshuva, he might be discouraged and not do Teshuva. Thus, there are times when the community will absorb the losses, if only to have a Jew return to the place where he belongs, to be a noble and respected member of the Jewish community.

Although the type of servitude described in this Mitzva is not applicable today, we can well appreciate the attitude of a Plan B and of a communal safety net. There are so many Chesed organizations in our communities set up to help people with all types of needs. There are times when a person is needy financially or has slipped spiritually. The laws of Eved (servant) teach us that there will be times that individuals of the "Kingdom of princes, a holy people" might fail. When they do, we should be there for them, to help them with caring and with structure, and then to send them off to be the best that they can 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.**

Mishpatim - The Inner Compass

by Rabbi Yehoshua Singer * © 5783

Last week's Parsha was the culmination of the story of the Exodus. After an intense year of miracle after miracle, we stood as one at the foot of Mount Sinai and accepted to keep G-d's Torah and enter into an eternal pact with G-d. We had regained the lofty levels of our ancestors, the Forefathers and Foremothers, committing ourselves and all future generations to a spiritual, elevated life, as G-d's children, His holy nation.

This week's Parsha surprisingly seems to quickly veer away from that lofty moment and delves deeply into the mundane matter of monetary law. The Ramba"n)Shemos 21:1(explains, however, that this is indeed a continuation of last week's Parsha. After the Ten Commandments, Hashem reiterates the first two commandments – the mitzvah to recognize G-d and the prohibition against idolatry. This discussion of monetary law is now elaborating on the last of the Ten Commandments – the prohibition against coveting:

> *If a person does not know the laws of a house, or a field, or other possessions, he will think that it belongs to him and he will covet it and take it for himself. Therefore, He says, "place before them" guide them with just laws, in order that they should not covet that which isn't theirs by law.*

The Ramba"n provides us with a powerful insight into our psyche. Coveting begins with thinking about the other person's possession, and that it could have or even should have been ours. Only then do we begin to covet and wish that it indeed was actually ours. Once we learn monetary laws and understand who the rightful owner is, our mind moves on and we never reach the second stage of coveting.

The Ramba"n is discussing an individual who initially would have violated the Ten Commandments by coveting, and would have eventually stooped to theft, stealing whatever he covets. Yet, if this same individual would have initially studied monetary law, his life would have been completely different. He would have accepted that it wasn't his and stopped thinking about the item. He would have thereby avoided the entire challenge of coveting, and certainly never have thought of taking or using someone else's possessions. A small effort to protect ourselves from challenges can preempt the entire chain of events.

The Ramba"n also adds another clause when explaining this concept. He says that Hashem told Moshe, *"guide them with just laws."* Apparently, it was not enough for Moshe to provide the nation with a clear understanding of monetary law.

They had to be given laws that they recognized as just and proper. If the laws were unjust, the people would naturally reject the laws, and would not accept the judgements. They would still feel that those possessions should have been theirs and they would continue to covet. Only if the laws are just, would a person accept those laws and cease to covet that which is not his.

This individual who is willing to covet and desire his friend's possessions and would eventually even steal contains within himself a powerful moral compass. Although his compass may not protect him from stealing, his inner moral compass still knows whether or not the monetary laws are just. Despite his own potential willingness to steal, he recognizes truth when he hears it and rejects an unjust law when he hears it.

As King Solomon teaches us, *"G-d made man just."*)Ecclesiastes 7:29(The sense of right and wrong is deeply imbedded in the human psyche. Even when we choose to violate that moral sense and act wrongly, the compass within us continues to function. We can choose to ignore it, but we cannot remove it from our psyche.

The Sforno)Devarim 30:1(teaches us that G-d has given us this gift to enable us to grow and improve in life, no matter how far gone we are. If we study our lives honestly, we will always recognize the conflicts where our choices don't match our morals. Through this G-d given gift, we can always find the path of truth.

* Savannah Kollel; Congregation B'nai Brith Jacob, Savannah, GA. Until recently, Rabbi, Am HaTorah Congregation, Bethesda, MD. Rabbi Singer will become Rosh Kollel next year.

Mishpatim

by Rabbi Herzl Hefter *****

]Rabbi Hefter did not send a new Dvar Torah for Mishpatim. Watch this space for further insights from Rabbi Hefter in future weeks.[

* 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 – Remember Sinai

By Rabbi Haim Ovadia * © 2024

Immediately following the Ten Commandments, we read a series of instructions that seem a little out of place:

> *"You shall not make gods of silver and gold, you shall build me an earthen altar and bring your sacrifices there, and I shall come and bless you wherever my name is mentioned. If you build an altar of stone do not build it of hewn stones because you have desecrated th em with your sword, and do not ascend my altar by steps lest your nakedness will be exposed upon it."*

Before we delve into these verses let us eavesdrop on a tent in the Israelite's encampment.

> *- Let me tell you son, what happened to me when I was about your age, shortly after leaving Egypt. It was the greatest moment of my life. I was standing with all other Israelites, gathered around a mountain in the Sinai desert, when all of a sudden I felt that my soul was connected to the soul of every single person around me and to a higher, much more powerful source of*

spiritual energy. The whole world became quiet then, and I heard the voice of God talking to me. Imagine, I, who was but a worthless slave yesterday, was now hearing the voice of God. I was overwhelmed, my legs were trembling and my whole body was weakened, I had a tremendous sense of fear but it was one of reverence and awe, not of terror, and it was accompanied with a great sense of joy. I felt that I didn't want to let go, I wanted to drink that energy in and let it flood my whole being. Yes sir! That was definitely the experience of a lifetime.

- But grandpa, what did God tell you?

- Honest to God, kid, I don't remember.

As strange as this conversation might sound, I have heard in many cases similar statements from people who have attended classes and lectures they thoroughly enjoyed but could not recall a word of what was said. As a matter of fact, God himself was concerned about the possibility of selective amnesia following the Mount Sinai experience, as we can learn from God's words to Moses shortly after the event:

"May they]the Israelites[always be of such mind to revere me")in the recap of the story in Deut. 5:26(. The most sublime spiritual experience and the greatest motivational speech are rendered worthless if the listeners don't come out with a practical application, something that they can take home and practice on a regular basis to enhance their own spiritual growth. One possible solution is to create a guide that will recapture the most important points of the lecture and will offer a program to be followed in order to maintain the initial spark and enthusiasm, and in the verses and chapters that follow the Ten Commandments. God does just that.

The following chapter in the Torah deals with financial laws, laws of damages, loans and properties. The message is that in order to keep the flame of Sinai alive, one should not indulge in nostalgia and live in the past but rather translate the spiritual experience to daily actions, actions that are carried out throughout our regular work day. Our personality is crafted and our spirituality is enhanced not only by offering prayers and attending services but by paying attention to the small details of our mundane life: How we deal with our employers, employees and clients, how ethically and honestly we run our business and practice, and to what extent are we willing to take responsibility if we caused damage to anyone or infringed upon their rights. The Torah leads us up the road of spiritual growth, and we can see that it is paved by a myriad of small acts of mutual consideration and constant self education.

If we now analyze the verses that immediately succeed the Ten Commandments)Ex. 20:19-23(, we may read them as follows:

You shall not bow down to gold and silver, rather conduct your business and financial life ethically. Wherever I mention my name, I will come to you and bless you, because you can bring holiness everywhere you go and with everything you do. The reverence of God and the Torah directed life are not limited to the precincts of a Temple, a Tabernacle or a Synagogue. An altar cannot be built of hewn stones, desecrated by the sword, an instrument of war, because if holiness is everywhere there is no place for religious fanaticism and for spreading God's word by means of war and bloodshed. Finally, the Torah warns us not to ascend the altar by steps, an allusion to people who use religion's power as a means to aggrandize themselves and control others.

The Torah places the authority and responsibility of leading a balanced religious life in the hands of every individual, and while in a sense, it de-centralizes religion, it empowers us to create a better world.

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.** The Sefaria articles include Hebrew text, which I must delete because of issues changing software formats.

This Dvar Torah is from an unpublished draft of a forthcoming book on Tanach by Rabbi Ovadia, who has generously shared his manuscript draft with our readers. Rabbi Ovadia reserves all copyright rights to this material.

Bitcoin and Defi: The Answer to Robinhood?

By Rabbi Moshe Rube * © 2021

]Note: Rabbi Rube sent a personal message instead of a Dvar Torah this week, so I am reprinting a column from his archives.[

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

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

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

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

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

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

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

> ***The Sages taught that the phrase: "You shall not have faulty measures " teaches that the court appoints market inspectors to supervise the accuracy of measures.*** *The Gemara infers:* ***But the court does not appoint market inspectors for supervising market prices.*** *The Gemara relates: The house of the Nasi appointed market inspectors for supervising both measures and prices.* ***Shmuel said to his student, the Sage Karna: Go out and teach them that one appoints market inspectors for supervising measures but one does not appoint market inspectors for prices.***
>
> ***Karna)did not listen to Shmuel(and went out and taught them that one appoints market inspectors for supervising both measures and prices.*** *Shmuel, hearing what he had done,*

> *said to him: What is your name? He replied: Karna. Shmuel said: Let a horn]karna[emerge in his eye. A horn, i.e., a growth of flesh, emerged in his eye. The Gemara asks: And Karna, in accordance with whose opinion did he hold, which led him to disregard his teacher's statement?* ***He held in accordance with that which Rami the Son of Hama says that Rabbi Yitzchak says: One appoints market inspectors for supervising both measures and prices, due to swindlers.***

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

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

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

So Beit Din does have the power to regulate but it's not unlimited and they only step in when they absolutely have to. As we can see, Karna made only the most limited allowance for Beit Din to get involved and Shmuel was really upset when he found out that Karna disobeyed him. Tinkering with the free market is a risky proposition and should be done only with the intention of thwarting those who would use the free market's own rules to destroy the benefits that a free market is supposed to give)like lower prices due to competition(.

So how would this apply to Robinhood? The question here doubles in complexity because Robinhood is a private company that serves as a middleman for people to buy stock. Because they are private, they can make their own rules. Is it even possible for financial regulators to prohibit a company from having a rule that they can stop trading? Would Robinhood's actions be included under the "swindlers" category in the Talmud? And are stocks luxury items or essential items? People do rely on them en masse in our time to provide for their financial future so maybe they are essential nowadays.

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

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

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

Happy Shabbat Mishpatim!

* Senior Rabbi of Auckland Hebrew Congregation, Remuera)Auckland(, New Zealand. Formerly Rabbi, Congregation Knesseth Israel)Birmingham, AL(.

Rav Kook Torah
Mishpatim: An Eye for an Eye

Azar's Question

During the years that Rav Kook served as chief rabbi of Jaffa, 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 Rav Kook many times, and they became close friends.

Azar once asked Rav Kook: How can the Sages interpret the verse "eye for an eye")Ex. 21:24(as referring to monetary compensation? Does this explanation not contradict the peshat, the simple meaning of the verse?

The Talmud)Baba Kamma 84a(brings a number of proofs that the phrase "eye for an eye" cannot be taken literally. 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.

What bothered Azar was the blatant discrepancy between the simple reading of the verse and the Talmudic interpretation. If "eye for an eye" in fact means monetary compensation, why does the Torah not state that explicitly?

The Parable

Rav 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. When parents discover their son has committed a grave offense, how do they react?

The father immediately raises his hand to punish his son. But the mother, full of 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. 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. In practice, he only pays monetary restitution, as the Oral Law rules. But he should not think that with money alone he can repair the damage he inflicted. As Maimonides explained, the Torah's intention is not that the court should actually injure him in the same way that he injured his neighbor, but rather "that it is fitting to amputate his limb or injure him, just as he did to the injured party")*Mishneh Torah*, Laws of Personal Injuries 1:3(.

Maimonides more fully developed the idea that monetary restitution alone cannot atone for physical damages in chapter 5:

> *"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 God 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."*)Personal Injuries, 5:9(

The Revealed and the Esoteric

Afterwards, Azar commented:

> *"Only Rav Kook could have given such an explanation, clarifying legal concepts in Jewish Law by way of Kabbalistic metaphors, for I once heard him say that the boundaries between Nigleh and Nistar, the exoteric and the esoteric areas of Torah, are not so 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."*

)Sapphire from the Land of Israel. Adapted from *Malachim Kivnei Adam* by Simcha Raz, pp. 351, 360.(

https://ravkooktorah.org/MISHPATIM_67.htm

Mishpatim: Healing the Heart of Darkness (5775, 5782)

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

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.]emphasis added[

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?**]emphasis added[

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.]emphasis added[

FOOTNOTES:

]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 Broad-casting 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(.

AROUND THE SHABBAT TABLE:

]1[Do you believe humans are inherently good, inherently bad, or neither?

]2[If being part of a close-knit community)a "tribe"(often leads to a lack of empathy for strangers, shouldn't we work towards ending tribal associations?

]3[If the Torah teaches us to care for "the stranger," why do you think there has been so much persecution throughout history?

https://rabbisacks.org/covenant-conversation/yitro/particular-paths-to-a-universal-god/ 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.

A Glass of Milk and a Cup of Kindness

By Aharon Loschak * © Chabad 2024

Here's something that happens all the time: Someone acts out of line, objectively so, and you need to discipline them. A child hits a sibling or peer, a friend plays around with addictive substances, or your spouse says something particularly nasty to you.

What do you do?

Do you let it go, opting to be the "nice guy" and avoid rocking the boat? Or do you intervene, telling off the child, giving your friend the skinny, or telling your spouse that you've been hurt?

Which one is the "right" path to take?

Both.

The trick is to do them in the right order.

The Time Between

Our parshah introduces the laws of kosher, with the famous and enigmatic words, *"Do not boil a kid in its mother's milk,"*1 from which we learn one of the bedrock kosher laws: the prohibition to mix meat and dairy.

That the two cannot mix is relatively common knowledge. Lesser known are the laws governing the sequence in which these two food types may be eaten. A cheeseburger is a no-no; but may I down a glass of milk and immediately thereafter go for the pastrami? How about the other way around?

Halachah is clear: after one eats meat, there is a required wait-time of six hours.2 In contrast, after eating dairy products, the wait time is much shorter, varying by custom.3

What is the deeper implication of this distinction? What message is contained in the fact that meat requires a long separation before milk is introduced, but not the other way around?

Milk Represents Kindness; Meat Represents Discipline

Kabbalah teaches that every creation, every being, has an inner, spiritual dimension. Thus, a piece of steak and a glass of milk differ not merely in body, but also in spirit; their differing physical characteristics express a deeper difference in their spiritual source.

In the spiritual realm, milk and meat are sourced from "opposing" G dly traits: kindness)chesed(and discipline)gevurah(. These two characters are somewhat of a prototype in Kabbalah, two vastly different ways in which G d relates to this world — one with expansiveness, benevolence, and graciousness, and the other with discipline, discretion, and harshness.

The spiritual sources for milk and meat are even reflected in the natural color of the two materials: meat, which stems from gevurah, is red — a bright and harsh color, whereas milk which stems from chesed, is white — pure and soft.

The Bottom Dominates

We're almost ready to return to the discussion regarding the wait times between milk and meat, but first we must detour and explore an important law in the world of kosher.

What happens when kosher and non-kosher foods mix? Does the latter contaminate the former, rendering it treif?

Generally speaking, the rule is that food must be hot for taste to transfer. Cold kosher and non-kosher foods that touch do not pose a problem. When they are hot, however, they exchange tastes and the non-kosher food renders the kosher food unkosher.

For example, if a slice of hot baked apple falls on a hot piece of bacon, the taste of the bacon transfers to the apple)and vice versa(due to the heat, and the apple becomes as non-kosher as the bacon.

What, then, is the rule when only one food is hot? If, for example, it was an apple from the fridge that fell on a hot piece of bacon, do we say that the hot bacon "heats up" the apple and transfers its taste? Or do we say the apple "cools down" the bacon and prevents any taste from transferring at all?

The law is that "the bottom prevails." In other words, whichever food is on the bottom dominates. Thus, if hot food is placed)or falls(on cold food, it's still kosher, whereas if cold food is placed)or falls(on hot food, it is now treif.4

]Note: These laws are quite complex, and practically speaking, a competent Orthodox rabbi should be consulted if such cases occur. The above is just a general guideline.[

Line Your Base with Milk

Let's bring it all together now.

Remember: If you start with meat, you must take a significant break and then start again with milk. By contrast, if you start with milk, you can move on to meat relatively quickly.

Why? Because in life, you must always begin with kindness.

Of course, every person needs both "milk" and "meat" in their life — kindness and discipline. Not every situation calls for us to be permissive, to say yes. Sometimes we must forcefully put down our foot and say no. And sometimes, we even need to criticize.

But the laws of milk and meat teach us how to properly balance these two emotions: Inasmuch as "the bottom is dominant," the one we establish first influences what follows.

So, if you start with kindness)"milk"(, you have established kindness as your base, and it tempers any ensuing discipline. That is desirable, and is reflected in the law that when milk comes first, you need not wait very long until eating meat.

But if you start with discipline)"meat"(, you have established discipline as your baseline, and it will dominate any ensuing kindness. This is not the proper path, and you must start over — reflected in the law that if meat comes first, a long wait-time ensues until you can resume with milk.

Kindness Always Wins

The message here is obvious: Always begin with kindness. Your baseline approach should always be gracious and loving. Of course, you'll need to employ criticism and discipline here and there, but make sure to sweeten it first with love.

If you need to criticize someone, ask yourself if you want what's best for that person, or simply want to "let 'em have it!" If it's the latter, think again. If it's the former, then go ahead, but make sure you couch your constructive comments with loving words.

If you need to take action against a wayward child, or express hurt feelings to a spouse, or cut an employee's pay, there are ways to do such things without coming across as a bull in a china shop. Take the time to look under your own hood and determine how to sweeten and soften the blow.

Whatever it is, remember to first drink a glass of milk and serve it with a cup of kindness.5

FOOTNOTES:

1. Exodus 23:19.

2. For an explanation of this law, see Why Wait Between Meat and Milk?

3. There are exceptions for certain pungent cheeses with strong taste, such as parmesan cheese. See Why the Extended Wait Between Aged Cheese and Meat?

4. See Shulchan Aruch Yoreh Dei'ah, ch. 105.

5. This essay is based on Rabbi Shalom Buzaglo)c. 1700 – 1780(, Mikdash Melech to Zohar, Pinchas 231b.

* Writer, editor, and rabbi; editor of JLI's popular Torah Studies program)Brooklyn, NY(.

https://www.chabad.org/parshah/article_cdo/aid/5379359/jewish/A-Glass-of-Milk-and-a-Cup-of-Kindness.htm

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Mishpatim: Four Types of Users

by Rabbi Moshe Wisnefsky *

Mishpatim discusses the laws governing damages and the responsibilities of the four types of consignees: the "borrower," who borrows an item from his fellow; the "hirer," who rents an item from his fellow; the "paid consignee," who is paid to guard over

his fellow's item; and the "unpaid consignee," who guards over hisfellow's item for no compensation.

Four Types of Users

If it was stolen from him, he must make restitution to its owner.)Ex. 22:11(

Spiritually, we are all consignees. G-d has entrusted us with the care of our Divine soul, our fellow human beings, and the world at large.

On our worst days, we are borrowers: We enjoy the use of our soul, our fellows, and our world without reciprocating.

At times we do better and act like hirers: We recognize that true physical and spiritual pleasures can only be experienced when we give, so we give in order to receive.

Sometimes we rise above the world of hirer and borrower, the world of the self, and advance to the level of the paid consignee: We are caretakers, seeking to use G-d's gifts for His purposes. Perhaps, as paid consignees, we are not beyond looking forward to the reward, but at least that is not our focus.

On our best days – and ultimately all our days will be such – we are unpaid consignees. We are oblivious to physical and spiritual rewards; in Maimonides' words, we "serve G-d out of love . . . not because of anything in the world . . . not to inherit the good, but as one who does the truth simply because it is the truth. . . .

— from *Daily Wisdom* 3

May G-d grant a decisive victory over our enemies.

Rabbi Yosef B. Friedman
Kehot Publication Society

* Insights from the Rebbe.

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Volume 30, Issue 18 **Shabbat Parashat Mishpatim** **5784 B"H**

Covenant and Conversation
Rabbi Jonathan Sacks, z"l

Doing and Hearing

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

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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, 13 July 1798."

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

Shabbat Shalom: Rabbi Shlomo Riskin

What Constitutes a Jewish Court?

"These are the statutes which you must place before them." (Exodus 21:1) If two religiously observant Jews are engaged in a disagreement which has financial ramifications, are they permitted to go to a secular court to arbitrate their dispute or must they go to a religious court or bet din? Is the law different in Israel, which has a religious as well as a secular court system, but where even the secular court judges are Jewish? And if indeed Jews are religiously ordained to go to religious courts exclusively, why is this the case? After all, secular courts in America are certainly fair and equitable!

The Torah portion of Mishpatim provides interesting responses to all three questions. It opens with the command: "These are the statutes which you [the Israelites] shall place before them [the religious judges]" (Ex. 21:1). Rashi immediately cites the Talmudic limitation (Gittin 88b):

"Before the religious judges and not before gentile judges. And even if you know that regarding a particular case, they [the gentile judges] would rule in the exact same way as the religious judges, you dare not bring a judgment before the secular courts. Israelites who appear before gentile judges desecrate the name of God and cause idols to be honored and praised." (Tanchuma Mishpatim 3)

According to this passage, it would seem that the primary prohibition is to appear before gentile judges who are likely to dedicate their legal decision to a specific idol or god; it is the religion of the judge rather than the content of the judgment which is paramount. From this perspective, one might legitimately conclude that Israeli secular courts – where the judges are all Jewish – would not be prohibited. (*This is the conclusion reached by Jerusalem Magistrate Court Judge Jacob Bazak, in 'Courts of Law in the State of Israel – Are They Indeed Secular?', Tehumin i i (5741) pp. 523–528.)

Moreover, secular courts in America – where there is a clear separation between religion and state in the judiciary – may very well likewise be permitted.

However, the great legalist and philosopher Maimonides would seem to support another opinion. Although he begins his ruling, "Anyone who brings a judgment before gentile judges and their judicial systems… is a wicked individual" – emphasizing the religious or national status of the judge rather than the character of the judgment – he then concludes, "…and it is as though he cursed and blasphemed [God], and lifted his hand against the laws of Moses." (Laws of the Sanhedrin 26:7)

Apparently, Maimonides takes umbrage at a Jew going outside the system of Torah law, thereby disparaging the unique assumptions and directions of the just and righteous laws of God.

In order for us to understand exactly what is unique about the Jewish legal system, permit me to give an example of the distinctive axioms of Torah law from another passage in this Torah portion, the prohibition against charging or accepting interest on a loan.

"If you will lend money to my nation, to the poor person with you, you may not be to him as a creditor, you may not place upon him an interest rate [neshekh]; and if you accept from him your friend's cloak as security for the loan you must return the cloak to him before sunset. Because, after all, it may be his only cloak and [without it], with what [cover] will he lie down? And if he cries out to Me, I shall hear because I am gracious." (Exodus 22:24–26)

In addition to noting the touching poignancy of the latter portion of the passage, I would like to ask four questions, one on each of the four earlier phrases of the commandment. First of all, the prohibition against interest begins, "If you will lend money to my nation." Although Rashi cites the teaching of Rabbi Yishmael that this is one of the three biblical instances where the usage of the Hebrew 'im' is not to be understood as being volitional – if – but is rather to be taken as an imperative – "When you lend money to my nation," as you should do – nevertheless, one might legitimately query why the Bible chooses to use such an ambiguous term for an act of lending, when it is clearly God's desire that we perform this act!

Second, the Bible seems repetitious: "…to my nation, to the poor person with you." One or the other of these two phrases would have been sufficient to teach the point!

Third, "You may not be to him as a creditor," says the Torah. This is interpreted by our sages to mean that not only is it forbidden for the creditor to remind the debtor of the loan, but the creditor must go out of his way not to cause the debtor embarrassment; if the creditor sees the debtor walking towards him it is incumbent upon the creditor to change direction. Why? After all, the debtor took money from the creditor, didn't he? Why not remind the debtor that the loan must be repaid?

Fourth and finally, the specific prohibition against interest itself seems problematic. The Hebrew word used in the Bible for interest – "neshekh" – also means the bite of a snake, which our sages compare to interest since the serpent initially injects his venom painlessly but it ultimately consumes the entire individual and takes his very life! Maimonides goes so far as to codify:

"Anyone who writes a contract with an interest charge is writing and causing witnesses to testify that he denies the Lord God of Israel… and is denying the exodus from Egypt." (Laws of Lenders and Borrowers, 4:7)

What is the logical reason for the prohibition against interest – and why the hyperbolic comparisons? After all, there is no prohibition against charging rent for the use of my house! W hy should there be a prohibition against charging rent for the use of my excess funds?

Rabbi Haim ibn Attar, in a most brilliant illumination, beautifully explains this passage in his commentary Ohr Hachayim. In an ideal world, he maintains, there ought to be no rich and no poor, no lenders and no borrowers; everyone should receive from the Almighty exactly what they require to live. But, in His

infinite wisdom, this is not the manner in which the Lord created the world. He provides certain individuals with excess funds, expecting them to help those who have insufficient funds, appointing them His "cashiers" or "ATMs." Hence you must read the verse as "If you have [excess] money to lend to my nation, [understand] that what ought to have gone to the poor individual is with you." You were merely given the poor person's money in trust; your extra funds actually belong to him!

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

This is the message of the exodus from Egypt, the seminal historic event which formed and hopefully still informs us as a nation: no individual ought ever be owned by or even indebted to another individual. We are all owned by and must be indebted only to God. This fundamental truth is the foundation of our traditional legal system which is uniquely just and equitable: it is especially considerate of the needs of the downtrodden and enslaved, the poor and the infirm, the orphan and the widow, the stranger and the convert, the "chained wife" and the indigent forced to sell their land. From this perspective, not only must we submit to Jewish law, but it is crucial that our judges be certain that Jewish law remains true to its ethical foundations.

Rabbi Dr. Norman J. Lamm's Derashot Ledorot

Keep Thyself Far From An Inoperative Statement

The whole Torah, said the Kotzker Rebbe, is a commentary on the verse, מדבר שקר תרחק "keep thyself far from a false statement." Judaism teaches not that "God is love," or that "God is pity." Pity and love are attributes, not definitions of God. There is only one definition of God in Judaism, and that was formulated by the prophet Jeremiah and introduced into our daily prayers: ה' אלקיכם אמת, "the Lord your God is Truth."

A careful reading of our key text will reveal two interesting peculiarities in this three-word verse תרחק and דבר :

תרחק means "keep thyself far." Generally, it is the Rabbis who make a סיג לתורה, a "fence around the Torah." So, when the Torah itself forbids, for instance, mowing the lawn, the Rabbis go a step further and forbid moving the lawn mower, lest one use it unthinkingly. They thus move us far away from a prohibited act. There is only one place in which the Torah itself establishes a סיג, or a "zone of safety," and that is in the case of falsehood: מדבר שקר תרחק, "keep thyself far from falsehood." There is only one way to say the truth; if one wishes to be philosophical, he can allow that there are a number of ways speaking the truth. But there is an infinite number of ways to tell a lie! Hence, תרחק, keep far away.

It is instructive, and a beautiful example of Jewish law and ethics, to see how the Talmud scrupulously applied the principle of תרחק. The Sages understood the verse as directed primarily (although not exclusively) at judges. Thus, the Talmud (Shev. 30b, 31a) derives the following rules which together constitute part of the Jewish code of judicial conduct. A judge must not be defensive; if he makes a mistake, he must admit it and not rationalize–thus not only not lying, but keeping as far away from untruth as possible. A judge must not permit an ignorant student to assist him; he must keep him at arm's length. A judge must refuse to sit on the bench together with another judge whom he knows is dishonest; תרחק! A judge who knows that a witness is lying, but the witness is protected by legal technicalities, that judge must not ease his conscience that he is applying the law with technical exactitude, but must attempt to disqualify him. A student of the law who sees his teacher-judge err, must not keep silent. Perhaps most illuminating, a judge who has two litigants come before him in his courtroom, one dressed shabbily and the other elegantly, must turn to the one who is well dressed and offer him the following option: either buy a suit of fine clothes for your adversary, or you yourself must dress in rags. Otherwise, there is some chance that a subliminal impression in your favor will be made upon the judge, and the judge must keep himself "far away from a false statement." The second word of interest in the verse is דבר, keep far from a "word" of falsehood. Would it not have been simpler to say משקר תרחק, "keep thyself far from falsehood?"

I suggest that the Torah is telling us to acknowledge a lie as a lie, and not disguise it in pretty masks. Keep thyself far from a דבר שקר, from a dishonest euphemism, from a substitute word for a lie which would make the שקר more acceptable. If you recognize something as false, call it false! Do not misname it as, for instance: an "inaccuracy"; an "exaggeration"; a "hyperbolic extravagance"; or, a term that was popular during my college years, "a terminological inexactitude." In Washington of the Watergate era, a new term has been invented for a lie. It was first propagated by the Press Secretary of the President when, instead of saying that he had earlier lied, said, interestingly, that his previous statement was "inoperative." One can imagine a new English translation of the Torah, according to the Authorized Version of Ron Ziegler: "keep thyself far from an inoperative statement."

But דבר שקר, the semantic excuse for falsehood, is barred by the Torah. A lie is a lie – is the truth. For, as the Hebrew writer יוחנן טברסקי once said: חצי אמת הוא שקר גמור (a half truth is a whole lie)!

Yet, it is really so difficult to attain the truth, to keep far from שקר. It is told of the Rabbi Shneour Zalman, the founder of the HaBaD Hasidism, that he worked 21 years on truth: seven years to know the truth; seven years to drive away falsehood; and seven years to bring the truth within himself.

But, alas, the world is not made up of Shneour Zalman's! Alexander Solzhenisyn, in his most recent addition to the latest revised version of his epoch-making Gulag Archipelago made this comment about Soviet Russia: "There is simply a Wall. And its bricks are laid in a mortar of lies."

Long ago, the Zohar taught the same about all life, all of society, all of our mundane existence: it is an עלמא דשקרא, a world of falsehood. And even earlier, a Midrash, (מדרש דר"ע (א"ב ascribed to R. Akiva, taught that, the truth has feet." אמת יש לה רגלים " This gave rise to a number of charming folk interpretations. For example, Jews conclude that since the truth has feet, hence it flees from us; but falsehood is legless, so it always remains with us!

The same Midrash is undoubtedly the source of the famous Yiddish saying with truth you can travel through the whole world." And the Besht, in "מיטן אמת קאן מען אריסגיין די גאנצע וועלט" an uncharacteristically sardonic comment, explained that וויל דעם אמת שטופט מען ארום כין איין ארט צים צרייטן "because truth is pushed around from one place to another." Indeed, a mere glance at the daily papers or radio or television is enough to lead one to discover that אמת is being pushed around. Truth is running away, while שקר is close. Falsehood is much too close for comfort.

Consider, for instance, the case of M. Jobert, the Prime Minister of France, who fully justifies the famous acid comment that, "a diplomat is an honest man who is sent abroad to lie for his country." M. Jobert recently went to Saudi Arabia in order to tie up an oil deal for France. King Feisal declared that Saudi Arabia must be Judenrein, and he would not permit any Jew to come with the French party either as part of the government group or as a reporter. M. Jobert acquiesced in the most obsequious fashion, and the French government uttered not one word of protest.

Shalom Aleichem once said: עס זיינען פאראן דריי אליי ליגנער– "There are three kinds of liars": א נעכטיג גיקער ליגנער, א היינט יגדיקער ליגמער, און א מארעמדיקער ליגנער– a "yesterday liar," a "today liar," and a tomorrow liar." A "yesterday liar" is one who says, "I have a thousand dollars to charity," when the sum total of his life's contributions is less than one hundred dollars. A "today liar" is one who tells you that he is champion chess player when he cannot even play the game. And a "tomorrow

liar" is one who tells you, in all seriousness, that the day after tomorrow he will be in China when he has tickets for South America.

Why do I mention this? Because France reminds me of Shalom Aleichem. Thus, M. Jobert solemnly promises Israel that France, despite its close association with Arabs and its identification with the Arab foreign policy, will never agree to the dismemberment of the State of Israel. M. Jobert is a מאר געגנד יקער ליגנער, a "tomorrow liar."

But why rant and rave against the French government and French gentiles, when far more serious charges of the most blatant and incredible and immoral treachery can be leveled at certain French Jews, namely, the journalists, who did finally go to Saudi Arabia with the French Prime Minister? Instead of making an international outcry against Saudi Arabia and that primitive and malicious desert thief who heads it, these French Jews rushed headlong, in obscene and humiliating haste, to obtain forged baptismal certificates to allow them to enter the sacred domain of Saudi Arabia! They are all three liars rolled into one! Moreover, they simultaneously insulted three great religions–Judaism, Christianity, and Islam.

They certainly deserved what they got: the gifts that this primitive King distributed to all members of the Prime Minister's party were all–copies of the infamous 19th century anti-Semitic forged booklet, the Protocols of the Elders of Zion. They derogated their Judaism and forged baptismal certificates, so they got in return a piece of poisonous anti-Semitism that was forged a long time ago. An עלמא דשקרא indeed!

And yet, despite all, as Jews we must ever retain our optimism and hope for the triumph of truth, even as we keep far from falsehood. Thus, the Mishnah teaches (Eduyot, VIII) אין אליהו בא אלא לרחק את המקרבין - בזרוע - ולקרב את המרוחקין - בזרוע -
Elijah, the harbinger of the Messiah, will come primarily to remove those who are close, and to bring close those who are distant.

What does that mean? A great Hasidic teacher, the Radomsker Rebbbe, explained that Mishnah as referring to truth and falsehood. אמת or truth is composed of the three letters at the farthest ends of the alphabet. The א is the first letter, the מ is the middle letter, the ת is the last letter of the Hebrew alphabet. It is a sign that אמת is מרוחקין, Truth is dispersed, feeble, weak, disorganized. Whereas מקרובין. falsehood, consists of three sequential letters, one following the other. Falsehood is שקר, Even as the letters of the word, so the concept and practice of falsehood are strong, concentrated, focused, and efficacious in the world in which we live.

Elijah and the Messiah will come not so much for political or national reasons, as for the great moral reason: to dissipate and disperse the power of falsehood, to rob it of its strength and its attractiveness; and to bring close אמת, to make it reign supreme in the life of mankind. A sublime goal, worth waiting for and working for. *[Please excuse any errors in the Hebrew/Yiddish text - it was very hard to sort out. SG]*

Torah.Org: Rabbi Yissocher Frand

The Emphasis on Mitzvos Bein Adam L'Chaveiro

The 25th of Shevat is the Yahrtzeit of Rav Yisrael Salanter, the founder of the Mussar Movement. Yeshivas Ner Yisroel is, in fact, named after Rav Yisrael Salanter, who was the Rebbi of the Alter from Kelm, who was the Rebbi of the Alter from Slabodka, who was the Rebbi of Ner Yisrael's founding Rosh Yeshiva, Rav Yaakov Yitzchak Ruderman. This year is Rav Yisrael Salanter's 140th Yahrtzeit.

In 1983, which was Rav Yisrael Salanter's 100th Yartzeit, Rav Ruderman made a memorial in the Yeshiva for Rav Yisrael Salanter. In 1883, the year of Rav Yisrael Salanter's passing, the 25th of Shevat was on Erev Shabbos Kodesh, Parshas Mishpatim. There was not enough time on Friday to do the burial, so it was delayed until Sunday, the first day of the week of Parshas Terumah. Rav Yisrael Salanter's disciple, the Alter from Kelm, said the following eulogy on his teacher:

It is no coincidence that Rav Yisrael Salanter died Erev Shabbos Kodesh on Parshas Mishpatim. Why is that? It is because Rav Yisrael Salanter, among other things that he preached—after all, he founded the Mussar Movement—sought to elevate mitzvos bein adam l'chaveiro (between man and his fellow man). His goal was that the mitzvos bein adam l'chaveiro should be viewed as importantly in the eyes of the masses as the mitzvos bein adam l'makom (between man and G-d).

Unfortunately, we see that this is a common phenomenon even today. People go to great lengths in order to fulfill mitzvos bein adam l'makom, such as Kashrus, Lulav and Pesach, in the most optimum way (which is all well and good). But they do not give the same importance and the same alacrity to mitzvos bein adam l'chaveiro.

This was Rav Yisrael's life mission, and that is basically the theme of Parshas Mishpatim. At the beginning of the parsha, on the words "V'Eleh haMishpatim," Rashi says "Wherever we find the word Eleh (these), it excludes or minimizes whatever preceded it. However, when the word Eleh is preceded by a vov—as in v'Eleh haMishpatim—the intent is to append what follows to whatever was mentioned prior." The lesson, then, of the words "V'Eleh haMishpatim" is that just as the Aseres Hadibros (Ten Commandments), which were taught at the end of Parshas Yisro, were given at Mt. Sinai, so too the civil mitzvos in Parshas Mishpatim were all given at Sinai as well. In the eyes of the Ribono shel Olam, there is no difference between Mitzvos that are bein adam l'makom and mitzvos that are bein adam l'chaveiro.

Parshas Mishpatim is all about how to deal with people—how to deal with their cows, how to deal with their cars, and how to treat people. All these mitzvos are literally as important as the mitzvos bein adam l'makom. Therefore, the Alter from Kelm said that the timing of the passing of Rav Yisrael Salanter in the week of Parshas Mishpatim was very appropriate.

The Alter from Kelm added that the funeral itself took place on Sunday, at the beginning of the week of Parshas Terumah because Parshas Terumah discusses the construction of the Aron Kodesh, which houses the Luchos. This was very appropriate, because Rav Yisrael Salanter himself was like an Aron Kodesh and the Luchos haBris were deposited within his personality as well.

I would like to share another hesped which Rav Yechiel Mordechai Gordon said on his Rebbi, the Alter from Slabodka. Rav Yechiel Mordechai Gordon was the Lomza Rosh Yeshiva in Poland. People from Baltimore remember Rabbi Samson who was a disciple of Rav Yechiel Mordechai Gordon. Rav Gordon eulogized the Alter from Slabodka as follows:

Why does Parshas Mishpatim begin with the mitzva of Eved Ivri (the Hebrew indentured servant) given that the laws of Eved Ivri would not be applicable until the laws of Yovel (Jubilee Year) would be in practice, which was totally not relevant for that generation? Was there nothing more practical to teach them at this particular point in history?

Rav Yechiel Mordechai Gordon said that the Torah is sending us a message here. How someone treats a Jew is how one treats a Hebrew slave. A person must recognize that an Eved Ivri is not from the most elegant strata of Jewish society. He is a thief. Not only is he a thief, he is not a very wealthy thief, because if he was a wealthy thief then he would be able to pay back his theft. The reason he is sold into slavery is because he has nothing with which to repay his debt to society. So he is the lowest rung of society and yet, if we study how we need to treat such an individual (Rambam Laws of Slavery, Chapter 1), we become very enlightened:

We are not permitted to sell him in a slave market.

We cannot impose upon him avodas perech (back-breaking labor).

We need to provide him the same food, clothing, and living conditions as we do to family members.

All this prompts the Gemara to say, "Someone who buys a Hebrew slave, in effect, buys a master for himself." (Kiddushin 20a).

This is how we need to treat a thief! So this is what Rav Yechiel Mordechai Gordon said about his Rebbi, the Alter from Slabodka, who was a talmid of the Alter from Kelm, who was a talmid of Rav Yisrael Salanter: The opening pesukim of Parshas Mishpatim are not just teaching how to treat a Hebrew slave, they are teaching how to treat everyone, because we are all—even the lowest of society—created btzelem Elokim, and must be treated as such.

That is why Parshas Mishpatim, which is the source of so many mitzvos bein adam l'chaveiro, begins with, of all people, Eved Ivri. If even an Eved Ivri needs to be treated such, how much more so does a person need to treat his neighbor, his friend, or anyone else with dignity and honor.

Rav Yechiel Mordechai Gordon had lived in Lomza. He lost his family in Europe, and then moved to New York and remarried. After he was in New York for a while, he went to Eretz Yisrael and was a Rosh Yeshiva in a Yeshiva in Petach Tikva with Rav Reuvain Katz.

I saw in a sefer that Rav Gordon's nephew came from Eretz Yisrael to America to visit his uncle. The nephew sent a telegram that he would be arriving about midnight. As it turned out he did not arrive at midnight. He arrived at 3:00 am. He was about to walk into the house when he noticed that his uncle (who was not a young man at the time) was waiting outside for him. He was shocked. He told his uncle, "You could have gone to sleep. You could have just left the door unlocked or left a note on the door saying where the key was. Why was in necessary for you to wait up for me until three o'clock in the morning?"

Rav Yechiel Mordechai Gordon answered, "It is because I wanted to make sure I told you something before you met my wife. I want you to call her 'Tanta' (Auntie)." Rav Gordon was the young man's uncle but his second wife was technically not his aunt. Rav Gordon said, "She is so good to me and she takes such good care of me that I want her to feel part of the family. Don't call her Mrs. Gordon and don't call her by her name. Call her 'Tanta' so that she can feel part of the mishpacha!"

Rav Yechiel Mordechai Gordon was yafeh doresh v'yafeh mekayem (he expounded beautifully, and he practiced what he preached). He talked the talk, and he walked the walk. All of us can preach about how you need to treat your fellow man with sensitivity, etc. etc. But listen to his sensitivity. He stayed up until 3:00 am to head his nephew off at the pass, so to speak, to instruct him how to talk to Rebbetzin Gordon with sensitivity. "Call her 'Tanta' so she will feel part of the family."

That is the Torah of Parshas Mishpatim. That is the Torah of Rav Yisrael Salanter, the Alter from Kelm, the Alter from Slabodka, and that is our heritage as well. This is what the Rosh Yeshiva, zt"l, ((1900-1987)) always used to preach.

I remember that Rav Ruderman used to tell the following incident, which took place in his boyhood home of Dauhinava (Minsk). He remembers as a child: It was Hoshanna Rabbah, the chazzan went to the Amud to begin to daven, but the shames forgot to bring the kittel which is customarily worn by the chazzan on Hoshannah Rabbah. The President of the shul (or whoever it was) went over to the shames and made him feel like an idiot. ("How could you be such a schlemiel? Everyone knows the chazzan needs to have a kittel when he davens Mussaf on Hoshannah Rabbah)! The shames felt lower than dirt.

Rav Ruderman commented: Think about it. Wearing a kittel is a minhag b'alma (mere custom). Embarrassing someone in public is an issur diyoraysa! It is far more severe. Of course, a person's prayers will be accepted without the kittel just as much as they will be accepted with the kittel. How must this shames have felt when he went home after davening that day. He was humiliated in front of the whole shul!

This is our problem, the Rosh Yeshiva used to say. We may act like the custom of the chazzan wearing a kittel on Hoshanna Rabbah overrides all Torah prohibitions. But embarrassing a fellow Jew—who cares about that? This is something the Rosh Yeshiva learned from the Alter from Slabodka, who learned it from the Alter from Kelm, who learned it from Rav Yisrael Salanter, who learned it from Parshas Mishpatim.

Dvar Torah: Chief Rabbi Ephraim Mirvis

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.

Ohr Torah Stone Dvar Torah

"Wronging the Stranger"
Reut and Ori Houminer

"And a stranger shalt thou not wrong, neither shalt thou oppress him; for you were strangers in the land of Egypt" (Shemot 22:20)

In our portion, the Torah warns us against "wronging the stranger", and even goes so far as to give us the unique reason for this: "for you were strangers in the land of Egypt".

We have particularly chosen to focus on this prohibition not only because of its great importance, but also because of the difficulties that often arise from it, and to which we were unfortunately witness both during our emissary work abroad as well as upon our return to Israel. Guiding new converts is sacred work, and, thank God, the extensive studies at Beren-Amiel gave us the tools necessary for opening up our home and our hearts to those families and individuals who seek God, oftentimes leaving behind them a life of great comfort – and all for the purpose of finding new meaning in their lives. We were fortunate enough to offer close guidance and counseling to these people up until the point of Kabbalat Ol Malchut Shamayim, when they finally took upon themselves the Kingship of Heaven and committed to the observance of the 613 mitzvot.

The portion of Mishpatim comprises a myriad of mitzvot which are mentioned one after the other in a seemingly technical list of laws intended for the People who had just left

Egypt. This long string of mitzvot appears to be exceptional following the long sequence of portions from Bereshit to Beshalach, which relate chronological events. The few mitzvot that are mentioned in the earlier story-sequence are always interwoven into the story and never appear as standalones.

The peculiarity of Mishpatim is all the greater in light of its chronology – immediately following the portion of Yitro, which also constitutes a "list of laws". However, while Yitro's "mitzvah list" is part of the sublime and awe-inspiring description of the giving of the Torah and the Tablets of the Law at Sinai, Parshat Mishpatim seems to be a little lacking in the inspiration department.

The Abarbanel, in his commentary, illustrates the close connection existing between the Ten Commandments in the portion of Yitro and the mitzvot mentioned in our portion. In fact, the Abarbanel contends that the commandments described in Mishpatim are an elaboration of the Ten Commandments given at Sinai. Let us demonstrate this by expounding upon the prohibition of wronging the stranger, the ger:

"And a stranger shalt thou not wrong, neither shalt thou oppress him – this is an elaboration on the commandment of "Lo Ta'ane be're'acha ed shaker" – "Thou shalt not bear false witness against thy neighbor". One might err to think that the commandment refers only to the prohibition to bear false testimony, but this is not the case, for this commandment includes also the prohibition to humiliate the stranger or shame him by relating to his past as an idol worshipper… And the above teaches us that the Ten Commandments, being Divine Laws, are founded upon the principles of wisdom and compassion.[1]"

After expounding upon the mitzvot that stem from the Commandments of "Thou shalt not murder", "Thou shalt not steal" and "Thou shalt not commit adultery", the Abarbanel explains that the prohibition to wrong the stranger can be looked upon as a derivative of the more general prohibition of "Thou shalt not bear false witness against thy neighbor." In other words, the Commandment prohibiting false testimony does not only instruct us not to bear false witness, but also includes other prohibitions such as denouncing and disgracing the stranger, which is a form of wrongdoing. It follows then that the prohibition to remind the ger of his sinful past is embedded in the Ten Commandments! The Abarbanel concludes with the following notion: The explication of the miztvot in Mishpatim comes to illustrate that the Ten Commandments given by God are based on principles of wisdom and compassion.

Rabbi Shimshon Raphael Hirsch takes a similar approach in his explanation on the mitzvah of not wronging the ger: "And a stranger shalt thou not wrong etc. – this verse is very much in keeping with the previous one. The previous verse relates to one who is born a Jew, of impeccable Jewish lineage, and tells us unequivocally that even such a one will be cast out of the Jewish People should he deviate, in any form or way, from the worship of God which is a central pillar of the Jewish faith. In contrast to this, the verse in question says the following: One who is born an idol worshipper and chooses to join the Jewish People by accepting the core principles of the Jewish faith and the worship of God – such a one is entitled to complete equality and deserves all the rights and privileges bestowed upon the Jewish People as is written in the Torah of Israel. The connection between these two verses teaches us a greater principle yet, one which is highlighted by the Torah on a number of occasions:

The dignity of any man or citizen, and the rights of all people, are not dependent on one's ancestry, place of birth, wealth, nor on anything external to man's inner essence. Rather, man is only judged by his own spiritual virtues and his ethical qualities. And the fact that the Torah gives us the reason for this prohibition [not wronging the stranger in our midst] – "for you were strangers in the land of Egypt" – comes to caution us that this principle must be safeguarded no matter what […] And for this reason the Torah chooses an unequivocal phrasing – "for you were strangers etc." – to teach the following: The calamity in Egypt was precisely this – the fact that you had lived there as "strangers". And as such, it was believed by the locals that you were not entitled to land or a homeland. In fact, you did not even have the right to exist. You were subject to the whims of those who could treat you as they willed. As strangers in the land of Egypt you were deprived of all your rights, and this was the very root of the slavery and torture imposed upon you. Therefore, take heed – hishameru lachem – lest the human rights in your own country be founded on something other than compassion in its most pure form, a quality that dwells in the heart of every human being, no matter who he may be.[2]"

The Torah highlights the fact that the ger, the stranger who has chosen of his own accord to leave idol worship behind and seek God, is entitled to live as an equal among the Jewish People. It is not for nought that God chose to give the reasoning for this particular commandment – "for you were strangers in the land of Egypt…" – for it also serves as a guiding principle for the Jewish State. When you were in Egypt, you lived as strangers and were treated with disgrace. Hence, when you establish your own Jewish State, you must conduct yourself in a manner altogether different from that of the Egyptians. Your Jewish State must be able to see and acknowledge the person who has chosen to enter its gates and embrace Judaism.

The Ohr HaChayim HaKadosh notes that one should not forget that the People of Israel was formed from souls who were "covered in a shell", i.e., souls that succeeded in leaving Egypt although they were deeply rooted in exile. In light of this, when a stranger joins the Jewish People "he must be like one of you, without any distinction, and to this end you must neither wrong him nor oppress him.[3]"

The Hassidic leader, Rabi Shlomo HaCohen Rabinovitch, author of Tiferet Shlomo, refers to the Gemara in the tractate of Pesachim which states that "God placed Israel in exile […] so that strangers would join them", and then goes on to explain that the reason the Torah prohibits the wronging of a stranger stems from the notion that Israel's role was to "elevate those holy souls that were dispersed in the land of Egypt and bring them back to their source.[4]" When a ger joins our People, we must see the sparks within him that had initially drawn him to Judaism. According to the Tiferet Shlomo, it was to elevate these sparks that the Israelites had gone down to Egypt in the first place.

In conclusion, it seems that the true greatness of the fine details of the mitzvot, as well as the reasons given by the Torah for these (both in the portion of Mishpatim as well as in the portions to follow), becomes apparent only when one sees them as part and parcel of the story that appears before. God chose to give us a Torah filled with Divine mitzvot, and yet the latter are only introduced after we read about the story of the Patriarchs, their trials and tribulation, followed by the story of the People of Israel and how they were chosen by God, with great love, to be a nation unto Him. God is in the details, as goes the saying, but the details and particulars of the mitzvot were only given to us following the "greater story". This is so because the laws and their particulars are not standalones; rather, they are inevitably connected to the "greater story".

We saw in great clarity how the reason for the prohibition to wrong the ger is an attestation to God's compassion. This commandment incorporates the obligation to be kind; to treat all persons as human beings; to acknowledge the Divine spark within the ger and to remember the turbulent journey the ger had undertaken, much like our own Patriarchs. We may have had the privilege of being born Jewish; the ger, however, had the privilege of choosing to be Jewish.

Throughout our lessons at Beren-Amiel in preparation for emissary work, and even later on during our shlichut, Rabbi Eliahu Birnbaum and the other rabbis of the Institute emphasized time and time again that before one delves into the nitty-gritty of halacha (an important aspect of conversion, of course), one has to first acknowledge the following: who it is that is standing before me; what he has been through until now; what he is choosing to undertake and undergo at this moment. Only once we understand all of these points, can we lead the ger onto the pathway of halacha, to the

ultimate purpose of successfully observing all the mitzvot, big as well as small. This can only be achieved if the holy Torah serves as our reference point, the same Torah which is founded upon the Divine values of wisdom and compassion, which run completely counter to the "abominations of Egypt".

We hope and pray that we merit to have a clear vision of the person standing before us; to see him as an equal; to feel true empathy for him and place ourselves in his shoes; and to perform every action of ours with true fear and love of God.

[1] The Abarbanel on Shemot, portion of Mishpatim, 22: 15.
[2] Rabbi Shimshon Raphael Hirsch on Shemot, portion of MIshpatim, 22:20.
[3] Ohr HaChayim on Shemot, portion of Mishpatim, 22:20.
[4] Tiferet Shlomo on Bereshit, portion of Lech-Lecha.

Dvar Torah: TorahWeb.Org

Rabbi Yakov Haber

The Bris of Am, the Bris of Goy

In this week's Torah reading, the parsha continues the narrative of ma'amad har Sinai including the central declaration of Am Yisrael's commitment to fulfill the purpose of the entire Creation, Hashem's holy Torah, with the words "na'aseh v'nishma - we will perform and we will accept!" (Shemos 24:7). Chazal (Kerisus 9a) note that the Jewish people underwent a national conversion to Judaism during the period leading up to and at Har Sinai through mila, immersion and the offering of korbanos. Similarly, in all future generations, individual non-Jews would be able join the Jewish people with an identical procedure. Fundamental to both the initial, national conversion and subsequent, individual conversions is kabbalas ol mitzvos, the acceptance of the totality of the commandments, expressed by "na'aseh v'nishma" at Har Sinai and a formal acceptance for subsequent individual conversion (Shulchan Aruch Yoreah Deah 268:2-3).

As is well known, Chazal derive various procedures and laws of the conversion process from the conversation between Ruth, the former Moabitess, and her mother-in-law, Naomi. These include the fact that we initially discourage the conversion and only accept the candidate upon display of his sincerity. Famously, Ruth states, "ameich ami, vei'elokayich elokay - your nation is my nation, and your G-d is my G-d!" (Rus 1:16). Rav Yosev Dov Halevi Soloveitchik zt"l presented a fundamental understanding of the meaning of this dual statement. There were two brisos, covenants, to which the Jewish people committed when becoming the Chosen People. The first, the bris of Am, of nationhood, was formed in Egypt. The word am is derived from the word im, or together with. The common experience of bondage and freedom, the feelings of commiseration at their common plight and exhilaration at their shared triumphant march to freedom fused the Jewish people into one holistic entity for all eternity. Mystically, the Kabbalists speak of one communal soul of Knesses Yisrael, a part of which each individual member of the Jewish people possesses. The second covenant, the bris of Goy, was entered into at Sinai. The word goy, derived from the word g'viya, or face with distinct features, refers to the multi-faceted 613 commandments given to the Jewish people starting at Sinai and continuing throughout their sojourn in the desert. As Rav Sa'adya Gaon writes in his Emunos v'Deios, the Jewish people is a nation solely based on the fact they received the Torah together. This teaching is reflected in one of the daily blessings over the Torah, "אשר בחר בנו מכל העמים ונתן לנו את תורתו - Who chose us from among all the nations and gave us His Torah." We are only a goy by virtue of our receiving the Torah. It is this dual commitment to the covenants of Am and Goy initially forged at the formation of Klal Yisrael, which, years later, Ruth proudly proclaimed to Naomi. "Your nation is my nation" - I wish to be a part of the bris of Am; "Your G-d is my G-d" - I also desire to join the bris of Goy. Based on this analysis, Rav Soloveitchik more deeply explained the halacha that when the prospective convert initially pursues conversion, we tell him:

"Why do you wish to convert? Don't you know that the Jewish people nowadays are pushed, oppressed, and unsettled, and suffering constantly befalls them!" If he says, "I know, and I am not worthy to join them!" we accept him immediately (Shulchan Aruch ibid. 2).

The simple understanding of this halacha would be that since we do not wish to accept insincere converts who will abandon Judaism at the first sign of persecution, we initially engage in "scare tactics" designed to frighten away all but the truly stalwart candidates. The Rav though interpreted this exchange as an appropriate method of determining the convert's willingness to accept the bris of Am, a crucial component of the dual commitment necessary to be part of the Jewish people.

Rambam writes (Hilchos Teshuva 3:11): One who separates from the ways of the community - even though he does not transgress sins but is separate from the congregation of Israel and does not perform the commandments as a part of them and does not involve himself in their suffering and does not fast during their fast-days but conducts himself as a member of the nations of the world and as if he is not a part of [the Jewish people] - has no share in the World to Come.

The Rav explained this passage as reflecting the antithesis of Ruth's commitment. This individual displays an abysmal lack of acceptance of the bris of Am, and, as a result, he forfeits his eternity just as much as one who shirks the bris of Goy, the commitment to the mitzvos.

The sense of community, of being a part of the totality of the Jewish people is a prerequisite to kabbalas Hatorah. "Vayichan sham Yisrael neged hahar" (Shemos 19:2). Famously, Rashi, in explaining the use the singular "vayichan" rather than the expected plural "vayachanu", writes "k'ish echad b'leiv echad - like one person with one heart." More than merely indicating an added benefit of peace and friendship between the Jewish people at this formational event, this unity was the prerequisite to our receiving the Torah since the Torah was given to the Jewish nation not just to a group of many individuals.

Perhaps we can suggest that Moshe Rabbeinu, the teacher of the details of Torah, was charged with the preservation of the bris of Goy whereas his brother, Aharon Hakohein, known for his constant pursuit of peace, was directed to assure the continuation of the bris of Am.

Klal Yisrael is still reeling from the recent spate of terror attacks perpetrated against the am hayosheiv b'tzion. Fathers and sons, newlyweds and very young children all shared a common fate of being killed by our enemies who deny the uniqueness of the Jewish people and their eternal bond with the Holy Land. The enormous outpouring of love and concern of the Jewish people all over the world, the establishment of charitable funds to help the families in need and the acceptance of various enhancements of the performance of mitzvos as a result all highlight the Jewish people's commitment to the bris of Am. Two women, visiting a shiva house mourning over the loss of two sweet, angelic children, committed to cover their hair and keep Shabbos. Each member of a group of spiritually-growing elementary school students also visiting each took upon themselves one extra mitzvah. A famed Rosh Yeshiva cried like a child while comforting the bereaved. The enormous, rock-solid faith and encouraging words of the mother of these two precious children has so affected even the general populace such that even a well-known, anti-Israel media outlet couldn't help but publish a story about her. Our covenantal obligation to all of our brethren calls us to never, ever have an attitude of "shalom alecha nafshi" - as long as I and my family are well, then life shall go on as usual. Heaven forbid that this happen! We must pause and reflect what it means to be part of the Jewish people, to not only rejoice in their happiness but mourn over their loss no matter how old or young, accomplished or simple the ones affected are. Equally important is to immediately translate these feelings into action to become more committed Jews enhancing our commitment toward ahavas Yisrael and choosing at least one area in our bein adam laMakom to enhance - thus furthering our growth in the dual covenants.

It is our fervent wish that the best qualities of the unique nation of Israel should grow ever higher not only in times of sorrow but in joyous times as well!

Torah.Org Dvar Torah
by Rabbi Label Lam

Holy People

And you shall be holy people to Me… (Shemos 22:30) What does it mean to be holy? How do we practically do this?

The Kotztker Rebbe commented on the verse, "And you shall be holy people to Me… (Shemos 22:30) "HASHEM has plenty of holy angels but what he desires most is "Holy People". What does it mean to be a Holy People?! How is that done?

I remember one of my Rebbeim telling us that when the Chofetz Chaim would lick a stamp to put on an envelope he would have in mind that the letter might just merit someone the Mitzvah of Tzedaka and the possibility to participate in supporting the Torah learning in Yeshiva, which will lead to an amplification of Kovos Shemaim – The Honor of Heaven.

For most everyone else we can presume that the natural and default mindset and ulterior motivations are "Kina, Taiva, and Kavod HaMotzei es HaAdam Min HaOlam – the jealousy, desire, and glory seeking that take a man out of the world."

What is Holy? What is Holy living? Maybe we can learn from the opposite of Holy. At the conclusion of Shabbos Kodesh we declare during Havdala, "Boruch HaMavdil Bein Kodesh L'Chol" –"Blessed is He Who separates between the Holy and the Chol?" What is Chol? Some translate it as profane, whatever that means. Literally Chol means sand. What is there about – Chol-sand that stands in stark juxtaposition to Holy?

Pick up a handful of sand and study it ever so briefly. It is a loose collection of little pebbles. That fistful of sand has no meaningful organization. There is no top and no bottom. There is no beginning or end. It represents a life of disconnected experiences that have neither rhyme nor reason, no profound unifying theme or meaningful connection. It's a loose collection of life experiences, albeit exciting and even thrilling, but in the final analysis, "sound and fury signifying nothing".

In contradistinction, what then is Holy? Holy is when there is a connection between all those loose pebble. All of our life's experiences are like a string of pearls on a single golden thread.

The only day in Torah life that actually has a name is Shabbos. We count every day each day only as it relates to and leads us closer to Shabbos. Shabbos is a Holy day. We are commanded to "Remember the Day of Shabbos" not only on Shabbos but even on the days of the week.

We are working for and cooking for and preparing for and waiting for and anxiously anticipating Shabbos. That gives the possibility that every part of every day is infused with the Holiness of Shabbos. That is one giant beautiful golden thread and there are many more too.

So, Holiness is not just when we are doing seemingly Holy and spiritual activities but even the ordinary and mundane is made extraordinary and sublime with a single thought as we had described by the Chofetz Chaim.

A Rebbe of mine told us that when writing a check, it is important to write in the "memo" section on the lower left hand side of the check something that explains or justifies why this check is being written. What is the purpose of this purchase?

Does it connect with something that adds Kovod Shemaim? Does it connect with Shabbos Kodesh? Does it bring you closer to HASHEM? Does it further HASHEM's plan for the world? If so, then great! If not, then think again! Why am I expending my finite time and limited resources on this?

If we can just assign or consciously have in mind some ultimate meaning for whatever we are doing, whether it is eating, or drinking, or sleeping, or even breathing. That simple but profound thought then breathes holiness into our otherwise banal lives and we are transformed into that which HASHEM desires more than His many armies of Holy Angels. We are capable of living in this world the life of a Holy People.

Mizrachi Dvar Torah

Rav Doron Perez

Human Rights and Responsibilities

One of the greatest legal activists of the 20th Century was a French Jew named René Cassin – or in Hebrew, Shmuel Katzin.

He was awarded the Nobel Peace Prize at the age of 81 in 1968 to recognize his work for human rights. Amongst his many roles and achievements is his role in drafting the Universal Declaration of Human Rights in December 1948 on behalf of the United Nations. In the aftermath of the Holocaust and a world reeling from Nazi tyranny, nations came together to declare and aspire to 30 fundamental rights, liberties, and freedoms for all human beings and societies. René Cassin himself had lost his sister Yvonne and 25 other members of his family who were deported from France and killed by the Nazis.

He wrote a fascinating insight in his memoirs, which tells the nature of Jewish Civil Law. He revealed that when he was writing the Universal Declaration, he argued with his legal colleagues that the declaration should be called the Universal Declaration of Human Responsibilities, instead of Human Rights. The reason it should be called human responsibilities, he maintained, is because, as a Jew, it was clear to him that the declaration was based on the Ten Commandments and many aspects of Jewish tradition. While he couldn't convince his colleagues of the name, it was clear to him that Jewish tradition placed a premium on the ethic of personal responsibility.

Indeed, one of the profound differences between Western Law and Torah Law is the emphasis on rights instead of responsibilities. Similar to the UN Declaration on human rights, the American Constitution also speaks of 'the right to life, liberty and the pursuit of happiness'. Human Law enshrines rights, Jewish Law focuses on responsibility.

Yes, everyone has the right to education, but the Torah focuses not on the right but on the responsibility of parents and teachers to both learn and commit to teaching children and students. Yes, everyone has the right to sustenance and food, but the Torah focuses not on those rights but on our responsibilities to provide food for the needy and charity for the poor.

Indeed the very first of the many civil laws mentioned in this week's Parasha is about our attitude to slaves. Remarkably, a slave back then had basic rights according to Torah, but once again, the Torah does not highlight the rights of the slave but rather the responsibility of the master to grant them freedom and civil rights.

BS"D

To: parsha@groups.io
From: cshulman@gmail.com

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from: Rabbi Yissocher Frand <ryfrand@torah.org>
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subject: Rav Frand - "If" It Is Not Really Your Money

Rabbi Yissocher Frand
Parshas Mishpatim
"If" It Is Not Really Your Money

These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: #1282 Treating Ebola Patients; The Har Nof Massacre and Kidney Donations. Good Shabbos!

Parshas Mishpatim introduces the prohibition against being an oppressive lender, and of taking or charging interest on loans: "Im (usually translated as "If") you lend money to My people, to the poor person who is with you, do not act toward him as a creditor; do not lay interest upon him." (Shemos 22:24). The pasuk, as formulated, seems rather strange because there is a positive mitzvah to lend money to a fellow Jew in need. Yet the pasuk begins with the expression "Im kesef talveh…" which implies that if someone decides to lend money, then the following halachos apply. The Torah does not use this (apparently) optional word Im in connection with the mitzvah of tefillin or matzah or any other positive mitzvah. We would expect the Torah to state emphatically "You should lend money to (the needy in) your nation" and then go on to specify the halachos inherent in lender-borrower transactions.

The Mechilta already makes note of this question. The Tanna Rav Yishmael there says that the word Im here does not mean if, but rather it means when – when you lend money. But the Ohr Hachaim Hakadosh wonders, why in fact did the Torah express the mitzvah to lend money in such a fashion?

The Ohr Hachaim explains it very interestingly. The "If" of "Im kesef talveh…" means If you see that you have more money than you need for yourself personally and you are wondering why it is that you have all this money and your needy friend does not have all that money, then you should realize that IT IS NOT YOUR MONEY! The surplus money you have is money that by right should go to the poor man, and it really belongs to he'ani EEMACH (It is really the poor person's money that happens to be deposited WITH YOU). In such a case, you should not be to him like a NOSHE (from the expression nesius) – don't lord it over him. It has nothing to do with your brains or your good luck. It is his money deposited by you, so you have no reason to lord it over him.

The Chassidishe Rebbe, Rav Yakov Yosef m'Polna cites a Gemara in Bava Basra (131b): If a person writes in his will that he is giving all his money to one son, that son is merely the executor of the estate (apotropus) for the other sons. Why on earth would a person give all his money to one of his sons, knowing full well that this will cause irreparable damage to the relationships between these brothers for the rest of their lives? So too, Rav Yakov Yosef explains, Hashem gave a considerable amount of money to certain of his children, but not so that they should consider all of that money to be theirs. They should view themselves as executors for distribution of the money to Hashem's "other children."

The Malach Ensured That Esther Was Only "Modeh B'miktzas" to Achashverosh's Question

The parsha contains halachos of shomrim (watchers): "If a man shall give money or vessels to his fellow to safeguard, and they are stolen from the house of the man, if the thief is found, he shall pay double. If the thief is not found, then the householder shall approach the court that he had not laid his hand upon his fellow's property. For every item of liability – whether an ox, a donkey, a sheep, or a garment – regarding any lost item about which he says, ki hu zeh! ('this is it!'), to the court shall come both their claims. Whoever the court finds guilty shall pay double to his fellow." (Shemos 22:6-8)

When a person asks someone to watch something for him and it is stolen, any item about which the watchman says "ki hu zeh" triggers a requirement for the watchman to swear to the owner. Rashi here brings the p'shuto shel mikra (simple interpretation of the pesukim), but then brings the drasha of Chazal on the words "ki hu zeh": Namely, that an oath is not imposed on a person unless he admits part of the obligation.

The Gemara derives from these words the halachic requirement of "modeh b'miktzas" – admitting part of a financial obligation. This applies classically to a loan situation. Reuven claims that he lent Shimon $200 and he has not yet been repaid. If Shimon denies the loan ever took place, or he claims he already fully paid back the loan ("kofer hakol"), he does not need to pay and he does not even need to swear on a Biblical level (unless Reuven has some type of proof to back up his claim). However, where there is a partial admission of debt, Shimon must take an oath to support his claim of partial payment. This is derived exegetically from this pasuk of "…Asher yomar 'ki hu zeh…'".

The sefer Toldos Yitzchak explains how this expression teaches the halacha of "modeh b'miktzas". In order to appreciate the Toldos Yitzchak, we need to understand a little bit about Hebrew grammar. The word "hu" (he) is what is known as lashon nistar. It is "third person" (like he, she, them and that) and refers to someone out there, as opposed to someone in front of me. On the other hand, the word "zeh" (this) is what is known as lashon nochach. It is "second person" (like you and this) and refers to someone or something in front of me. The complete denial of debt is lashon nistar ("hu") because it is third person or distant from me. The admission of debt is lashon nochach ("zeh") because it is second person or right in front of me. The combination of "zeh" and "hu" indicates something that is both right here and not right here – a partial admission ("modeh b'miktzas").

With this principle, the Toldos Yitzchak gives a beautiful interpretation of a pasuk in Shmuel. The Ribono shel Olam told Shmuel to anoint one of the sons of Yishai as the next king of Israel. Yishai presented his oldest son,

Elihu, and Hashem told Shmuel that he was rejected. Yishai presented his sons to Shmuel one by one and each one was rejected, until he came to Dovid, who the pasuk describes as "reddish in complexion with beautiful eyes." (Shmuel I 16:12) At that point, Hashem told Shmuel: "Arise, anoint him, ki zeh hu (for he is the one)."

The Gemara says that Shmuel was hesitant to anoint this youngest son of Yishai. Shmuel could not believe that this was going to be the future king of Israel because he was reddish in complexion. Shmuel took this reddish complexion to indicate that Dovid was a murderer. (Red like blood.) The Almighty says, yes, his complexion is red like blood but he is "yefeh aynayim" – when he kills, he only kills with the authorization of Beis Din.

Eisav was also reddish in complexion. He was in fact a killer. However, while Dovid was a warrior, he fought with the authorization of the Almighty. Hashem said "Ki zeh hu" – the ZEH (what is in front of you) is in fact red, but what is hidden (nistar) in that the ZEH is a HU, a melech Yisrael who will only kill with the permission of the Sanhedrin.

Rav Meir Shapiro once similarly interpreted a pasuk in Megilas Esther. The Megila writes that when Esther invited Haman and Achashverosh to her meal and told the king about the plot to kill her people, Achashverosh asked: Mi hu zeh, v'eizeh hu? (Who is this and which one is he?) (Esther 7:5) Esther responds, "It is…this wicked Haman…" (Esther 7:6)

Rav Meir Shapiro explains beautifully: Achashverosh hated the Jews just as much as Haman, so when he asks Esther "Mi hu ZEH, v'eizeh HU?" his question is "Who are you referring to? Are you referring to ZEH – the Haman that you KNOW wants to kill the Jews, as is obvious in front of you – or are you referring to the HU – the person who is also trying to kill the Jews but in a way that is not so obvious – that is hidden (Achashverosh himself)? Achashverosh is trying to understand – does she really know the 'score,' that I hate the Jews as much as Haman does?

Esther knew the score. Esther knew that it was the ZEH (Haman) and she knew that it was also the HU (Achashverosh). She pointed her finger and said "Haman harah haZEH" (THIS wicked Haman). The Gemara says she was really pointing at Achashverosh but a malach (an angel) came and pushed her finger away in the direction of Haman, so that she would not reveal to the king what she really understood about him.

Transcribed by David Twersky; Jerusalem DavidATwersky@gmail.com Edited by Dovid Hoffman; Baltimore, MD dhoffman@torah.org This week's write-up is adapted from the hashkafa portion of Rabbi Yissochar Frand's Commuter Chavrusah Series on the weekly Torah portion. A complete catalogue can be ordered from the Yad Yechiel Institute, PO Box 511, Owings Mills MD 21117-0511. Call (410) 358-0416 or e-mail tapes@yadyechiel.org or visit http://www.yadyechiel.org/ for further information. Torah.org: The Judaism Site Project Genesis, Inc. 2833 Smith Ave., Suite 225 Baltimore, MD 21209 http://www.torah.org/ learn@torah.org (410) 602-1350

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from: The Rabbi Sacks Legacy <info@rabbisacks.org>
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God's Nudge

MISHPATIM - Rabbi Lord Jonathan Sacks Z"L

First in Yitro there were the Aseret Hadibrot, the "Ten Utterances", the Ten Commandments, expressed as general principles. Now in Mishpatim come the details. Here is how they begin:

If you buy a Hebrew servant, he is to serve you for six years. But in the seventh year, he shall go free, without paying anything . . . But if the servant declares, 'I love my master and my wife and children and do not want to go free,' then his master must take him before the judges. He shall take him to the door or the doorpost and pierce his ear with an awl. Then he will be his servant for life.

Ex. 21:2-6

There is an obvious question. Why begin here, with this law? There are 613 commandments. Why does Mishpatim – the first full law code in the Torah – begin where it does?

The answer is equally obvious. The Israelites have just endured slavery in Egypt. There must be a reason why this happened, for God knew it was going to happen. Evidently He intended it to happen. Centuries before, He had already told Abraham it would happen:

As the sun was setting, Abram fell into a deep sleep, and a thick and dreadful darkness came over him. Then the Lord said to him, "Know for certain that for four hundred years your descendants will be strangers in a country that is not their own, and that they will be enslaved and mistreated there.

Gen. 15:12-13

It seems that this was the necessary first experience of the Israelites as a nation. From the very start of the human story, the God of freedom sought the free worship of free human beings. But one after the other, people abused that freedom: first Adam and Eve, then Cain, then the generation of the Flood, then the builders of Babel.

God began again, this time not with all humanity, but with one man, one woman, one family who would become pioneers of freedom. Still, freedom is difficult. We each seek it for ourselves, but we deny it to others when their freedom conflicts with ours. So deeply is this true that within three generations of Abraham's children, Joseph's brothers were willing to sell him into slavery: a tragedy that did not end until Judah was prepared to forfeit his own freedom so that his brother Benjamin could go free.

It took the collective experience of the Israelites, their deep, intimate, personal, backbreaking, bitter experience of slavery – a memory they were commanded never to forget – to turn them into a people who would no longer turn their brothers and sisters into slaves, a people capable of constructing a free society, the hardest of all achievements in the human realm.

So it is no surprise that the first laws they were commanded after Sinai related to slavery. It would have been a surprise had they been about anything else. But now comes the real question. If God does not want slavery, if He regards it as an affront to the human condition, why did He not abolish it immediately? Why did He allow it to continue, albeit in a restricted and regulated way, as described in this week's parsha? Is it conceivable that God, who can produce water from a rock, manna from heaven, and turn sea into dry land, cannot call for this change to human behaviour? Are there areas where the All-Powerful is, so to speak, powerless?

In 2008 economist Richard Thaler and law professor Cass Sunstein published a fascinating book called Nudge.[1] In it they addressed a fundamental problem in the logic of freedom. On the one hand freedom depends on not over-legislating. It means creating space within which people have the right to choose for themselves.

On the other hand, we know that people will not always make the right choices. The old model on which classical economics was based, that left to themselves people will make rational choices, turns out not to be true. We are deeply irrational, a discovery to which several Jewish academics made major contributions. The psychologists Solomon Asch and Stanley Milgram showed how much we are influenced by the desire to conform, even when we know that other people have got it wrong. The Israeli economists, Daniel Kahneman and Amos Tversky, showed how even when making economic decisions we frequently miscalculate their effects and fail to recognise our motivations, a finding for which Kahneman won the Nobel Prize.

How then do you stop people doing harmful things without taking away their freedom? Thaler and Sunstein's answer is that there are oblique ways in which you can influence people. In a cafeteria, for example, you can put healthy food at eye level and junk food in a more inaccessible and less noticeable place. You can subtly adjust what they call people's "choice architecture."

That is exactly what God does in the case of slavery. He does not abolish it, but He so circumscribes it that He sets in motion a process that will foreseeably lead people to abandon it of their own accord, although it may take many centuries.

A Hebrew slave is to go free after six years. If the slave has grown so used to

his condition that he wishes not to go free, then he is required to undergo a stigmatising ceremony, having his ear pierced, which thereafter remains as a visible sign of shame. Every Shabbat, slaves cannot be forced to work. All these stipulations have the effect of turning slavery from a lifelong fate into a temporary condition, and one that is perceived to be a humiliation rather than something written indelibly into the human script.

Why choose this way of doing things? Because people must freely choose to abolish slavery if they are to be free at all. It took the reign of terror after the French Revolution to show how wrong Rousseau was when he wrote in The Social Contract that, if necessary, people have to be forced to be free. That is a contradiction in terms, and it led, in the title of J. L. Talmon's great book on the thinking behind the French Revolution, to totalitarian democracy.

God can change nature, said Maimonides, but He cannot, or chooses not to, change human nature, precisely because Judaism is built on the principle of human freedom. So He could not abolish slavery overnight, but He could change our choice architecture, or in plain words, give us a nudge, signalling that slavery is wrong but that we must be the ones to abolish it, in our own time, through our own understanding. It took a very long time indeed, and in America, not without a civil war. But it happened.

There are some issues on which God gives us a nudge. The rest is up to us.

the verse:

"Not to act wickedly and make for yourselves a sculptured image in any likeness whatever… the form of any beast on earth, the form of any winged bird that flies in the sky…the form of anything that creeps on the ground" (Deuteronomy 4: 16-18).

However, in the opinion of all other Rishonim and Achronim (earlier and later Jewish law authorities), it is not prohibited, because what the Torah prohibited is to make these forms in order to worship them as idols. The established halakha is that it is permitted to make statues of animals such as lions, elephants and deer, as well as cattle like oxen, birds like doves and eagles, fish, trees, plants, and anything in nature. Only when there are people who worship these forms, is it forbidden to make them for those people (Shulchan Aruch, Yoreh Deah 141:6). Therefore, there is no problem with the lion statues that the Jerusalem municipality placed throughout the city. However, the Torah forbade making statues of a full human form, or of heavenly bodies, even for decoration (Shulchan Aruch Yoreh Deah 141:4).

The Ancient Ashkenazi Custom to Place Lion and Animal Statues in Synagogues

Since there is no prohibition on making animal statues, it was customary in Ashkenaz, already over nine hundred years ago, to decorate synagogues with sculptures or woven works of animals, birds and snakes, in order to express the animals and birds praising God, as well as to beautify and glorify the synagogue. They would especially make lion forms, in order to express God's kingdom, that even the lion, the king of beasts, gives honor to his Creator, the King of kings, the Holy One, blessed be He. This is akin to the "cherubim, the work of a skilled craftsman" that were woven into the curtains of the Tabernacle, which on one side had the face of a lion (Exodus 26:1, 31; Rashi; Machaneh Chaim, Yoreh Deah 2:29). It also hints to the Mishna's words "Be strong as a lion, to do the will of your Father in Heaven" (Avot 5:20; Heichal Yitzchak, OC 11).

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To Counterbalance Love

Rabbi Eli Baruch Shulman

May 06 2006

The Talmud (Yevamos 62a) tells us that Rabbi Akiva's students died because they did not treat each other with kavod [respect]. We mourn their deaths during sefiras haOmer each year. Jewish history, unfortunately, has known many other tragedies; why do we continue to remember this one?

The answer emerges from an analysis of Rabbi Akiva's famous dictum, "Love your friend as yourself – this is a major rule in the Torah," and its relation to his students' actions. If Rabbi Akiva put this concept of ahavas yisrael, love of fellow Jews, at the center of his philosophy, how is it possible that all of his own students neglected it?

The Talmud (Yevamos 62a) instructs men to "love their wives as much as themselves, and respect them more than themselves." Why must love be balanced by respect; isn't marriage all about love, and doesn't love automatically imply respect?

R. Zerachyahu haLevi explains that the word kavod is etymologically synonymous with nefesh, which means 'soul' or 'self '. Kavod means respect because we respect someone whom we perceive as having some self-distinguishing quality that sets them apart. Kavod is the acknowledgement and deference that we offer to individuality, to individual uniqueness, and to accomplishment. We don't respect someone for being the same as everyone else, but for being his own self, for being different in a way that we value.

The difference between love and respect is that love is based on the feeling that we are really one. People marry because they find in their partner a kindred spirit. People love their children because they see them as extensions of themselves. We love our fellow Jews because we feel kinship with people who share our own history and destiny.

Respect, on the other hand, is based on the dignity of difference. I respect someone because I recognize that he is different than me, and I consider that difference valuable.

Love without respect can be overbearing, even tyrannical. One can see that with children. A parent can love his children – and yet ruin them by constantly trying to make them more like him or her. This is even truer with a spouse. Marriage is such a close human relationship because it is based on love – on finding in each other kindred spirits. Therefore, it is especially important for that love to be balanced by respect, by kavod – by recognition that one's partner is a different person. He or she need not like the same books or food that I do, nor have the same opinion. Because I love them, I may be driven to make them more like me, but that is destructive; that is the tyranny of love. Love must be tempered with kavod; we must value our differences as much as our similarities.

This is where Rabbi Akiva's students went wrong. They did not neglect their rebbe's teaching of loving each other as themselves. Rather, they took this rule too far. Because they put so much emphasis on love, they failed to balance it with kavod. They loved each other, but they didn't respect each other's individuality and differences.

In contrast, our failing – the failing that led to the destruction of the Beis haMikdash and its continued desolation – is sinas chinam, unwarranted hatred. This is why we mourn for Rabbi Akiva's students. With them, we lost a reservoir of ahavas yisrael, love of fellow Jews, which might have saved the Jewish people.

A generation after the churban – after that eruption of civil strife and sinas chinam that destroyed everything – a group of scholars arose, a potent force within the people, who adopted as their motto the cardinal principle of Rabbi Akiva, the principle of ahavas yisrael. They represented so much potential and promise. But they went too far. They excelled at loving others as themselves – but not at respecting them more than themselves. Our mourning is for that loss.

Rabbi Eli Baruch Shulman serves as a Rosh Yeshiva at RIETS, holds the Rabbi Henry H. Guterman chair in Talmud, and is the rabbi of the Young Israel of Midwood in Brooklyn, NY.

The article below is from Rabbi **Riskin's book Shemot: Defining** a **Nation**, part of his Torah Lights series of commentaries on the weekly parsha, published by Maggid and available for purchase here.

Parshat Mishpatim: What Constitutes a Jewish Court?

Rabbi Dr. Shlomo Riskin is the Founder and Rosh HaYeshiva of Ohr Torah Stone

"These are the statutes which you must place before them." (Exodus 21:1)

If two religiously observant Jews are engaged in a disagreement which has financial ramifications, are they permitted to go to a secular court to arbitrate their dispute or must they go to a religious court or bet din? Is the law different in Israel, which has a religious as well as a secular court system, but where even the secular court judges are Jewish? And if indeed Jews are religiously ordained to go to religious courts exclusively, why is this the case? After all, secular courts in America are certainly fair and equitable!

The Torah portion of Mishpatim provides interesting responses to all three questions. It opens with the command: "These are the statutes which you [the Israelites] shall place before them [the religious judges]" (Ex. 21:1). Rashi immediately cites the Talmudic limitation (Gittin 88b):

"Before the religious judges and not before gentile judges. And even if you know that regarding a particular case, they [the gentile judges] would rule in the exact same way

as the religious judges, you dare not bring a judgment before the secular courts. Israelites who appear before gentile judges desecrate the name of God and cause idols to be honored and praised." (Tanchuma Mishpatim 3)

According to this passage, it would seem that the primary prohibition is to appear before gentile judges who are likely to dedicate their legal decision to a specific idol or god; it is the religion of the judge rather than the content of the judgment which is paramount. From this perspective, one might legitimately conclude that Israeli secular courts – where the judges are all Jewish – would not be prohibited. (*This is the conclusion reached by Jerusalem Magistrate Court Judge Jacob Bazak, in 'Courts of Law in the State of Israel – Are They Indeed Secular?', Tehumin i i (5741) pp. 523–528.)

Moreover, secular courts in America – where there is a clear separation between religion and state in the judiciary – may very well likewise be permitted.

However, the great legalist and philosopher Maimonides would seem to support another opinion. Although he begins his ruling, "Anyone who brings a judgment before gentile judges and their judicial systems… is a wicked individual" – emphasizing the religious or national status of the judge rather than the character of the judgment – he then concludes, "…and it is as though he cursed and blasphemed [God], and lifted his hand against the laws of Moses." (Laws of the Sanhedrin 26:7)

Apparently, Maimonides takes umbrage at a Jew going outside the system of Torah law, thereby disparaging the unique assumptions and directions of the just and righteous laws of God.

In order for us to understand exactly what is unique about the Jewish legal system, permit me to give an example of the distinctive axioms of Torah law from another passage in this Torah portion, the prohibition against charging or accepting interest on a loan.

"If you will lend money to my nation, to the poor person with you, you may not be to him as a creditor, you may not place upon him an interest rate [neshekh]; and if you accept from him your friend's cloak as security for the loan you must return the cloak to him before sunset. Because, after all, it may be his only cloak and [without it], with what [cover] will he lie down? And if he cries out to Me, I shall hear because I am gracious." (Exodus 22:24–26)

In addition to noting the touching poignancy of the latter portion of the passage, I would like to ask four questions, one on each of the four earlier phrases of the commandment. First of all, the prohibition against interest begins, "If you will lend money to my nation." Although Rashi cites the teaching of Rabbi Yishmael that this is one of the three biblical instances where the usage of the Hebrew 'im' is not to be understood as being volitional – if – but is rather to be taken as an imperative – "When you lend money to my nation," as you should do – nevertheless, one might legitimately query why the Bible chooses to use such an ambiguous term for an act of lending, when it is clearly God's desire that we perform this act!

Second, the Bible seems repetitious: "…to my nation, to the poor person with you." One or the other of these two phrases would have been sufficient to teach the point!

Third, "You may not be to him as a creditor," says the Torah. This is interpreted by our sages to mean that not only is it forbidden for the creditor to remind the debtor of the loan, but the creditor must go out of his way not to cause the debtor embarrassment; if the creditor sees the debtor walking towards him it is incumbent upon the creditor to change direction. Why? After all, the debtor took money from the creditor, didn't he? Why not remind the debtor that the loan must be repaid?

Fourth and finally, the specific prohibition against interest itself seems problematic. The Hebrew word used in the Bible for interest – "neshekh" – also means the bite of a snake, which our sages compare to interest since the serpent initially injects his venom painlessly but it ultimately consumes the entire individual and takes his very life! Maimonides goes so far as to codify:

"Anyone who writes a contract with an interest charge is writing and causing witnesses to testify that he denies the Lord God of Israel… and is denying the exodus from Egypt." (Laws of Lenders and Borrowers, 4:7)

What is the logical reason for the prohibition against interest – and why the hyperbolic comparisons? After all, there is no prohibition against charging rent for the use of my house! W hy should there be a prohibition against charging rent for the use of my excess funds?

Rabbi Haim ibn Attar, in a most brilliant illumination, beautifully explains this passage in his commentary Ohr Hachayim. In an ideal world, he maintains, there ought to be no rich and no poor, no lenders and no borrowers; everyone should receive from the Almighty exactly what they require to live. But, in His infinite wisdom, this is not the manner in which the Lord created the world. He provides certain individuals with excess funds, expecting them to help those who have insufficient funds, appointing them His "cashiers" or "ATMs." Hence you must read the verse as "If you have [excess] money to lend to my nation, [understand] that what ought to have gone to the poor individual is with you." You were merely given the poor person's money in trust; your extra funds actually belong to him!

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

This is the message of the exodus from Egypt, the seminal historic event which formed and hopefully still informs us as a nation: no individual ought ever be owned by or even indebted to another individual. We are all owned by and must be indebted only to God. This fundamental truth is the foundation of our traditional legal system which is uniquely just and equitable: it is especially considerate of the needs of the downtrodden and enslaved, the poor and the infirm, the orphan and the widow, the stranger and the convert, the "chained wife" and the indigent forced to sell their land. From this perspective, not only must we submit to Jewish law, but it is crucial that our judges be certain that Jewish law remains true to its ethical foundations

Shabbat Shalom

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from: **Rabbi YY Jacobson** <rabbiyy@theyeshiva.net>
date: Feb 8, 2024, 3:50 PM

The Chassidic Definition of Trauma

When My Reptilian Brain Goes Wild, I Need to Help It See its Owner

By: Rabbi YY Jacobson

Rage Therapy

A man walks into a bar. He calmly orders a drink and proceeds to abruptly pick up his glass and hurl it at the shocked bartender.

After a moment of uncomfortable silence, he begins apologizing profusely, pleading for forgiveness: "I am mortified; I suffer from uncontrollable rage, I am deeply ashamed of it, I don't know what came over me, please forgive me for my embarrassing behavior." The bartender graciously forgives him. However this happens nightly for a week straight, each outburst followed by sincere regret. Finally, the bartender makes an ultimatum: "Either you undergo intense anger-management therapy or do not ever enter this bar again." The man consented.

A year later, he returns to the bar, a rehabilitated man. But lo and behold, he immediately takes his glass and heaves it at the bartender. "What are you doing?" the bartender thundered, "I thought you went to therapy!"

"I did," the man replied, "and now I am not embarrassed anymore."

Animal Laws

This week's Torah portion (Mishpatim) deals with the laws of damages caused by one's animals [1]. Say, for example, your domesticated bull suddenly and uncharacteristically gores and kills another bull. Perhaps your domesticated usually well-behaved dog goes berserk and suddenly attacks and bites another dog, or an innocent stranger. The Torah tells us, that for the first three altercations the owner of the bull pays for only half the damage. Since it is unusual for a bull to suddenly gore, the owner was not expected to take all precautionary measures to prevent this. He is not deemed completely responsible, and he splits the losses with the owner of the wounded animal. (Such an animal is called a "tam").

After three incidents, it is established that this bull is aggressive and is prone to attack regularly, and the owner is held fully responsible to guard his animal (such an animal is called a "muad.") He, therefore, pays for all the damage occurring as a result of his failure to guard his beast [2].

Is "Repentance" Possible?

How about re-orientation? Meaning, can a bull or any other animal resume their original status of innocence after damaging three times?

Yes, says the Talmud [3]. And this can be achieved in two ways: Either the owner rigorously disciplines his animal until its disposition is transformed, and it learns to behave. Or he can sell the animal or give it as a gift to someone else. With a new owner and new patterns and schedules, the Halacha (Jewish law) assumes the animal will return to its natural inborn domestic nature and is considered nonviolent until proven otherwise [4].

The Psychological Dimension

Every law of the Torah has a psychological and spiritual rendition, in addition to the concrete and physical interpretation. One of the primary functions of the Jewish mystical tradition -- Kabbalah and Chassidism – is to explain the metaphysical meaning behind each law and Mitzvah of the Torah and the Talmud.

How can we apply the above-mentioned set of laws to our own personal and spiritual lives?

The Mystical Animal

Each of us possesses an animal within; an earthy, mundane consciousness that seeks self-preservation and self-enhancement. Survival and comfort are its sole consideration. In today's neuroscientific vocabulary we would define it as the reptilian and mammalian brain, responsible for our survival and emotions seeking to keep us safe and secure.

The "human-animal" is not inherently bad or destructive; it simply will do anything to survive and feel comfort, often cultivating patterns of aggression or isolation which in its mind are vital for survival. In contrast to other traditions which claim man is inherently sinful, and therefore in need of salvation, Judaism does not see any part of our consciousness as evil at its core.

When one is born, the animal within is innocent and even adorable. Its primary goal is to preserve its existence, and enjoy a safe and comfortable life. However, if our animal consciousness, if our amygdala , does not get the safety it needs, and is is not educated, cultivated, and refined, this cute innocent animal can grow to become a self-centered, isolated, beast. The beast can turn into a monster, prone to destroy itself and others around it in its quest for survival. Sometimes our animal can become addicted to various things (food, drugs, nicotine, alcohol, sexuality, etc.) to desperately fill a void it is experiencing or run from a wounded self-image. Many of our inner animals become, at one point or another, damaging forces, causing pain to themselves and to others.

Two Types of Animals

There are two distinct types of "damaging human animals." There is one whose moments of aggression are seen as unusual deviations; and one for whom these destructive patterns have become common behavior.

In the first instance, the Torah tells us to be more understanding of the "owner" of the animal. Nobody is ever entitled to "gore" or "bite" another human being. But we need to remember that even the gentlest husband can lose himself and raise his voice in anger, and even the most loving woman may, in a moment of stress, make a denigrating comment. It is painful and amends must be made, but it's not the end of the world.

We have our weak moments, when our inner lizard, rat, or Chimpanzee, take over our bodies and behaviors; we say or do hurtful words or deeds, to ourselves or others. Our rational, visionary, and Divine consciousness go "offline" for those moments, as our inner animal takes a stab at a spouse, child, co-worker, or stranger. It is hurtful, but we can make amends.

As long as the offender acknowledges his or her wrongdoing and accepts accountability, understanding and forgiveness may follow. To be human is to err. Our goal is not perfection, but accountability. Life will sometimes throw you a curveball, and in the shock that follows you may lose yourself and begin to "gore." As long as you are accountable for your actions and words, as long as you can look on with compassion and identify what happened, your negative behavior is considered an anomaly, an aberration from your authentic, Divine self. Every mistake teaches us a lesson from which we can grow.

But when I find that anxiety, fear, or dissociation take over my system, my behaviors, and my relationships – I am living in anger, shame, resentment, or just detached from my emotions -- my body is responding to an inner wound it carries, I must realize I may be living in active trauma, my animal has shut down, or has gone wild, to protect me.

If the incidents of abuse and destruction persist -- if a husband continuously shouts at his wife or children; if a person in a position of leadership shatters the lives of the people he is responsible for; if a wife only derides and ridicules her husband; if one cannot control their food, alcohol, drug, or sexual addiction -- their behavior cannot be condoned. We are dealing with an animal whose selfish, destructive, and unhealthy inclinations have become the norm.

Making mistakes is part of life. But if these mistakes are repeated continuously and become regular habits without being controlled and stopped, they are dangerous. They have become a lifestyle, a routine, sometimes an addiction. The owner of this "animal" cannot excuse himself or herself by saying, "I did not realize, I did not know." He or she must "seize the bull by its horns" (pun intended), and accept full accountability.

But how does such an animal return to its original, innocent status? How can one rehabilitate oneself? How does one regain the trust of the people he/she has hurt so badly?

Two Paths to Recovery

There are two roads available: The first is the rigorous process of self-refinement, in which your animal learns to confront and challenge its deepest fears and urges, and it painstakingly de-beasts its abusive character.

Yet, even before you manage to work through all of the dark chambers of your wild animal, the teachings of Judaism present another alternative: Change the jurisdiction of the animal.

Take your animal and submit it to the higher power, to the property of its Divine Creator. Even before you work through every dark chamber, surrender to the higher reality. Take your rage, your addictions, your depression, your fear, your shame, and submit them to G-d. The universe is created anew at every single moment. You, I, and all of existence, are being re-created right here and right now. My present breath is the miracle of re-birth. In a balanced and centered consciousness, life happens in the here and now. Transferring to His ownership means that at this moment you can put your past demons to rest and start anew. You are as fresh as a newborn.

Talk to your animal and meditate together on the following truth: Yes, I know that we have a complicated past and I can feel so much compassion for what you felt you needed to become in order to survive. I am so sorry. I know you believe that you are prone and addicted to all types of behaviors. I know you feel like you have to go into fight, flight, fawn, or freeze. But right now, my dear animal, let us live in the present. You and I were just created anew, with a clean slate. So let us finally begin to live. For real.

It is sometimes scary to throw away the baggage of our past; familiar misery seems more comfortable than unfamiliar change. But we need to take full responsibility for our future. We must muster our courage and view ourselves from the G-d's perspective, from His ownership. In His world, everything is recreated each moment. We can liberate ourselves from our past and defy ominous predictions of our future, and we can do it now. The work of healing internally will continue, but in a very real way, I can gain dignified control over my inner reptilian and mammalian brain.

If you are serious and compassionate, your animal will listen -- and respond.

What is trauma? My difficulty in experiencing the miracle of the here and the now. To be fully present to the breath of life flowing through me at this moment. We heal trauma as we can be fully present to the creative divine energy flowing through us right now.

The Prisoner's Dilemma

A story: In the 16th century, an innocent Jew was thrown in prison by a feudal baron who gave him a life sentence. For some reason, this tyrannical baron decided to show the man a bit of mercy. He told him, "Look Jew, you're my prisoner for life, there's nothing that will change that. But this I will do for you: I will grant you one day of freedom a year during which you can return to your family. Do whatever you want. I don't care which day you choose. But remember, you have only one day a year."

The man was conflicted. Which day should he choose? Should he choose Rosh Hashanah, to hear the sounding of the shofar? Yom Kippur, the holiest day of the year? Passover, to celebrate a seder? His wedding anniversary?

This prisoner, not being able to make up his mind, wrote a letter to one of the rabbinic leaders of that generation, Rabbi David ben Zimra, known as the Radbaz (1479-1573), the spiritual leader of the Jewish community in Egypt, and then in Sefad. The prisoner asked for his advice.

The Radbaz said the prisoner should choose the first available day. Whatever it is, grab it now, don't wait — be it a holiday, a Shabbat, a Monday, or a Wednesday.[5]

A Flood of Positive Energy

This was a marvelous reply. More importantly, it is true for us as well.

Healing begins when I can truly live in the now. When I can show up to the gift of the moment. When I can take my animal, and its wounds, and submit it to G-d who recreates it each moment anew. Let your animal submerge itself in goodness, love, and holiness. Fill your days and nights with meaningful behavior: with authentic connection and attachment, with kindness, with the study of Torah, the celebration of Mitzvos, acts of grace, a life of authenticity and meaning. Your animal will get it. Now that's a holy cow.[6]

[1] Exodus 21:35-36 and Rashi ibid. From Talmud, tractate Bava Kama. [2] Such an animal is called in the Talmud a Muad, in contrast to a Tam, which is the title granted to a domesticated animal before it has attacked three times. There is an interesting argument among Talmudic commentators, if an animal that gores three times is deemed by Jewish law as having become of a destructive nature, or that the aggressive pattern of its behavior demonstrates that it has always been of such a disposition, we were merely unaware of it (Acharonim to Bava kama 2b.) This debate has some interesting implications, particularly when we review this law from a spiritual and psychological perspective, discussed below. [3] See Bava Kama 14a; pp. 39-40. Rambam Hilchos Nizkei Mamon 6:6-7. [4] Though this option is disputed in the Talmud (Bava Kama 40b), Maimonides (ibid.) sees the view mentioned above as the final law. [5] See Teshuvhos Chacham Zvi Siman 106 for a lengthy discussion on the matter. [6] This essay is based on a talk by the Lubavitcher Rebbe presented on the 4th night of Sukkos, 17 Tishrei, 5747, October 10, 1987. Part of this talk was published in Likkutei Sichos vol. 36 pp. 102-108

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from:Esplanade Capital <jay@esplanadecapital.ccsend.com>

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subject: Rabbi Reisman's Chumash Shiur
Rabbi Reisman – Parshas Mishpatim 5784

1 – Topic – A Halacha Thought from Rav Elchanan

As we prepare for Shabbos Parshas Mishpatim the Shabbos that we try Bli Neder to learn the Rashis because there are so many Halachos in this week's Parsha. Let me talk about two of them. The last words before Sheini are 21:19 (וְרַפֹּא יְרַפֵּא). That is that when one yid damages another, he has an obligation to pay the D'mai Refuah, the cost of healing him. In other words, there are five obligations that you will remember from Baba Kamma. Nezek – damages, Tzar – pain, Ripui – healing, Sheves – lost wages and Boshes – compensating for his embarrassment. One of them is called Ripui.

I would like to share with you an old Kler from the Yeshiva days which I hope will bring back wonderful memories and you will enjoy it as it is very Geshmak. Rav Elchanan in two places, primarily in Cheilek Beis of Kovetz Shiurim where he has a few pieces on Maseches Gittin, Os Yud Aleph. He mentions this also in Kesubos, Os Reish Yud Ches. He Klers a Shaila. What is the obligation of (וְרַפֹּא יְרַפֵּא)? If one Jew damaged another. Let's say he cut his hand and the man has to go for stitches. So the damager who we call the Mazik has to pay the cost of the stitches.

There are two ways to understand that. The first way to understand it is that it is a cash payment that he owes him. He owes him money. The money is the amount of money it costs to be healed. The second way to understand is that he has an obligation to heal him, he has an obligation to make sure he gets healed. The obligation is not set in dollars, it is a personal obligation to heal him. Now he himself is not a doctor so he gets someone else to do the healing, however, his obligation is to ensure that he gets healed. Sounds like a very slight difference if it is a cash obligation or an obligation to get healed.

Says Rav Elchanan the following Nafka Mina. What happens if Reuven damaged Shimon and he told him okay Shimon go get stitches and I will pay you. Shimon G-d forbid got killed before he had the stitches. Does Reuven have to pay Ripui to the Estate of Shimon? If you learn the first way that it is an obligation for a cash payment, then the obligation still stands. If you learn the second way that it is an obligation to heal him, he is not going to be healed because unfortunately he passed away, and then there is no obligation. This is the Chakira, the Kler that Rav Elchanan has.

It is interesting that in Dibros Moshe in Maseches Gittin Siman Yud Aleph, Anaf Beis and on, he has exactly the same Chakira. Both Rav Elchanan and Rav Moshe come to the conclusion that it is not a cash obligation, it is an obligation to heal the individual. Rav Moshe brings some Geshmaka Rayos.

The easy one to say over is that the Gemara in Baba Kamma 87 says what about if the one who did the damage is himself a doctor. He says I will give you the stitches and no one will have to pay. He says that the Nizak, the one who is damaged can tell him it is difficult for me, psychologically it is difficult. To me you are like a lion. You are a damager. Psychologically it is hard for me to accept that you will heal me.

Says Rav Moshe, why if not for this argument, why could the Mazik say that I will heal you? Why doesn't the Nizak have a right to choose whoever he wants to go to? The answer is because he has an obligation to heal. Were it not for the argument that the Nizak can say you are like a lion to me, he would be allowed to do it.

The Gemara says another thing. The Gemara says what happens if the Mazik says I have a friend who will heal you for free. Don't go, I have a friend who is a professional at stitches and he will do it for free. The Nizak can respond as it says in Baba Kamma 85a (4 lines from the bottom) (אסיא דמגן במגן מגן שוה), when people do things for free, it is not worth anything. They don't feel a responsibility. I don't want.

Again, Rav Moshe says why does he need a Taina, why can't he just say that I want to go to my doctor. He has to have an argument that (אסיא דמגן במגן מגן שוה). We see from here that the obligation is to heal. These are two of Rav Moshe's explanations.

There is a gigantic Nafka Mina because Rav Elchanan has the same Kler in Kesubos Siman Reish Yud Ches. There in context as I can't speak out the whole thing, he talks about if a person had insurance whether that means that the damager doesn't have to pay. He doesn't use the word Bituach which is the modern word for insurance, he uses the word Achrayos. But he has this question. If a person has insurance, if he owes him an obligation of cash, if he owes him cash he has to pay him. If the obligation is to heal, the obligation is to heal. If he is getting healed with someone else paying for it then you are off the hook. A fascinating Rav Elchanan, a good beginning of discussion especially that Rav Elchanan there has the same question if you damage someone's car. Is your obligation to pay a cash payment or is your obligation to fix. The same Nafka Mina.

This actually happened to me many many summers ago. I was once in the Camp Agudah parking lot on visiting day and it was very tight. I scratched someone's car. I left him a note. He called me back. It had a scratch along the side of the car. I told him go fix it and send me the bill. He calls me a day or two later and he says you are off the hook. I said, why am I off the hook? He said well, my wife was pulling out past a stop sign and a car came and damaged the side of the car and the whole panel has to be replaced so we are not going to need the paint job. You don't have to pay me. I disagreed with him. I said what do you mean I owe you a cash payment for damaging your car. What is the difference if it gets fixed? He said no, why would you have to fix it. We had this argument and you know that I am a very humble man and I always give in. But this is exactly that Rav Elchanan. This is a Halacha thought for this week.

2 – Topic – A Thought from the Tchebiner Rav

A man has is obligated to take care of his wife in many ways, Sher, Kesus and Onah are the most famous. In this week's Parsha there are obligations which include feeding, clothing and taking care emotionally of one's wife. Sher, Kesus and Onah. It is a deal. You have to support her, pay for her food. Isn't it strange, why doesn't the Torah say if you marry you have to pay Sher, Kesus and Onah. It comes in sort of in an indirect way in middle of the Parsha talking about the Ama Ivri'ya 21:10 (אִם-אַחֶרֶת, יִקַּח-לוֹ--שְׁאֵרָהּ כְּסוּתָהּ וְעֹנָתָהּ, לֹא יִגְרָע). It is mentioned incidentally. Why isn't it mentioned directly?

I would like to share with you a thought I saw once B'sheim the Tchebiner Rav. As you know, we write a Tenaim. The Tenaim we do before a wedding usually at the Chosson Tish comes originally from the original Shtar Tenaim. The father of the Chosson and Kallah sat down and they made financial arrangements as to how they would take care of their children. It was a real Shtar Tenaim. Over time it has become a form that we use and nevertheless that is the origin of a Shtar Tanaim. It is a business contract.

I mentioned once to you that Rav Elyashiv when he wrote a Kesuba he wrote Yerushalayim Yud, Reish Vav, Shin, Lamed, Ende Mem the way it is written in Chumash. When it came to Tenaim, he wrote Yerushalayim with a Yud. He said it is a business contract.

At any rate, let me tell you the Tchebiner Rav's Vort. In the beginning of a Shtar Tenaim it starts (המגיד מראשית אחרית הוא יתן שם טוב ושארית לדברי הברית והתנאים שנדברו והותנו בין הני שני הצדדים). In other words, we start with a language of (יתן שם טוב ושארית). What does that mean? (שם טוב ושארית) says that this couple should have the Zechus to have an eternity. They should have generations that go in the way Torah and they should be Zoche to a Sheim Tov, a good name (ושארית) and an eternity.

Why do we mention that? This is a business contract, why are we mentioning this language (המגיד מראשית אחרית). What does that have to do, (המגיד מראשית אחרית) talks to HKB"H predetermining the couple that they would get together. Why is it here?

So the Tchebiner Rav said on the contrary. One might think this is a money deal. People are getting married and they have money arrangements. They will treat it as financial arrangements. (ואל יבריחו ואל יעלימו לא זה מזו ולא זו מזה שום הברחת ממון בעולם). It is like two partners who are making a business deal. That is not good. A couple that gets married and they treat things like a business deal? That is terrible. When you think of business deals and partners, you don't deal properly between the two sides. We tell the Chosson and Kallah right away, (הוא יתן שם טוב ושארית). We are talking about eternity, we are talking about a bond, a connection that has to transcend the financial obligations. Someone can't or doesn't pay doesn't ruin the relationship. You don't break up over it. On the contrary, we don't want to talk about business just as business. So we start with the (שם טוב ושארית).

This Vort from the Tchebiner Rav could explain as well why Sher, Kesus and Onah is not mentioned in regards to marriage. It is a business arrangement. You got to support the wife. What if I can't support her or I don't have enough money? What about if we come on hard times? It is a business arrangement? No! We have to have an agreement, we have to have obligations to each other. In a couple if each person is looking to receive what he or she has to get that ruins the marriage. A person has to be looking at what he has to give, then it is a different relationship. A person has to look at his responsibilities.

I once told someone, you are worried about what you are supposed to get? Get is a dirty word when it comes to marriage. Therefore, Sher, Kesus and Onah doesn't belong in talking about marriage. It has to be mentioned so it is mentioned indirectly. This is the thought of the Tchebiner Rav L'gabay our Tenaim, and I think it fits well to explain as well the positioning of Sher, Kesus and Onah.

And so, one extraordinary Vort on (וְרַפֹּא יְרַפֵּא), Rav Moshe and Rav Elchanan, and one beautiful Vort on Sher, Kesus and Onah the marriage relationship. With that, I want to wish everybody an absolutely wonderful meaningful Shabbos. A Gutten Rosh Choidesh to one and all!

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https://jewishaction.com/religion/jewish-law/whats-the-truth-about-when-an-eved-ivri-goes-free

ISRAEL

What's the Truth about . . . When an Eved Ivri Goes Free?

RABBI DR. ARI Z. ZIVOTOFSKY

Misconception: An eved Ivri ("Jewish servant")1 goes free in the shemitah year.

Fact: An eved Ivri works six full years and goes free at the start of his seventh year of servitude, unless a yovel year arrives first, in which case every eved Ivri goes free. The date of an eved Ivri's release is calculated on an individual basis, and thus they are not all released at one time. The shemitah year has no relevance to the length of servitude.

Background: To the modern era, the notion of slavery is an anathema, and it may even be troubling to modern Jews that the Torah permits such an institution. Yet, in discussing the concepts of eved Ivri and amah Ivriyah (a "Hebrew maidservant"), the Torah is in essence taking what was an accepted and almost necessary institution and regulating it to make it more humane. The laws of eved Ivri are discussed in various places in the Torah: Shemot 21:2–6 and 22:2, Vayikra 25:39–42, and Devarim 15:12–18. Based on the pesukim, Chazal (summarized in Rambam, Hilchot Avadim 1:1) explained that a Jew can become an eved Ivri to another Jew2 in one of two ways:

1. If a Jew finds himself in abject poverty with no foreseeable way out, he may sell himself to another Jew (Vayikra 25:39).3
2. If a Jew steals and is unable to make restitution,4 the courts can sell him as an indentured servant as a means of his paying back what he stole.5

The Torah writes twice (Shemot 21:2 and Devarim 15:12) that an eved Ivri6 works for six years and goes free at the start of the seventh.7 To what "seventh" is it referring? In general, whenever the Torah gives a rule about six years and then a seventh year, the question can be asked if it is an independent count or linked to the fixed shemitah cycle. Thus, when the Torah (Devarim 15:1) instructs that after seven years debts are canceled, Rashi, quoting the Sifrei, observes that one might have thought that every loan has an independent seven-year life rather than all being linked to the uniform shemitah count. The Torah therefore revealed (Devarim 15:9) that all loans are uniformly released at the end of the standard shemitah cycle. Similarly, when describing the mitzvah of Hakhel (Devarim 31:10), the Torah says to count seven years. One might have thought to begin a count from that very date, the fortieth year after the Exodus; therefore the Torah explicitly links it to the shemitah cycle (Sotah 41a).

In the Torah, the rules of eved Ivri follow immediately after the laws of debt forgiveness, which occurs at the end of shemitah, and the language used for the eved Ivri sounds similar to that used for the shemitah laws (Devarim 15:12): ". . . and he shall serve you six years and in the seventh year you are to send him free." The Torah also states (Vayikra 25:40) that "until the yovel year shall he work with you." Yovel is a fixed date and one that is linked to the shemitah cycle. It is thus understandable that one might entertain the possibility that an eved Ivri works until shemitah, the "standard" seventh year, and is then freed. Nonetheless, Jewish tradition is monolithic in its understanding that an eved Ivri has a count unrelated to shemitah and goes free after working six full years.8

The Mechilta (to Shemot 21:2) and the Yerushalmi (Kiddushin 1:2) state explicitly that the six years is from the date of sale and is not related to shemitah. The Bavli (Arachin 18b) further says that it is not calendar years, i.e., he does not go free when the seventh calendar year commences in Tishrei, but rather it is full years—he goes free after working six full years, on the same date that he started. Thus we see that Chazal anticipated that one might think otherwise and therefore explicitly clarified the matter. In the Sifrei (Re'eh 111–112 [on Devarim 15:1–2]) it states that shemitah does not release an eved Ivri but does cancel loans, and in Sifra (Behar 3:6 [27; on Vayikra 25:13]) it states that while you might have thought shemitah frees an eved Ivri, that is not so; the Torah emphasizes that yovel frees them, but shemitah does not.

The Rambam writes (Hilchot Avadim 2:2): "If [an eved Ivri] is sold by the beit din, he works six years9 from the date of sale, and at the beginning of his seventh year he becomes a free person." The Rambam wants to make sure there is no misunderstanding and thus continues: ". . . if shemitah is one of those six, he works during shemitah." Rambam may be emphasizing that the eved Ivri does not go free in shemitah in order to counter this potential misunderstanding, or he may be doing so to contrast it with the next halachah that yovel does set an eved Ivri free even if it is within the six years.

Centuries after this law was given at Sinai, it was reiterated when the prophet Yirmiyahu rebuked the Jews for reneging on a commitment to free their Hebrew servants and warned that they would be exiled as a result (Yirmiyahu 34:17–20).10 Yirmiyahu (34:14) reminds them: "At "miketz" of seven years, every man should free his Hebrew brother, who had been sold to you; and when he has served you six years, you shall let him go free from you. . . ." The second half of the verse clearly states the halachah as given in the Chumash; yet the first half might be interpreted as meaning after seven full years. Ibn Ezra (long commentary to Shemot 21:2) is emphatic that both halves of the verse in Yirmiyahu accord with the accepted halachah. Regarding the seemingly problematic first half, he explains that "miketz" is a terminus, and everything has two termini. Thus, Ibn Ezra stresses, "miketz" in that verse means the starting terminus of the seventh year, not the ending terminus,11 according perfectly with the second half and with the pasuk in Shemot that says he is set free in the seventh year, which Ibn Ezra (Devarim 15:18) emphasizes is the start of the seventh year. Unlike Ibn Ezra, the Gemara (Arachin 33a) understood "miketz" seven years to mean the end of the seventh year and interpreted that part of the pasuk to be referring to an eved Ivri who had his ear pierced and was working until yovel, which in this instance happened to coincide with the eighth year of his servitude.

In the Selichot (minhag Lita) for day four, the pizmon "choker hakol" (ca. early thirteenth century; ArtScroll, p. 148) argues that our exile should have ended long ago since G-d ordained that an eved Ivri works for six years, and many "six years" have passed and yet we are not free. Only an eved Ivri who loves his master stays longer, until yovel, but we have declared no such love for our foreign masters. And while a Jew who is enslaved by a non-Jew does not go free after six years, his relatives are enjoined to redeem him, so we appeal to G-d as our "relative" to redeem us.

Despite the agreed-upon understanding that an eved Ivri goes free after working six years and not in shemitah, the notion of freeing an eved Ivri in shemitah has crept into several sources. Targum Pseudo-Yonatan,12 on the pasuk that states the law of eved Ivri, (Shemot 21:2) translates it as understood by Chazal, i.e., if a Jew is sold in order to repay a theft, he works for six years and goes free at the start of the seventh. Yet quite perplexingly, when translating the verse a mere few sentences later about a maidservant (Shemot 21:7), he says that one of the means of her acquiring her freedom is the shemitah year! Similarly, on Shemot 22:2, he says that a person sold by the beit din because of a theft works from the time of his theft until the shemitah year! In an approbation to a book about Targum Pseudo-Yonatan,13 Rabbi Shlomo Zalman Auerbach asserts that there is not even a hint in Shas that an eved goes free during the shemitah year, and objects to what he thought was the author trying to find support for this opinion. In a note in the introduction, the author denies having attempted to find support for that indefensible position, but he does note four other sources that seem to say an eved Ivri and/or an amah Ivriyah goes free in the shemitah year. He mentions the Zohar (vol. 3, 108), Sefer HaKanah (vol. 2), Sefer Yere'im (286),14 and perhaps the most famous example, the twelfth-century Rabbi Joseph ben Isaac Bechor Shor of Orléans (Bechor Shor to Shemot 21:2 and 21:11). A student of Rabbeinu Tam, the Bechor Shor wrote that since there is no plowing or planting or harvesting during shemitah, the master does not need so much help and should send the eved Ivri free. Rabbi Menachem

Kasher (Torah Sheleimah, Shemot 21:2:70) adds to the list Chemdat HaYamim HaTeimani (p. 40b). However, Rabbi Kasher argues that except for the Bechor Shor, who unquestionably wrote contra the halachah, all the other sources could be interpreted as using the word "shemitah" to refer to the Hebrew servant's seventh year. Regarding the Bechor Shor, Rabbi Kasher is left perplexed because while the Bechor Shor was known to try to stick to peshat, Rabbi Kasher says that even the most extreme purveyors of peshat interpretation do not understand this verse as referring to the shemitah year.15

The notion that canceling debts might be linked to freeing slaves finds an echo in ancient "clean slate" decrees in which a powerful ruler would declare that ancestral land sold under duress be returned to its original owner, anyone forced into servitude by debts liberated and debts canceled. There are numerous records of such "economic resets" in the ancient world. Possibly the most famous is the forgiving of debts and the release of prisoners in Egypt in 196 bce as described on the Rosetta Stone. These differ from shemitah/yovel in that they were at the whim of the ruler and thus unpredictable, while in the Torah's system these events were scheduled and therefore predictable.

The institution of eved Ivri exists only in a time period when yovel is observed (Rambam, Hilchot Avadim 1:10) and has thus not been applicable for many centuries. Nonetheless, lessons, both specific and general, about how to relate to a worker can be gleaned from the laws of eved Ivri.

The Shulchan Aruch (CM 333:3) says that a worker may quit midday even if he has already been paid and no longer has the money to refund, in which case it is converted to a loan. The Shulchan Aruch then adds a proof text: "to Me the children of Israel are slaves" (Vayikra 25:55), understood to mean that Jews are slaves only to G-d, and a non-slave is always free to quit. The Rema then adds that for the same reason, a worker, even a teacher or a sofer, may not hire himself out to work in someone's house for more than three years.16 According to some, the three years is derived from the pasuk describing an eved Ivri: ". . . for he has done double the work of a hired hand during the six years. . ." (Devarim 15:18), implying that the six years an eved ivri works is twice that of a regular worker (see Ibn Ezra and Chizkuni based on Yeshayahu 16:14; cf. Rashbam).

An eved Ivri must also be treated with respect and be well cared for. Some of the laws that reflect this are: an eved ivri may not be sold at auction so as not to embarrass him (Hilchot Avadim 1:5); he may not be given degrading work or open-ended or frivolous assignments (1:6–7); he must be provided with food, drink and shelter that is commensurate with the master's lifestyle (1:9); the eved Ivri's wife and children must be provided for (3:1); and if the master has but one pillow he must give it to the eved Ivri (Tosafot, Kiddushin 20a, s.v. kol, citing Yerushalmi). These requirements led Chazal to declare that anyone who buys an eved Ivri is as if he bought a master for himself (Kiddushin 20a).

Notes 1. In this article the term eved ivri will be used rather than "Jewish slave/servant." An eved Ivri is a Jew who is "owned" in a very limited sense by another Jew as a sort of "servant." However, his conditions are more akin to a long-term employee than to a slave and do not compare to those of slaves in nineteenth-century United States or enslaved people in many parts of the world today (even if the term slave is not used regarding them). Vayikra 25:39-40 mandates regarding an eved Ivri: ". . . you shall not work him with slave labor. Like a hired laborer or a resident shall he be with you." His situation is so similar to an employee that Chatam Sofer (5:CM:172) needed to point out the differences when discussing the rules of an employee backing out of a job.

2. An eved Ivri is a Jew working for another Jew. The rules governing a Jew "owned" by a non-Jew (in a society where Jewish law is followed) and those governing an eved Kena'ani, a non-Jewish slave owned by a Jew, are different and not discussed in this article.

3. The Rambam (Hilchot Avadim 1:1) permits a Jew to sell himself only if he is in abject poverty to the degree that he cannot even afford food. Only such truly dismal circumstances warrant a Jew selling himself to another. If a person sells himself despite not being allowed to do so, Tosefta (Arachin 5:8) says the sale takes effect, while Minchat Chinuch (mitzvah 42:17) opines that the sale is void.

4. Note that a thief is only sold if he lacks the means to pay the value of the stolen item. If he can pay the principal but not the additional penalty (either double or four or five times the principal), he is not sold (Kiddushin 18a—regarding double, Rambam, Hilchot Geneivah 3:2—regarding four or five; Torah Temimah, Shemot 22:2:16 suggests a source for the Rambam).

5. The many halachic differences between these two are enumerated by the Rambam (Hilchot Avadim 3:12). For example, the beit din always sells for six years, while a person who sells himself can do so for more, or, according to the Ritva (Kiddushin 14b), also for less; one sold by the beit din is given a "grant" (ma'anak) upon being freed, while one who sells himself is not; the owner can give him a non-Jewish maidservant as a "wife" if he is sold by the beit din but not if he sells himself; and one sold by the beit din can extend his servitude until yovel by the ear piercing ceremony, while one who sold himself has no such option.

6. Or an amah Ivriyah. A woman is not sold due to theft, but a minor girl can be sold by her destitute father, for a maximum of six years.

7. The Netziv (Shemot 21:2) points out that from the word "chinam" we learn that unlike in other relationships, such as marriage or an eved Kena'ani, an eved Ivri goes free automatically without a need for a get (separation document). The notion of a slave working a fixed number of years was not unheard of in the ancient world. The eighteenth-century-bce Code of Hammurabi (see J.B. Pritchard, Ancient Near Eastern Texts [New Jersey, 1955], pp.163–177; law 117) specified that if a man in debt sold his wife, son or daughter, they worked for three years and were freed in the fourth year.

8. In a link between shemitah and eved Ivri, the Gemara (Kiddushin 20a) quotes Rabbi Yose ben Chanina as teaching that the true cause of a Jew ending up as an eved Ivri is from transgressing the prohibition of engaging in commerce with shemitah

9. The Midrash (Shemot Rabbah 30:15) has G-d saying that in parallel to His creating the world in six days and resting on the seventh, so too an eved Ivri works for six years and rests on the seventh.

10. Korban Ha'edah (Yerushalmi, Rosh Hashanah 3:5) says that the Jews were redeemed from Egypt in the merit of not enslaving a fellow Jew.

11. Metzudat David (Yirmiyahu 34:14) says similarly. Ibn Ezra notes the ambiguity of "miketz" and which terminus it refers to in Bamidbar 13:25 and Devarim 9:11. He states his position that it means the beginning in Devarim 14:28 and 15:1 (against Chazal in Arachin 28b); and Devarim 31:10 (against Chazal in Sotah 41a and Rosh Hashanah 12b). Rashi (Bereishit 41:1) disagrees with Ibn Ezra and says that "(mi)ketz" always means "end." Mizrachi and Gur Aryeh explain that Rashi believes that "katzeh" can refer to beginning or end, but (mi)ketz always refers to the end.

12. Targum Pseudo-Yonatan on Chumash was not written by Yonatan ben Uziel (see Megillah 3a, stating that he wrote only on Navi). There are other places where his perush is different from Chazal's interpretation; for example, on Bamidbar 19:17, his limiting that halachah to an earthenware vessel contradicts a mishnah (Parah 5:5).

13. Kalman Azriel Pinski, Nosei Klei Yehonatan, 3rd ed., 5765.

14. The Sefer Yere'im seems to be self-contradictory, as in 271 he says explicitly that an eved Ivri does not go free in shemitah.

15. Nahum Sarna takes a clearly non-traditional approach in "Zedekiah's Emancipation of Slaves and the Sabbatical Year," in Orient and Occident: Essays presented to Cyrus H. Gordon on the Occasion of his Sixty-fifth Birthday, edited by Harry A. Hoffner, Jr. (1973).

16. See Chavot Ya'ir 140, Shevut Yaakov 1:6 and C

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from hamelaket@gmail.com
from: **Rabbi Yirmiyohu Kaganoff** <ymkaganoff@gmail.com>
to: kaganoff-a@googlegroups.com

Jewish Judges and Police

By Rabbi Yirmiyohu Kaganoff

Question #1: Beis din

What is the role of beis din in Jewish life?

Question #2: Police protection

In a community that is run completely according to halacha, who is in charge of appointing and overseeing the police force?

Introduction:

Parshas Mishpatim is the primary parsha regarding halachic civil law, and Parshas Shoftim begins with a mitzvah to appoint shoftim, judges, or as we usually call them dayanim (singular dayan), and shoterim (singular shoteir), enforcement officers, bailiffs or police. The Torah states that you must appoint judges and police in all your "gates," meaning in all your cities.

Rashi quotes the passage of Gemara (Sanhedrin 16b) that there is a requirement min haTorah to appoint judges in every city and for every tribe. We need to clarify a point: If a beis din is appointed for every city, what is added by appointing a beis din for every sheivet?

The rishonim already address this issue. According to Tosafos (Sanhedrin 16b s.v. Shoftim), the Gemara is teaching that if the border separating two shevatim divides a city between them, the two sections should each have its own beis din. The Ramban (beginning of parshas Shoftim) mentions this approach, and then suggests a different way to understand the Gemara: Each sheivet has a beis din with jurisdiction over the entire sheivet, greater responsibility and authority than has a city's beis din, whose authority is limited to the city's borders. Thus, although a city's beis din can force anyone who lives in its city to follow their directives or to appear before them for litigation, they cannot obligate someone who lives outside their city to appear before them or to follow their orders. A sheivet's beis din has the ability to force any member of that sheivet to appear before them for litigation. It also has the ability to create a gezeirah that is binding on the entire sheivet.

23 Judges!

The Rambam (Hilchos Sanhedrin 1:1, 3) rules that each city and region in Eretz Yisroel has its own beis din of 23 judges, and that smaller towns and villages have a beis din of three dayanim (Hilchos Sanhedrin 1:4). The Lechem Mishneh (1:1) explains that the Rambam uses the word "region" to mean the same thing that we have been calling sheivet, and also explains why the Rambam changes the term.

The Rambam elaborates on all the different batei din that must be created. There was a chamber in the Beis Hamikdash called the lishkas hagazis, which was the meeting place of the main beis din of Klal Yisroel, the Sanhedrin, also called the Beis Din Hagadol, which consisted of 71 judges. There was a second, smaller beis din of 23 dayanim that was located near the entrance to the Beis Hamikdash, and a third beis din, also of 23 dayanim, that was located near the entrance to the Har Habayis.

The authority of the Sanhedrin

The Sanhedrin has much authority and many roles to play. It is the final court of halachic appeals, and the final decider of halacha. Its interpretation of Torah sheba'al peh is authoritative. Any halachic issue that is uncertain or disputed by a lower beis din could eventually be referred to the Beis Din HaGadol for a binding decision.

When the Sanhedrin exists, the Jewish calendar is determined by a small beis din appointed especially for this purpose by the nasi, the head of the Sanhedrin.

All the other batei din mentioned above -- the smaller ones on the Har Habayis and at the entrance to the Beis Hamikdash, and the batei din of the shevatim and the cities – are appointed by the Sanhedrin.

The Sanhedrin also fulfills several political and administrative roles. It appoints the king of the Jewish people. Many other halachos require the participation or agreement of the Sanhedrin, including a decision whether to wage war and to expand the halachic boundaries of the Beis Hamikdash or of Yerushalayim (Mishnah Shevuos 14a; Rambam, Hilchos Sanhedrin 5:1). Thus, the Sanhedrin is not only the supreme halachic authority, but it is also quite literally the "power behind the throne," "the power behind the courts," and, at the same time, the court of final appeal. It has the final say in all matters, both temporal and spiritual.

Who can be a judge?

There are many technical requirements that all members must meet, among them that they must all be superior talmidei chachomim and yirei shamayim (G-d fearing individuals), wise, perceptive, analytic, humble, truth-loving, personable, of good reputation and possess a basic knowledge of many secular areas, such as medicine and astronomy (Rambam, Hilchos Sanhedrin 2:1, 7). The Rambam (Hilchos Sanhedrin 2:8) describes how the Sanhedrin would send representatives to locate qualified dayanim and appoint them to their local beis din. As places on the higher batei din opened, they would promote local dayanim up the chain to the next tier, and so on. The Rambam also emphasizes the importance of appointing appropriately qualified people to be dayanim, and the catastrophe that results from appointing those who are unqualified or inappropriate (Hilchos Sanhedrin 3:8).

Semicha

All members of the Sanhedrin and, indeed, of all the lower courts must also receive the special semicha that Moshe bestowed upon Yehoshua authorizing him to rule on all areas of Jewish law. This special semicha, which existed from the time of Moshe Rabbeinu until sometime during the era of the Gemara, authorized the recipient to rule on capital and corporal cases (chayavei misas beis din and malkus) and to judge cases involving kenasos, penalties that the Torah invoked. Only a beis din consisting exclusively of dayanim ordained with this semicha may judge these areas of halacha (Rambam, Hilchos Sanhedrin 4:1).

In today's world, there are several levels of semicha, all of them of a lower level than that granted by Moshe Rabbeinu. The most basic semicha, yoreh yoreh, authorizes the recipient to rule on matters of kashrus and similar areas. A more advanced level of semicha called yodin yodin authorizes its recipient to rule as a dayan on financial matters. A higher level, no longer obtainable today, is called yatir bechoros and authorizes its recipient to rule on whether a first-born animal is blemished and no longer acceptable as a korban, which permits the animal to be shechted for its meat (see Sanhedrin 5a).

The role of a local beis din

The local beis din's responsibility in a community is also quite multi-faceted. They are not only the judicial branch of the government, charged with ruling on local dinei Torah and interpreting the halachos for local practice, but they are also the executive, or administrative, branch of government, responsible to supervise that the community and its individuals observe halacha fully and correctly. In this capacity, they are responsible to make sure that the weights and measures in the marketplace are honest (Rambam, Hilchos Sanhedrin 1:1) and that the prices charged by stores do not exceed what halacha permits. The local beis din is responsible to make sure that no one overcharges for staple products (ibid.; Shulchan Aruch, Choshen Mishpat 231:20).

Overseeing that the community observes halacha correctly is also a responsibility of the beis din. For example, the Rambam and Shulchan Aruch rule that beis din supervises that yomim tovim do not become the cause for inappropriate social activities. This includes assigning police to patrol parks and other relaxing areas to maintain proper standards of public conduct (Rambam, Hilchos Yom Tov 6:21, Shulchan Aruch Orach Chayim 529:4). Beis din is responsible to make sure that duchening was performed only by kosher kohanim (Kesubos 25a). It is their job to make sure that no one works on chol hamoed in violation of the halacha (Rambam, Hilchos Yom Tov 7:4), that people keep their pledges to tzedakah (Rosh Hashanah 6a), that graves and other tamei meis areas are properly marked, and that people do not plant or maintain kelayim (Rambam, Hilchos Yom Tov 7:11).

The beis din assumes responsibility to protect individuals who cannot oversee their businesses or properties, such as, someone who fled to avoid danger, was kidnapped or captured. Beis din will appoint someone to manage the individual's properties and businesses (Shulchan Aruch Choshen Mishpat 285:2). They are also responsible to see that the properties of orphaned minors are properly managed (for example, see Shulchan Aruch Even Ha'ezer, 112:11).

Included in this responsibility is that, if a father cannot or does not give his son a bris milah, the beis din makes sure that the mitzvah is performed (Kiddushin 29a; Shulchan Aruch Yoreh Deah 261:1).

Smaller batei din

In addition to the officially appointed batei din, in earlier generations there were local batei din, appointed by a community to oversee its own matters. For example, the kohanim had their own batei din, who were authorized to make rules and new takanos that applied only to the kohanim (see Pesachim 90b; Kesubos 12a).

Chutz la'aretz

The Ramban (beginning of Parshas Shoftim) notes that the posuk implies that there is no requirement min haTorah to establish a beis din outside of Eretz Yisroel. This is because the Torah requires appointing judges and bailiffs in your gates, which means the gates of Jewish cities in Eretz Yisroel. However, the Ramban notes that the Gemara (Makkos 7a) rules that once Klal Yisroel arrives in and settles Eretz Yisroel, there is an obligation min haTorah to have a beis din in chutz la'aretz also, although not in every city, but only in "districts."

Min haTorah or not?

The Ramban concludes that establishing batei din outside Eretz Yisroel is required min haTorah only when there are dayanim who have achieved the highest level of

semicha, that which is a continuation of what Moshe Rabbeinu conferred on Yehoshua. As I mentioned above, this semicha was discontinued during the era of the Gemara. There have been several attempts to reestablish this semicha, the most famous of which was when the Mahari Beirav was the rav of Tzfas, and Rav Yosef Karo was a member of his beis din. However, none of these attempts succeeded. The Ramban concludes that, although we no longer have a Torah obligation to establish batei din in chutz la'aretz, there is a rabbinic requirement to do so.

How do we litigate?

Over the years, I have been asked many questions about the way batei din operate. Most of these questions stem from a misunderstanding of legal procedures in general, or from a lack of knowledge about how a beis din functions.

Here is a typical example, lifted from my records. The din Torah was the result of a business partnership that had soured. I received the following e-mail communication: "I have asked Mr. F. to tell me what he is claiming. He has not responded, but has clammed up about his claim. He knows what I am claiming and he said that I have to sign an arbitration agreement in beis din and only then will he present what he is claiming from me. I am asking if this is just -- he knows what I am claiming but what he is claiming will be a surprise."

I answered: "Mr. F. is under no obligation to reveal to you what he feels you owe him, without an agreement that the two of you will go to binding arbitration in beis din. Telling him the basis of your claims does not require him to reveal any information. If you feel that you can disprove his claims, you should tell that to the beis din, and you have a right to postpone the proceedings to allow you the time to present your proofs.

In the interim, you can agree to go to beis din, or you can suggest that the two of you discuss the matter in the presence of a disinterested party in the hope of negotiating some type of settlement. However, he is under no obligation to agree to this. If you receive a summons to beis din, you are required to respond."

By the way, when choosing to go to a beis din, the almost-universal tendency is to find a beis din where I will "win" my case. However, the mitzvah specifies that you should go to the beis din that is most expert (Sanhedrin 32a). The Gemara implies that this is a mitzvah min haTorah, derived from the words in Parshas Shoftim, tzedek tzedek tirdof, which the Gemara explains to mean haleich achar beis din yafeh, "find the most expert beis din" to litigate your case, so that it is resolved correctly.

Turf wars

What do you do if the other party insists that you go to their choice of beis din?

I mentioned earlier that the Ramban explains that the dayanim of a sheivet have greater jurisdiction than do those of a city, who cannot force someone from outside their city to come before them for litigation. A sheivet's beis din has the ability to force anyone in their sheivet to come to them for litigation. The same authority applies to a city's beis din relative to a city's inhabitants. Therefore, if our beis din system were able to work the way the Torah designed it, the official dayanim of a city would be able to require litigants to appear before them.

Because the countries in which we live will not compel halachic observance, we cannot legally coerce someone to appear before an official city beis din. But an observant Jew knows that he must appear before beis din when summoned.

The person being sued (the defendant) is usually assumed to have the right to choose which beis din will hear the case, as long as it is in his city of residence. However, this is not ironclad. If the defendant chooses a beis din that will be more expensive for the claimant, or he is trying simply to inconvenience the claimant, there is no right to choose this option over a more-convenient, less-expensive choice. If the defendant visits or does business in the city where the claimant lives, and the claimant rarely travels to the defendant's city, the beis din in the claimant's city can demand to judge the case (Shu"t Maharshdam #103; Shu"t Igros Moshe, Choshen Mishpat 1:5; Shu"t Yabia Omer 7:Choshen Mishpat:4). Under these circumstances, a proper beis din will ignore the defendant's request for choice of venue, and should he not respond to his summons, rule him a lo tzayis dina, someone who does not obey the laws of the Torah, which has many ramifications (Aruch Hashulchan, Choshen Mishpat 26:2, 5; Shu"t Imrei Yosher #38).

Conclusion

A Torah Jew must realize that Hashem's Torah is all-encompassing, and that every aspect of his life is governed by Torah law. A Jew hopes to manage his business relationships without ever resorting to litigation. If there is an unfortunate "misunderstanding," the two parties should discuss the matter and, if the matter remains unresolved, they should try discussing it with the guidance of a third party, possibly a rav. However, should all these approaches not succeed, the avenue of halachic litigation exists. .

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fw from hamelaket@gmail.com

from: **Rabbi Yochanan Zweig** <genesis@torah.org>

to: rabbizweig@torah.org

subject: Rabbi Zweig

This week's Insights is dedicated in loving memory of R' Nosson Meir ben R' Yosef Yehoshua, Rabbi Nussie Zemel.

Money Can't Buy Self-Esteem

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

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

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

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

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

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

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

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

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

And Dignity Above All

When a man will steal an ox or a sheep or a goat, and slaughter it or sell it,

he shall pay five cattle in place of the ox and four sheep in place of the sheep (21:37).

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

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

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

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

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

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

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

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

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from: Ohr Somayach <ohr@ohr.edu>
to: weekly@ohr.edu
subject: Torah Weekly
Ohr Somayach :: Torah Weekly :: Parsha Insights
For the week ending 10 February 2024 / 1 Adar Alef 578

Rabbi Yaakov Asher Sinclair - www.seasonsofthemoon.com

Parshat Mishpatim

Stand and Be Counted

"Do not be a follower of the majority for evil" (23:2)

Apparently, at the end of the Second World War, a group of non-Jewish British intellectuals decided to convert and become Jewish. Basically, their rationale was, if you're not part of the solution, you will become part of the problem. They saw how Germany, arguably the most civilized country in Europe, had descended into unparalleled barbarity in just a few short years, and so they converted and became part of the Jewish People.

In last week's Torah portion, Rashi comments on the opening verse, "And Yitro heard…" - "What did he hear that made him come? The splitting of the sea and the War of Amalek." Why, of all the great miracles that the Jewish People experienced, should these two specific events have inspired Yitro to convert?

Amalek is the nation whose implacable hatred of the Jews is without reason. It is instinctive and visceral. Antisemitism is as normal to Amalek as breathing or eating. But not everyone comes from the seed of Amalek. There will always be those in the middle.

Yitro saw that if a person doesn't act on inspiration, not only does that inspiration wane and falter but it rots and becomes the opposite: revulsion. He understood that if he did not act on the inspiration of the unbelievable miracle of the splitting of the sea, he too would eventually become like Amalek, a Jew-hater.

Anyone with an eye or and ear for current events will be struck by the supreme irony of the accusation by South Africa that Israel is committing acts of genocide. The concept of Genocide was coined by a Jewish lawyer, Raphael Lemkin, to describe the Nazi atrocities. Alone among the 17 judges who deliberated on interim measures in the case concerning the Application of the Genocide Convention in the Gaza Strip (South Africa v. Israel), Julia Sebutinde, of Uganda, voted against all proposed provisional measures. In her dissenting view, she argued the absence of a credible indication of genocidal intent by Israel. Genocide is the intention to obliterate a nation, not the ghastly concomitant casualties of an urban war, where civilians are used as human shields by cynical state terrorists.

And what about the other 17 judges?

"Do not be a follower of the majority for evil."

The Jewish People may not have many friends, but it warms the heart when someone stands up like Yitro and wants to be counted with us.

*Source: Chochmat HaMatzpun

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from: Office of the Chief Rabbi <info@chiefrabbi.org>
date: Feb 7, 2024, 8:58 AM
subject: You may be far more religious than you think. D'var Torah for Parshat Mishpatim.

Chief Rabbi Ephraim Mirvis
chiefrabbi.org
Office of the Chief Rabbi

Parshat Mishpatim: You may be far more religious thank you think.
7 February 2024

"I am not religious, but I try to be a very good person".

It is quite amazing how many people have given that sentiment to me about themselves.

But I have a message for them.

They might think that they are not religious and indeed they are not totally religious, but they are far more religious than they think.

And why do I say that?

Well, it all goes back to a single letter at the beginning of the portion of Mishpatim.

'V'ele hamishpatim asher tasim lifneihem' – and these are the ordinances

that you must place before the people.
That's what Moses was commanded to do by Hashem.
It is so unusual for a sentence to start with 'and'. Here an entire portion is starting with 'and'.
And why is that the case?
Rashi brings the words of our sages who explain last week's portion which is behind us of Yitro, was all about our encounter with God at Mount Sinai.
There we were given the Ten Commandments – and this week's portion of Mishpatim ahead of us is all about our responsibility to our fellow human beings.
How to be upright, how to be honest, how to be a person of integrity – a decent human being.
The 'Vav' – that 'and' – in the middle brings them all together to show, 'mah-ellu missinai af ellu missinai'.
Just as in Yitro, our relationship with God was given to us at Mount Sinai, so too, the expectations the Almighty has of us, with regard to our responsibility to others, that too was given at Mount Sinai.
Sometimes people say, 'oh there are two categories of Jewish Law', Bein adam la-makom and Bein adam la-chavero, between ourselves and God and between ourselves and others.
It's not really the case.
There is just one single code, because our responsibility towards others, the compassion we should have and our decency within society – that is an integral part of our relationship with Hashem.
So, if you are one of those people who says that you are not religious, but you try to be a very good person, there are two things I would like to say to you.
First of all, you are far more religious than you think you are.
And secondly, why not try the rest?
Be fully religious and I promise, you will discover that it will be absolutely life changing.
You will have a pathway towards happy, fulfilling, and meaningful living.
Shabbat shalom.
Rabbi Mirvis is the Chief Rabbi of the United Kingdom. He was formerly Chief Rabbi of Ireland.

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www.matzav.com or www.torah.org/learning/drasha
Parsha Parables By Rabbi Mordechai Kamenetz

Drasha Parshas Mishpatim - Facing the Enemy
Rabbi Mordechai Kamenetzky

Receiving the Ten Commandments may have been the pinnacle of the Jewish experience, but by no means did Judaism end there. In this week's portion the Torah details a myriad of pecuniary laws, which include torts and damage law, as well as the laws of physical injury and impairment compensation. A nation that has just emerged from a brutal enslavement surely needs a strict code to discipline their freedom. But what bothers me is the order of the laws that are given this week. The first commandments, in a set of more than 50 intricate laws detailing almost every aspect of life's complexities, concern the laws of servitude. Parshas Mishpatim begins with the words, "when you will acquire a Jewish servant, he shall serve six years and on the seventh he shall go free." (Exodus 16-1)
It is astounding. The Jews just spent the last 210 years as slaves. Why would they even entertain thoughts of taking servants? Shouldn't the first laws dictate compassion for other humans, thus enforcing total equality of an entire, newly liberated nation? Of all the laws dictated to a newly liberated people, shouldn't the concepts of masters and servants be loath to them? Why are those laws given first?
Shalom had never left the small hamlet in Yemen and finally was sent a ticket to Israel by his cousin Moshe. The airplane ride, his first experience with any technology, was absolutely frightening. Not only was it the first time he had seen an airplane, it was the first time he had even seen steps! Upon his arrival at Ben-Gurion airport, the mad rush of taxis truly terrified Shalom, but his cousin Moshe, who lived on a small settlement not far from the Lod train station, eased his fears by sending a driver to pick Shalom up from the airport.
The driver dropped off the dazed immigrant near the train station and gave him directions to the farm. "Walk beside the train tracks for about a mile. You can't miss it," he exclaimed. Shalom, who had never seen train tracks in his life and had never even seen a train, chose to walk right between the two iron tracks. After about five minutes he saw a giant machine bearing down directly upon him.
"Toot toot!" the train whistled. The conductor waved frantically at Shalom as he tried to stop the mammoth machine. Shalom froze as he stood aghast at this marvelous site. "Toot toot!" went the whistle once more. The train could not stop! At the last moment, Shalom quickly jumped out of the way and the train hurtled by, missing him by a hair. Shalom was thrown by the rush of air that accompanied the speeding train. As he picked himself up, all he could see was a enormous black beast fleeing down the track, mocking him with a shrill, "toot toot."
Bruised and shaken he hobbled the rest of the way along the tracks until he arrived at his cousin's farm.
Moshe saw his cousin, Shalom and could not have imagined what happened to him. But Moshe figured, there was time to talk over a glass of hot tea. He put up a shiny black kettle to boil on the stove, but no sooner had the kettle began to whistle when poor Shalom jumped from his chair and began to shout. He grabbed a broom that stood in the corner of the kitchen and swung wildly at the whistling teapot smashing it with all his might.
"Believe me," he yelled, "I know! You have to destroy these monsters while they are still young!"
The Torah understood the Jewish nation's feelings toward its own experience. Slavery is loathsome and reprehensible. The impact of that experience could have shaped an unhealthy attitude toward servitude even in a humane and benevolent environment. Therefore the Torah immediately directed its very humanitarian laws of servitude — clearly and openly. Six years of service and no more. A servant can never be humiliated or degraded. In fact, the rules of Jewish servitude are so humane that the Talmud surmises that "whoever owns a servant has actually acquired a master. If there is only one pillow in the home — the master must to give it to his servant!"
So instead of shirking from the difficult task of detailing the laws of servitude or pushing them to a back-burner, the Torah discusses those laws first — without any apologies.
Because in an imperfect world there are imperfect situations. People steal. They owe money. They must work for others to pay off debt or money they have swindled. But when the problems and injustices of life are dealt with in a Torah way, the imperfect world can get a little closer to perfection.
Good Shabbos!

Rabbi M. Kamenetzky is the Dean of the Yeshiva of South Shore.

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.