

Weekly Internet Parsha Sheet

שבת פרשת משפטים - שקלים

Jerusalem Post :: Friday, February 17, 2012
A PARKING SPACE :: Rabi Berel Wein

As all of us Jerusalemites are well aware of how precious a commodity a parking space is in our holy and busy city. This is undoubtedly the case in all of the great metropolises in the world. The difficulty of finding a parking space near one's home, makes returning from a late night affair a matter of serious angst. Whether one will have the ability to park one's car reasonably close to one's home is of great concern.

The street adjoining our home had allowed parking on both sides of the for many decades. This made the drive through that street somewhat hazardous and many a side view mirror was broken in navigating one's way down that street. But people in our neighborhood were nevertheless comfortable with that arrangement for it provided quite a few parking spaces - spaces that were sorely needed and in great demand.

And then, lo and behold, overnight, without warning or any consultation with the neighborhood's inhabitants, the authorities abolished parking on one side of the street. This made driving down that street much easier but forced many neighbors to engage in a nearly fruitless search for alternative spaces where they could park their cars overnight.

Since I no longer own a car I was and am able to survey the scene dispassionately and objectively. And since I am a rabbi I am always looking for the Jewish connection in all events in life no matter how mundane they may appear on the surface. And this set me thinking about parking spaces and the "Jewish problem."

Over the unbelievably long exile and dispersion of the Jewish people amongst the nations of the world the Jewish people have always searched for a place to park themselves. They parked in Babylonia and North Africa, Spain and Portugal, Provence and France, Italy and Holland, Poland and Lithuania, Germany, Austria, Central Europe and Russia and lately in North and South America and Western Europe.

Even though these parking spaces seemed to be initially legal and attractive parking, they turned out to be, in reality, historically temporary and eventually hostile and illegal. Again, just like the other side of the street parking spaces on my adjoining street, overnight most of these countries and climes declared that parking there was no longer allowed. So the Jews kept on moving on, always looking for a convenient, safe and acceptable place to park.

When the Jews arrived in Poland in the thirteenth and fourteenth centuries they felt so certain of their parking space that they said that the Hebrew name of Poland - Polin - represented the Hebrew words "po" - here - and lin - to rest overnight - "Here we will rest in comfort until the end of the Exile." But pretty much overnight, in the past century, the No Parking sign was erected over much of Europe and brutally enforced. So has it been throughout the story of the Jewish people amongst the nations. All of our safe and legal and convenient parking spaces were eventually ruled illegal or parking there became an untenable experience.

There are not many parking spaces left in the world for Diaspora Jews to squeeze into. We have been all over the globe and there are no new undiscovered continents and countries that can afford us new parking spaces. However in our time, our original parking space established by Joshua and David has somehow, against all odds, become available for us once again.

There are amongst us many that find this original parking space somewhat inconvenient. It is hemmed in on all sides by very large vehicles that prevent easy access to our parking space. And there are many, even some amongst us, who dispute the fact that this parking space in fact belongs to us.

All city dwellers are aware that oftentimes disputes over parking spaces result in violence and even murder. People are irrational when it comes to parking spaces and morals, common sense and societal accommodation play no role whatsoever in disputes over parking spaces. Thus, there are

many Jews who hesitate to leave the parking space where they are located - inconvenient, uncomfortable and even dangerous as it may be - to return and park in their rightful, legal and ancient parking space.

Usually it takes a traumatic experience to convince these Jews that they can no longer park themselves in their previously accustomed spot. I pray that this should no longer occur or be necessary but all of Jewish history tells me otherwise. Jewish history and tradition are the signposts that signify where our legal, permanent and eventually secure parking space is truly located.

Meanwhile I am delighted daily that I no longer own a car, even while living in my permanent parking place.

Shabat shalom.

Weekly Parsha :: MISHPATIM :: Rabi Berel Wein

A viable legal system is of necessity composed of two parts. One is the law itself, the rules that govern society and are enforced by the proper designated legal authorities. The other part of the legal system is the moral, transcendental value system that governs human and societal behavior generally. If the legalities and rules are the body - the corpus of the legal system, then the value system and moral imperatives that accompany those rules are the soul and spirit of that legal system.

In a general sense, we can say that the Written Law represents the body of the legal system while the accompanying Oral Law represents the soul and spirit of Jewish jurisprudence and Jewish societal life and its mores and behavior. The Written Law is interpreted and tempered by the Oral Law that accompanies it, and both of these systems are Divine in origin.

And, it is perfectly understandable how, for instance, "an eye for an eye" in Jewish law means the monetary value of the injury must be paid to the victim of that injury but not that the perpetrator's eye should also be put out as punishment for his behavior.

In the Talmud we have many examples of the overriding moral influence of the Oral Law when applied to the seemingly strict literal words of the Written Law. The rabbis of the Talmud taught us that there is even a third layer to Jewish law that governs those that wish to be considered righteous in the eyes of man and God and that is the concept of going beyond what the law - even the Oral Law - requires of us.

So, when studying this week's parsha of laws, rules and commandments we must always bear in mind the whole picture of Jewish jurisprudence in its many layers and not be blinded by adopting a purely literal stance on the subject matter being discussed by the Torah in the parsha.

Throughout the ages, the process of halachic decision-making has been subject to this ability to see the forest and not just the trees, to deal with the actual people involved and not only with the books and precedents available concerning the issue at hand. Every issue is thus debated, argued over, buttressed and sometimes refuted by opposing or supporting sources. Independence of thought and creativity of solutions are the hallmarks of the history of rabbinic responsa on all halachic issues.

There are issues that are seemingly decided on the preponderance of soul and spirit over the pure letter of the law. There is the famous responsa of the great Rabbi Chaim Rabinowitz of Volozhin who allowed a woman, whose husband had disappeared, to remarry though the proof of her husband's death was not literally conclusive. He stated there that he made "an arrangement with my God" that permitted her to remarry.

This is but one example of many similar instances strewn throughout rabbinic responsa of the necessary components of spirit and soul that combine with literal precedents that always exist in order to arrive at correct interpretations of the holy and Divine books of law that govern Jewish life.

Shabat shalom.

So Close And Yet So Far Away

“...and you will bow down from a distance.” (24:1)

We perceive G-d is in two ways. We believe that He is pre-existent, the Cause, the Creator and the Sustainer of all reality. He is far beyond and above. Ultimately distant. He precedes all beginning and transcends all ending. No creature can fathom Him, for what can the painting know of the Painter? He created thought so no thought can think of Him. He is utterly separate and distant beyond all concept of space and time.

And yet He is very, very near. He fills the world. There is no place or time where He is not. For if He were not there, that place could not be, that second would never take place. He fills all worlds and encompasses all worlds.

G-d is both transcendent and immanent.

It is the unique privilege of the Jewish People to proclaim these two seemingly opposite aspects of our perception of G-d. Many religions have a concept of G-d being supremely elevated above all. But they falter in their recognition of His imminence. They fail to understand that He is here right now. He sees all, knows the secrets of every living thing and is interested in their every move.

When the Jewish People rise during their prayers and proclaim like the angels the Kedusha, this is how they praise the Creator:

“Holy, Holy, Holy, G-d, Master of Legions. The whole world is filled with His Glory.”

“Blessed is the glory of G-d from His place.”

The first statement depicts our relationship with G-d as immanent — the universe is “filled with His Glory.” No place or time can be devoid of Him. The second statement expresses G-d’s transcendence, His utter separation and elevation from this world — “from His place.”

This is also the deeper meaning when the prophet Isaiah says “‘Peace to afar and to close at hand’ says G-d.” To the righteous who are faithful to these two beliefs, G-d radiates a constant stream of heavenly influence.

These two aspects also express themselves in the awe of Heaven on the one hand and the love of G-d on the other. A person is only awed by that which is above and beyond him. That which is near at hand doesn’t strike fear into his heart. It’s too close. On the other hand, love only flourishes in closeness. It’s difficult to love when there is no contact.

“...and you will bow down from a distance.”

The hidden meaning of this verse in this week’s parsha is that bowing — fear and awe are the natural partners of distance — G-d’s transcendence.

Another understanding of this verse is that bowing implies the drawing down of Heavenly energy into all the worlds. It is for this reason that we bow in the prayer Aleinu when we say “And we bend our knees and bow.” Our physical actions give substance to a spiritual reality, the drawing down of holiness. Thus Moshe is telling Aharon, Nadav, Avihu and seventy of the elders of Yisrael that they will bring down the lofty spiritual influences into all the worlds by their bowing.

•Sources: Kedushas Levi, Arizal

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**Peninim on the Torah by Rabbi A. Leib Scheinbaum
Parshas Mishpatim**

But if the bondsman shall say, "I love my master...I shall not go free..." and his master shall bore through his ear with the awl. (21:5,6)

There is no sin in the Torah for which a similar punishment is meted out. Chazal say that the ear is bored because it was the ear that heard Hashem say on Har Sinai, "To Me shall the Jewish People be servants," and this individual went and acquired for himself a (human) master anyway. The question is glaring: If the issue is becoming a slave, why is he bored now - after six years of servitude? It should have been done immediately when he

sold himself as a slave. Why is he punished now, after all of this time, when the fellow seeks to extend his servitude?

Horav Yoel Kleinerman, zl, distinguishes between the concept of hechrech, necessity/compulsion, and ahavah, liking/desire, or simply between "needs" and "wants." We make choices in our lives. Some things fall under the category of compulsion. An example is the person who steals because he is starving; his family has nothing, and he is the sole supporter. Since no jobs are available, he has resorted to doing something which, under normal circumstances, he would never have done. This does not exempt him from punishment, but, he clearly did not steal just for "fun." He was forced into a life of crime. Another example is the one who sells himself as a bondsman, so that he can support his family. Once again, he has not done this out of a desire to lay back and not take a regular job. He has done this because he was forced into it. He is acting out of "need" - not out of "want."

Now, six years later, he is freed from servitude. He should be going home to his family. Only, he does not want to leave. He loves his job, his master, and his newly-acquired wife and children. He likes the security of a boss who takes care of him, who looks out for his needs. He "wants" to stay. This is not something which he "needs." He is not compelled to stay. This is something he "wants." He has no shame, no guilt; he simply loves working for his master. He is now reminded that a Jew has only one Master: Hashem. A Jew who accepts another master in addition to Hashem detracts from his relationship with the Almighty. Thus, his ear is bored, because it was the ear that heard Hashem declare that Jews are to be servants to only one Master: Hashem.

Six years earlier, he had been under trying circumstances, he was heavily in debt and he had a family to support, with no income. He was forced into making a drastic decision about which he was not happy, but he had to take some action. At this point in his life, however, he is free to go. If he chooses to stay, his ear must be bored.

Our lives are filled with excuses to justify our lack of acceptance of the yoke of Torah and mitzvos with greater devotion, more feeling, deeper sincerity. It is always too difficult or too problematic; I am not cut out for it. While these rationales might be valid for some, for most they are shams, excuses - and weak excuses at best. The same individual who finds it so difficult, so demanding to serve Hashem properly, suddenly has the time, patience, dedication and sincerity for the mundane areas of his life's endeavor. The "head" which he did not have as a yeshiva student confronting the "difficult" logic in the Gemorah, is suddenly working at full capacity in his chosen field of medicine, law, business. The bondsman who sold himself into slavery because he had no other recourse, suddenly enjoys life as a bondsman. He loves his new master, his wife and children. What had been an excuse six years ago has become an accepted way of life today. It is all about choices and the excuses we employ to enable us to make those choices.

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

The Talmud Bava Kamma 79b distinguishes between a ganav, thief - who steals surreptitiously - and a gazlan, robber, who fears no man and steals publicly. The ganav pays keifal, a fine of double the value of the principal, and arbaah v'chamisha, four and five times the principal depending on whether is a sheep or an ox, in the event that he sells or slaughters the animal. The students asked Rabban Yochanan ben Zakai why the Torah is more stringent concerning the ganav than it is toward the gazlan. Rabban Yochanan replied that he (the gazlan) has equalized the respect he gives to his Master to that which he gives to His servant. The analogy is: The robber fears no one, neither G-d nor man. He steals publicly, demonstrating his disdain for all. The ganav, in contrast, is careful to make sure that people do not see his act of thievery. Apparently, he does not care that Hashem sees what he is doing. He is only concerned with what people think of him. Regrettably, this is the moral posture that seems to prevail in the minds and actions of many members of contemporary society.

In his commentary to the Torah, Parashas Ki Seitzei, the Brisker Rav, zl, questions this explanation. On the contrary, the gazlan has descended to a

more reprehensible nadir in that he manifests greater contempt for authority. He shows that he does not even fear human beings. He has such chutzpah that nothing and no one seem to impress him. Such a person is out of control, beyond discipline. Yet, the Torah seems to treat him with greater respectability than the ganav, whose fraudulent pursuits remain hidden.

The Brisker Rav explains that the very mahus, essential make-up of the gazlan, is that he does not make cheshbonos, think through, contemplate, what he is doing. He does exactly what he wants to do - when he wants to do it, and he does not care about anyone or anybody. The gazlan is not a cerebral person. He acts on impulse, passion, desire. The ganav, however, is quite deliberate in his actions. He ponders a situation, mulls over the danger of getting caught, considers the ramifications, and, after much cogitation, reaches a decision. He is a thinking man. He is, thus, condemned for not "including" Hashem in the equation. Why does he not take into consideration that Hashem sees all and will punish him for his nefarious deed? The answer is, he does not care. He lacks yiraas Shomayim, fear of Hashem. The ganav's act of corruption reflects a lack of yiraas Shomayim. The gazlan, on the other hand, just demonstrates thoughtlessness.

The Brisker Rav applies this concept towards explaining the idea behind the mitzvah of mechiyas Amalek, erasing the name of Amalek. The Torah (Devarim 25:18) attributes the idea due to asher kamcha ba'derech, va'yizarev becha kol ha'nechashalim acharecha... v'atah ayeif v'yagea, v'lo yarei Elokim; "(Amalek) that he happened upon you on the way, and he struck those of you who were hindmost...when you were faint and exhausted and did not fear G-d." Rashi comments: "Amalek did not fear G-d, he was not afraid to wage war against the Jewish People." What relationship exists between Amalek's lack of fear of Hashem and the fact that the Jewish People were "faint and exhausted"? Furthermore, Amalek was not the only nation that waged war against us, yet, no other nation is so condemned as Amalek; no other nation is so anathematized, so accursed as is Amalek. Why?

Amalek indicated by his very tactics that he feared people, but he did not fear Hashem. Had he made a frontal attack, as did other nations who were our enemies, it would have demonstrated that he had no fear of G-d or humans. He defied them both. The mere fact that Amalek thought out his battle plan, and attacked the hindmost flank at a time when the people were faint and exhausted, showed that he feared human repercussion, but cared less about Heavenly reaction. His strategy was well-planned, factoring all of the Jewish "army's" strengths and weaknesses. Hashem, however, was not a factor in his plans, because Amalek did not fear Hashem. One who does not fear Hashem is punished with his name being eternally obliterated.

Horav Mordechai Weinberg, zl, adds that yiraas Shomayim is a factor, not only as a deterrent from evil, but it is also a stimulus that galvanizes one to be proactive in mitzvah performance. He quotes Rabbeinu Yonah in his Shaarei Teshuvah 3:12, who says that the performance of the mitzvos asei, positive mitzvos, are as much dependent upon yiraas Shomayim as refraining from falling into the abyss of performing prohibitive mitzvos. Indeed, one who is not actively engaged in asei tov, doing good, has rejected fear of Heaven.

The Rosh Yeshivah applies this idea to explain Rabbi Yochanan's blessing to his five students, who were themselves erudite, pious Torah leaders. When his students asked him to bless them as he lay on his deathbed (Talmud Berachos 28b), he replied, "May it be the will (of Hashem) that the fear of Heaven should be on you (as great) as the fear of flesh and blood." The question is obvious: Is this the kind of blessing that is appropriate for men of such high caliber? These were righteous individuals, each one a Torah giant in his own right. Surely, they each must have warranted a blessing more suitable to his spiritual plateau. Basically, the gist of the blessing was: You should have more yiraas Shomayim than the average ganav! It almost seems unreal.

The Rosh Yeshivah quotes the Nefesh Ha'Chaim (Shaar Gimel) who explains the following: Although tzaddikim gemurim, consummately righteous individuals, might not fall prey to transgressing a prohibitive

commandment, they nonetheless cannot execute a mitzvas asei, positive commandment, if they do not possess yiraas Shomayim. The entire fulfillment of a mitzvas asei is dependent upon one's fear of Heaven. Rabbi Yochanan blessed them to be worthy of complete yiraas Shomayim, true/absolute fear of Heaven, so that their service to the Almighty would not be flawed in any manner.

A yarei Shomayim acts without ruminating back and forth whether the act is beneficial or appropriate, whether there is a better way. He is instructed to do, to execute, to perform. His immediate response is yes, "hineni, here I am," ready and willing. He asks no questions; he expects no answers. Avraham Avinu was the first one about whom it was said, Atah yodaati ki yarei Elokim atah, "Now I know that you fear G-d" (Bereishis 22:12). The Patriarch clearly did not understand Hashem's request that he slaughter his only son. One who fears Hashem, however, does not have to understand. He has to do. Avraham immediately responded with his famous, Hineni! "Here I am!" We suggest that this is the clarion call of all yarei Shomayim: Hineni!

Distance yourself from a false word. (23:7)

The admonition against prevaricating, uttering a falsehood, is quite different from other prohibitive mitzvos. Nowhere does it state that one must distance himself from the aveirah, sin. Proximity to the sin, or area which might bring one to sin may not be advisable, but there does not seem to be a specific exhortation against it. Falsehood, however, seems to be very dangerous, having such a strong gravitational pull that simply being in its immediate environment is dangerous and can influence one to sin. Why is it different than maachalos asuros, forbidden foods, which do not carry such a stringency that one is prohibited from being in close proximity with them?

Horav Zushia, zl, m'Annipole explains that the tirschak, "(you shall) distance (yourself)," applies to one's relationship with Hashem. One who prevaricates distances himself from the Almighty. Hashem abhors falsehood. Chosomo shel HaKadosh Baruch Hu emes, "The seal of the Holy One is truth." There is nothing more to say. Hashem is the essence of unvarnished truth. One can perform wonderful deeds; he can execute mitzvos in the most conscientious manner; yet, if he lies, if his life and dealings are not paragons of honesty, he distances himself from Hashem. Good deeds do not protect the individual from the ill effects of mendacity. One who is deceitful cannot be close to G-d, regardless of his mitzvos.

A man approached the Bais HaLevi and questioned him concerning the pasuk, Emes mei erez titzmach (Tehillim 85:12), "Truth will sprout from the earth." "Rebbe," the man asked, "if truth grows in abundance from the earth, why is there such a dearth of truth in the world?" Indeed, he was asking a good question. Truth is at a premium. In every phase of life, in every sector of society, integrity is quite lacking. The Bais HaLevi replied, "It is, indeed, accurate that truth sprouts from the earth, but people must bend down to pick it up. It does not harvest itself." Yes, truth is readily available, but we must seek it out. Regrettably, falsehood is much more aggressive in its growth. It comes right at us - without shame. Most people appreciate that which is "convenient" over that which requires effort. The Kotzker Rebbe, zl, was wont to say, "True, emes sprouts from the earth, but nothing grows unless a seed of some sort is first planted in the earth. When one buries seeds of truth in the ground, all that is produced is falsehood. When falsehood, however, is planted in the ground, it will sprout emes."

His entire life, the Kotzker waged a war for the truth. Indeed, the chassidic court of Kotzk became synonymous with a burning and piercing form of truth. It was a fiery truth that singed anyone who dared to delve deep enough to uncover it. The Kotzker came on the scene during the early stages of chassidus. While he believed in chassidic doctrine, he felt that Torah should be the focal point of all avodas Hashem, service to the Almighty, and people should be more self-reliant, not subjugating their G-d-given minds to their Rebbe. A person should take personal responsibility for his life and work towards developing a personal relationship with Hashem. His greatest legacy is his staunch support of the truth.

The Kotzker's approach to avodas Hashem, although laudatory, was not for everyone. Indeed, while the Baal Shem Tov embodied the middah,

attribute, of Chesed, kindness, Kotzk represented Din, strict justice. The Baal Shem Tov attempted to reach all people. The Kotzker was available only to the elite. The Baal Shem Tov elevated people, taking them out from the "dumps." The Kotzker rebuked and rebuffed, making great demands on his students, constantly pointing out their inadequacies.

Clearly, the Kotzker's approach attracted the unique, the brilliant, the aspiring youth who were prepared to undergo his demands of self-analysis and mitzvah performance on the highest level of sincerity. Indeed, sincerity was as much a catchword for him as was emes. Veritably, they are both the same. One who is not truthful is not capable of being sincere.

The Chidushei HaRim, the first Rebbe of Gur, was a close disciple of the Kotzker. He once brought to the Rebbe his chidushim, novellae and commentary, on all of Choshen Mishpat, the section of the Shulchan Aruch which deals with monetary matters. Since the laws are difficult, the Kotzker was very impressed with his student's achievement. Yet, he said, "I feel that such a work should be destroyed...I feel that it will minimize the credit due to the Shach (whose immortal commentary to the Shulchan Aruch is without peer). The Shach studied Torah with such mesiras nefesh, self-sacrifice, and with such sincerity, that it would truly be a shame for people to ignore his commentary."

The Chidushei HaRim took his son and immediately burned his kesavim, written manuscript. When the Gerrer Rebbe's son visited the Kotzker a short time later, the Kotzker asked him, "What ever happened to your father's commentary on Choshen Mishpat?"

"He burned it," the son replied, "at the Rebbe's suggestion." The Kotzker was amazed. "Such nobility; such pure intent! I am certain that, before long, your father's reputation will spread throughout the world!"

One would think that a person who has confronted the truth in its untainted form would realize that some things are simply not surmountable. Take the yetzer hora, for instance; one cannot triumph over the evil inclination. It is a constant, never-ending battle in which we may never weaken and surely not give up. As aware as he was of man's weakness, the Kotzker refused to compromise his aspiration for the truth and purity of action.

One of the Kotzker's close chassidim, Reb Shemaya, lay on his deathbed. We would think that at this moment of ultimate truth, the yetzer hora had no "takers." One of his fellow chassidim asked him, "Nu, Reb Shemaya, does the yetzer hora still bother you now?" "Of course," he replied, "do you not see him standing near my bed, whispering into my ear, 'Reb Shemaya, say Shema Yisrael in a loud voice, and draw out the echad.'" See, I recognize the ganav, thief, that he is. He wants to seduce me into acting righteous, so that you will say, 'Reb Shemaya left this world in a pure state.'" This was Kotzk. It did not have a large following, because he demanded of his adherents that they search for the unattainable. His devotees were the pure, the sincere, and the real.

He took the Book of the Covenant and read it in the earshot of the people, and they said, "Everything that Hashem has said, we will do and we will obey!" (24:7)

Our greatest moment in history was when we received the Torah. Our nationhood became fused with our acceptance of Hashem's word. The anthem of our faith for all time was our resounding declaration, Naase v'Nishma, "We will do, and we will obey!" We set the standard of priorities for Jews for all time: we do/ we act. The reason will come later. If we understand - good. If not - also good! That is what being a Jew is all about: uncompromising faith; unequivocal commitment. Yet, over time, people have strayed and alienated themselves and their descendants from the Torah. We can point the finger of blame at others, but it all points back to us. How strong was our commitment? How well did we transmit our beliefs? What method did we employ for conveying our feelings, our emotion about Torah observance? Better yet: Did we manifest emotion, joy, passion for Yiddishkeit, or were we, at best, complacent?

We all stood at Har Sinai and made that declaration. It became part of our psyche, our DNA. It is there, concealed under layers of history, some good, some bad, but it is there. That is why so many return after generations of estrangement and apathy. We made a promise to "observe and obey" - no questions asked. For some, it has taken a little longer to keep that promise.

Rebbetzin Esther Jungreis relates an episode concerning her great uncle, Horav Hillel, zl m'Kalmia, Hungary, a well-known tzaddik and chassidic leader, who was traveling by train on Chol HaMoed Pesach, accompanied by a group of students. They were engrossed in a Talmudic discourse, when they noticed a young man of Jewish extraction remove a sandwich from a bag and begin to eat. They were shocked, since the meat in the sandwich was unkosher. In addition to this outrage, it was Pesach, and he was eating chametz.

The Rebbe and his students were shocked into disbelief. How could a Jew have such audacity - to eat chametz on Pesach, together with pork, in front of a distinguished Torah leader. No shame whatsoever! How could he do this? The students were beside themselves in anger - an indignity which they wanted to express to the young man. The Rebbe said, "No!" He would personally address the young man.

"My son," the Rebbe began, "you know that your soul stood at Har Sinai, together with the rest of the Jewish nation. Have pity on yourself. Do not be a traitor to the covenant of which you are a part."

It was an emotional plea, but it fell on deaf ears.

"Rebbe, I do not believe any of this. Do not waste your time on me. I am not interested in any of this." The young man ignored the Rebbe and his students, and he returned to his lunch.

Rav Hillel was relentless when it came to a Jewish soul. He was not giving up. The students were embarrassed for their revered Rebbe, whom they felt was degrading himself by talking to this recalcitrant young man. It was below their teacher's dignity to "beg" this fellow to respect his "vows."

Rav Hillel expressed himself strongly to his students. "Do not think like this. This fellow is a lost soul, a son to a noble Jewish heritage, of parents and grandparents. Who knows how many bitter tears were shed over him, how many prayers his grandparents issued forth in his behalf?"

As the Rebbe spoke, his eyes welled up with tears, "You should know, my dear students, that we have a Rabbinic axiom: Words that emanate from the heart will penetrate the heart. My words are spoken from my heart. Thus, they will surely enter this young man's heart. If not today - then tomorrow, but they will pierce that layer of assimilation. I do not know when, but, I assure you, it will occur!"

Stories are inspirational and, undoubtedly, many alienated Jews of all ages do return and embrace the religion for which their forebears lived and died. All power to the many who are in the trenches fighting to save every Jewish neshamah, soul, from extinction. What is being done, however, to reverse the trend before it begins? Why are we losing them in the first place? There is no single answer to this critical question. Many factors play a role in the acculturation and eventual assimilation of many of our Jewish brethren. We have a more pressing question: Why do some of our youth, despite having been raised in wonderful, distinguished, observant homes, suddenly drift off the face of the observant Jewish map?

I am sure no single answer addresses this anomaly. I recently read an article which was written by someone who was attempting to champion dialogue - and exposure - to Jews and members of other ethnic groups who do not live a life of Torah observance. While I disagree vehemently with his goals, the story which I feel he misconstrued has much merit.

A young Orthodox teenager rebelled against his parents. He basically went over the deep end, ignoring Shabbos, kashrus and morality. His parents brought him to their rabbi for a talk. The rabbi passed him along to a non-Jewish psychologist. It took only one session, and the teenager was back on the path of Torah observance. What happened?

The boy had never encountered anyone to whom he had to explain his story: his culture; his religion; his way of life. He never had to explain what it meant to be an Orthodox Jew, the beauty, the serenity, the sanctity. Thus, he had never articulated his values for himself. Relating his story to a "stranger" allowed him to embrace his identity in a new and powerful way.

What has happened is that we have taken a complacent attitude to Torah. I am frum because my parents are frum. We take it for granted. Rather than inspiring, inculcating the next generation with the bren, passion/fire of Yiddishkeit, we serve it up cold, dispassionately, expecting our children to accept it without feeling. It works for most. We cannot afford to lose the

few for whom it does not work. Observance should be vibrant, exciting, fiery, with religious fervor that embraces the entire human being. If we are excited, they will follow suit.

Va'ani Tefillah

Kadosh, Kadosh, Kadosh Hashem Tzvako

Holy, Holy, Holy Hashem of Hosts.

We have two ways to understand the meaning of this threefold repetition. Horav Shimon Schwab, zl, explains that the Malachim, Heavenly Angels, together with the neshamos, souls, of the great tzaddikim, righteous individuals, extol Hashem in terms of ascending levels of sanctity. According to this interpretation, the idea is that the higher each creature - be it spiritual or physical - elevates itself toward Hashem, the higher its conception of Hashem becomes. This is so because Hashem, the ultimate Kadosh, source of sanctity, is so far removed from any of His creations that one must ascend in levels of sanctity in order to comprehend His sublime level of sanctity. Thus, the more penetrating one's understanding, the greater he perceives Hashem, and the greater Hashem's sanctity becomes.

HILLEL BEN CHAIM AHARON JACOBSON by his family: David, Susan, Daniel, Breindy, Ephraim, Adeena, Aryeh and Michelle Jacobson and great grandchildren

Orthodox Union / www.ou.org

Person in the Parsha

Rabbi Weinreb's Torah Column, Parshat Yitro

Sponsored in memory of Nathan and Louise Schwartz a"h

"The Many Lessons of 'Half' "

I was never very good at math. It all goes back to the fourth grade. I came down with a case of some ordinary childhood disease, probably chicken pox, at just the time that Mrs. Levine was teaching the class about the concept of percentages. I must've missed about a week of school, and when I returned to class, it seemed as if everyone was speaking Greek. Phrases like "50%" and "75%" and "a half" and "three-quarters" cut the air, and I simply did not know what these strange words meant. Mrs. Levine probably tried to catch me up with the rest of the class, but all I remember are feelings of frustration.

It was my Rebbe, the man who taught us religious studies in the mornings, who came to the rescue. He realized that I was beginning to think of myself as dumb, and he was concerned about my damaged self-esteem.

"You are far from the first person to be puzzled by percentages," he said comfortingly. "Moshe Rabbenu, Moses our teacher, also had his difficulties with math, and it was the Master of the Universe Himself, the Ribbono Shel Olam, who helped him out."

As a mere fourth-grader, I was in no position to question the good Rabbi, and I was ashamed to ask him where he found a biblical allusion to Moses' incompetency in mathematics. But he soon filled in the gap.

"This week," he told me, "we do not only read the Torah portion of Mishpatim (Exodus 21:1-24:18). This Sabbath is special because it is the last one before the month of Adar. It is Shabbat Shekalim. We will read a short additional paragraph, Exodus 13:11-16, in which we will learn how Moses was instructed to ask each Jew to donate a half-shekel toward the maintenance of the tabernacle. This donation was required throughout the history of the Holy Temple in Jerusalem. The funds were collected during the month of Adar. Now that the Temple has been destroyed, we commemorate the collection of the half-shekel by reading about it in the synagogue on the last Sabbath before Adar."

I told him that I remembered learning all about this mitzvah last year but failed to see any evidence of Moses' mathematical handicap in that passage.

It was then that he shared with me the fascinating anecdote originating in the Midrash Tanchuma, and quoted in abbreviated form by Rashi in his remarks on verse 13. As an outstanding pedagogue, my Rebbe did not read the quotation to me verbatim, but elaborated upon it in a way he knew I would find interesting and relevant to my personal quandary.

"Moses had great difficulty with this commandment. There was something about the half-shekel that he simply couldn't understand. We do not know precisely what he found so puzzling. But we are told that the Almighty sympathized with Moses and vividly demonstrated what the half-shekel was to look like by miraculously making a coin of fire appear in the heavens. So, you are not the only one who finds the concept of 'half' challenging. Moses too needed a little help with it."

The Rebbe's attempt at restoring my self-esteem was quite helpful. I did not get a visual demonstration from the Almighty, but I did get the courage to approach Mrs. Levine and asked her for an afterschool tutorial.

Ever since this little episode, which happened more years ago than I care to mention, I have sought out explanations of the significance of the half. Why were we not required to give a whole shekel, a complete coin, as our contribution? Was it simply because that would have been too great of an expense to require of each individual? I somehow don't think so.

And so, over the years, I have amassed a collection of dozens of explanations on the symbolic meaning of half a coin. I can't possibly share them all with you, dear reader, in this brief column. I'll give you some samples instead.

One explanation, which makes for excellent sermonic material, is that none of us is a complete entity. No one is spiritually self-sufficient. We are all only half of the picture, and we all need each other. Hence, we contribute only half a shekel, to impress upon ourselves that we can't go it alone but need another person in order to be complete.

Another approach is based upon that famous saying of Rabbi Tarfon, in Ethics of the Fathers, Pirkei Avot. "It is not incumbent upon you to complete the task, but nevertheless you are not permitted to exempt yourself from it entirely." Being required to only give half a shekel drives home the point that total completion of the task is not expected of us. All we can each do is try our best and do our share.

Yet another approach is advanced by one of the classics of Jewish mysticism. The Zohar emphasizes that this world is a diminished one, in which there are broken vessels which need to be restored. We live in an imperfect world, and its imperfection is symbolized by being a broken shekel.

I encourage each of you to use the opportunity of this week's supplemental Torah reading to meditate upon either the mundane half-shekel or the celestial fiery coin. I am quite certain that you will creatively find symbolic meanings of your own. And, if you wish, feel free to send them to me at execthw@ou.org. If any of your suggestions are really on the mark I will share them with the rest of my readership in a future Person in the Parsha.

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Britain's Chief Rabbi Lord Jonathan Sacks

The Slow End of Slavery

In parshat Mishpatim we witness one of the great stylistic features of the Torah, its transition from narrative to law. Until now the book of Exodus has been primarily narrative: the story of the enslavement of the Israelites and their journey to freedom. Now comes detailed legislation, the "constitution of liberty."

This is not accidental but essential. In Judaism, law grows out of the historical experience of the people. Egypt was the Jewish people's school of freedom; memory was its ongoing seminar in the art and craft of freedom. It taught them what it felt like to be on the wrong side of power. "You know what it feels like to be a stranger," says a resonant phrase in this week's parsha (23: 9). Jews were the people commanded never to forget the bitter taste of slavery so that they would never take freedom for granted. Those who do so, eventually lose it.

Nowhere is this clearer than in the opening of today's parsha. We have been reading about the Israelites' historic experience of slavery. So the social legislation of Mishpatim begins with slavery. What is fascinating is not only what it says but what it doesn't say.

It doesn't say: abolish slavery. Surely it should have done. Is that not the whole point of the story thus far? Joseph's brothers sell him into slavery. He, as the Egyptian viceroy Tzofenat Paneach, threatens them with slavery. Generations later, when a pharaoh arises who "knew not Joseph," the entire Israelite people become Egypt's slaves. Slavery, like vengeance, is a vicious circle that has no natural end. Why not, then, give it a supernatural end? Why did God not say: There shall be no more slavery?

The Torah has already given us an implicit answer. Change is possible in human nature but it takes time: time on a vast scale, centuries, even millennia. There is little doubt that in terms of the Torah's value system the exercise of power by one person over another, without their consent, is a fundamental assault against human dignity. This is not just true of the relationship between master and slave. It is even true, according to many classic Jewish commentators, of the relationship between king and subjects, rulers and ruled. According to the sages it is even true of the relationship between God and human beings. The Talmud says that if God really did coerce the Jewish people to accept the Torah by "suspending the mountain over their heads" (Shabbat 88a) that would constitute an objection to the very terms of the covenant itself. We are God's avadim, servants, only because our ancestors freely chose to be (see Joshua 24, where Joshua offers the people freedom, if they so chose, to walk away from the covenant then and there).

So slavery is to be abolished, but it is a fundamental principle of God's relationship with us that he does not force us to change faster than we are able to do so of our own free will. So Mishpatim does not abolish slavery but it sets in motion a series of fundamental laws that will lead people, albeit at their own pace, to abolish it of their own accord. Here are the laws:

"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)

What is being done in these laws? First, a fundamental change is taking place in the nature of slavery. No longer is it a permanent status; it is a temporary condition. A Hebrew slave goes free after seven years. He or she knows this. Liberty awaits the slave not at the whim of the master but by divine command. When you know that within a fixed time you are going to be free, you may be a slave in body but in your own mind you are a free human being who has temporarily lost his or her liberty. That in itself is revolutionary.

This alone, though, was not enough. Six years are a long time. Hence the institution of Shabbat, ordained so that one day in seven a slave could breathe free air: no one could command him to work:

Six days you shall labor and do all your work, but the seventh day is a sabbath to the Lord your God. On it you shall not do any work, neither you . . . nor your male or female servant . . . so that your male and female servants may rest, as you do. Remember that you were slaves in Egypt and that the Lord your God brought you out of there with a mighty hand and an outstretched arm. That is why the Lord your God has commanded you to observe the Sabbath day. (Deut. 5: 12-14)

But the Torah is acutely aware that not every slave wants liberty. This too emerges out of Israelite history. More than once in the wilderness the Israelites wanted to go back to Egypt. They say: "We remember the fish we ate in Egypt at no cost—also the cucumbers, melons, leeks, onions and garlic" (Num. 11: 5). As Rashi points out, the phrase "at no cost" [chinam] cannot be understood literally. They paid for it with their labour and their lives. "At no cost" means "free of mitzvot," of commands, obligations, duties. Freedom carries a highest price, namely, moral responsibility. Many people have shown what Erich Fromm called "fear of freedom." Rousseau spoke of "forcing people to be free" – a view that led in time to the reign of terror following the French revolution.

The Torah does not force people to be free but it does insist on a ritual of stigmatization. If a slave refuses to go free, his master "shall take him to the door or the doorpost and pierce his ear with an awl." Rashi explains:

Why was the ear chosen to be pierced rather than all the other limbs of the body? Said Rabbi Yochanan ben Zakkai: ...The ear that heard on Mount Sinai: "For to Me are the children of Israel servants" and he, nevertheless, went ahead and acquired a master for himself, should [have his ear] pierced! Rabbi Shimon expounded this verse in a beautiful manner: Why are the door and the doorpost different from other objects of the house? G-d, in effect, said: "The door and doorpost were witnesses in Egypt when I passed over the lintel and the two doorposts, and I said: 'For to me are the children of Israel servants' " ---they are My servants, not servants of servants, and this person went ahead and acquired a master for himself, he shall [have his ear] pierced in their presence.

A slave may stay a slave but not without being reminded that this is not what God wants for His people. The result of these laws was to create a dynamic that would in the end lead to an abolition of slavery, at a time of free human choosing.

And so it happened. The Quakers, Methodists and Evangelicals, most famous among them William Wilberforce, who led the campaign in Britain to abolish the slave trade were driven by religious conviction, inspired not least by the biblical narrative of the Exodus, and by the challenge of Isaiah "to proclaim freedom for captives and for prisoners, release from darkness" (Is. 61: 1).

Slavery was abolished in the United States only after a civil war, and there were those who cited the Bible in defence of slavery. As Abraham Lincoln put it in his second Inaugural: "Both read the same Bible and pray to the same God, and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces, but let us judge not, that we be not judged."

Yet slavery was abolished in the United States, not least because of the affirmation in the Declaration of Independence that "all men are created equal," and are endowed by their Creator with inalienable rights, among them "life, liberty and the pursuit of happiness." Jefferson, who wrote those words, was himself a slave-owner. Yet such is the latent power of ideals that eventually people see that by insisting on their right to freedom and dignity while denying it to others, they are living a contradiction. That is when change takes place, and it takes time.

If history tells us anything it is that God has patience, though it is often sorely tried. He wanted slavery abolished but he wanted it to be done by free human beings coming to see of their own accord the evil it is and the evil it does. The God of history, who taught us to study history, had faith that eventually we would learn the lesson of history: that freedom is indivisible. We must grant freedom to others if we truly seek it for ourselves.

Rabbi Yissocher Frand - Parshas Mishpatim

Miss Manners And Her ilk Are A Far Cry From Divine Torah Ethics

The parsha begins with the words "And these are the statutes (mishpatim) that you shall place before them." The bulk of the parsha deals with the many laws that are categorized as "mishpatim". These are the laws of interpersonal relationships that deal with everything from a person who damages to the various kinds of watchmen to the prohibition of taking interest on loans. A good portion of Choshen Mishpat -- the section of Shulchan Aruch that deals with monetary and financial laws -- are based on the pasukim in this week's parsha.

The first Rashi in our parsha comments on the opening word "v'ayleh" [and these]. Rashi explains that wherever the Torah uses the word "ayleh" [these], the Torah is invalidating or excluding something previously mentioned. However, where the the Torah uses the word "ay leh" prefixed

by the conjunctive vov as in "V'eleh" then we are supplementing that which came earlier. "And these" has the connotation "not only those, but these as well."

The application here, as Rashi explains, is that just as those (laws mentioned in Parshas Yisro, i.e. -- the Asseres HaDibros [Ten 'Commandments'] were given at Sinai, so too, the laws mentioned in Mishpatim were also given at Sinai.

Rav Simcha Sheps, zt"l (who had been a Rosh Yeshiva in Yeshivas Torah Vodaath), among others, asks, what is the novelty that Rashi is introducing here? Of course the entire Torah was given at Mt. Sinai. What need is there to bring additional linguistic proofs to the matter?

Rav Sheps cites a comment of Rav Ovadiah Bartenura in the first Mishna in Avos. The Mishna says, "Moshe received the Torah at Sinai..." The first comment of the Bartenura on tractate Avos is: "This tractate does not deal with specific mitzvos as do other Tractates of the Mishna. Since the entire contents of Msechtas Avos consists of ethical matters and appropriate character traits and manners, it therefore may seem similar to many volumes written by the sages of other nations on the topic of ethics, morals, and how to treat other people. Therefore, we might think that Avos also is merely accumulated human wisdom and nothing more. Therefore, the author begins the tractate with the chain of transmission of Torah beginning with Moshe's receiving Torah from Sinai. This teaches us that all the advice and ethical guidance in Avos is not merely the product of human invention. This is the same Torah, the same word of G-d as the rest of Mishna and Talmud.

Rav Sheps references this teaching of Rav Ovadiah Bartenura in connection with the first Rashi of Mishpatim. Mishpatim details the laws of how one should treat his fellow man. The Torah needed to emphasize that just like the Asseres HaDibros were commanded by G-d at Sinai, so too the laws of lending and damaging and watching someone's property are all from Sinai as well. More than that, Parshas Mishpatim contains the prohibition of Lashon HaRah. The Talmud treats the pasuk "Lo Tisa Shema Shav" as a warning against both one who speaks slander as well as one who believes slander spoken by others.

The nations of the world do indeed have ethics and morals. The New York Times Magazine contains a column by a person who is called "The Ethicist". Each week, he paskens [rules] for his readers what is ethical and what is not ethical. Often, his articles are quite controversial from a Torah perspective. If someone can't bear to wait a whole week to read "The Ethicist," he can check "Miss Manners" in the daily paper. She is the final authority on good manners and proper behavior for millions of readers! There is a fellow who has a monthly radio program where on each show he speaks about some aspect of the topic of "civility". Sometimes, what he says does make sense. He had a whole sermon on the issue of talking on cell phones on the train.

Clearly, the Gentiles also have their ethics and morality. But do the nations of the world have a morality that says not to speak Loshon Harah? The concept of gossip exists but the concept that there should be a theological prohibition against gossip is not something that exists on their spiritual radar screens. Try telling a non-Jew that it is prohibited to speak evil about someone else even if the facts are true. "How could it be forbidden? -- IT IS TRUE!"

Where does such a law come from? It does not come from Miss Manners and it does not come from "The Ethicist" and it will not come from anyone who is making up ethical rules on his own.

The Gentiles have a concept of being "A Good Samaritan". A Good Samaritan will be driving down the highway. He sees someone has a flat tire. He'll stop and see if he can help change the tire.

What would a non-Jew say about a situation where his biggest enemy in the world has a flat tire and 50 feet further up the road his best friend has a flat tire? Whose tire would he help change? The Torah commands that precedence be given to one's enemy. "It is preferable to force one's evil inclination (to not hate a fellow Jew)." It is good for one's character to help one's enemy ahead of helping one's friend.

This is a mind boggling concept. Such a law could not have been man-made. No person would ever choose that option on his own, based on his

own sense of right or wrong. They will ask -- where does such an idea come from? Our answer is that it comes from this parsha which begins with the words "And these are the statutes..." Just as the Asseres HaDibros in Parshas Yisro came from Sinai, so too that which follows in Parshas Mishpatim comes from Sinai.

If a person lives a full Torah life and works on himself, he can achieve this status that is almost angelic -- to willingly and readily be prepared to help a hated neighbor before his friends so that he may be able to improve his character traits (midos).

I recently heard the following story from Rav Avraham Chaim Feuer, which speaks to the possibility of spiritual heights that may be achieved by a person who works upon himself and diligently tries to mold his personality in accordance with the Torah's expectations:

Rabbi Yechiel Perr, a Rosh Yeshiva in Far Rockaway, married his wife, Miss Shani Nekritz, in the late 1950's. Mrs. Shani Perr is the daughter of a Rosh Yeshiva from Novoradok, who in turn was the son-in-law of Rabbi Avraham Yaffan, one of the great Rabbinic personalities of the past generation.

Rabbi Yaffan, the grandfather of the Kallah, arranged all the details of the wedding ceremony. Virtually all the top name Roshei Yeshiva in the United States of that era attended the wedding. It was not easy to pick who would have each of the various "honors" that are typically distributed at such events. All the guests were very curious to see who among all the distinguished Rabbonim there would be getting the various "blessings".

One of the "blessings" under the Chuppah was given to a Rabbi who no one knew. He was not from the Chosson's side or from the Kallah's side. Everyone wanted to know: Who is this fellow?

People went over to Rav Avraham Yaffan and asked him "Why are you giving such an honor to this Jew?" He answered, "I have my reasons." No one knew who the fellow was or what Rav Yaffan's reason was for honoring him until after Rav Yaffan's passing.

This Jew was a Rabbi who had a small shul in the Bronx. One day, many years before the Perr-Nekritz wedding, this Rabbi called up Rabbi Yaffan and invited him to a wedding he was making for his daughter. Rabbi Yaffan did not know the Chosson, he did not know this rabbi or his daughter -- he was a busy man and was hesitant to accept the invitation. The Rabbi begged him to please come to the wedding. Rabbi Yaffan finally agreed to come to the wedding.

However, Rabbi Yaffan did not own a car. He expected that the Rabbi, who was so insistent to have him come, would make arrangements to provide him with a ride or get him a car service or taxi. The day of the wedding came and he still did not hear a word from the Rabbi about arrangements. Rabbi Yaffan and his Rebbetzin took a subway and a bus to get to the wedding. He sat down at the Chuppah, but he received absolutely no recognition and no "honors".

In the tradition of all Lithuanian Rebbitzens, his wife was livid. They do not know the family, he begged them to come, he did not provide transportation to this distinguished Rabbi and his wife, they had to schlep on a train and bus to get there, and her husband received no "kibbud". She said that they should leave immediately after the Chuppah. Rabbi Yaffan calmed down his wife. He said they were there already, so they might as well stay for the meal so he could dance with the Chosson, and then they would leave, which is what they did.

When Rabbi Yaffan made a chasunah for his granddaughter, he went out of the way to give a kibbud under the chuppah to this rabbi from the Bronx. Why? He was practicing the Novorodok philosophy that he had been raised on: "In place of resentment (hakpada), one should bestow favors (hatavah)". When someone slights you, your reaction should be to do him a favor. Tachas hakpada -- hatava. This is how one works on his "midos" and improves his character traits.

This is not something you will hear from Miss Manners or The Ethicist. One only will hear this from "Moshe received the Torah at Sinai..." which was given to us to improve our human character by teaching us Divine ethics and moral guidance from On High.

Transcribed by David Twersky Seattle, WA; Technical Assistance by Dovid Hoffman, Baltimore, MD

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Parsha Parables - Parshas Mishpatim 5772**Rabbi Mordechai Kamenetzky****Stories & Anecdotes that Illuminate the Weekly Torah Portion and Holidays***Dedicated in loving memory of Mickey Berger Hayeled Meir Yechezkel ben Yosef Avraham Mordechai a"h by Mr. & Mrs. Joseph Berger***Double Jeopardy**

In addition to the many dinim that Parshas Mishpatim teaches about animals damaging property, people damaging property, and people hurting people - both physically and emotionally, the Torah reserves a special verse for hurting the feelings of a special group of people - almonos and y'somim, widows and orphans. Hashem swears His revenge on the perpetrators: "You shall not taunt a widow or orphan. For if you shall cause pain, and there will be a cry to me, I shall hear the cry. My wrath shall blaze... and your wives shall be widows and your children, orphans" (Shmos 22:20). The words of the posuk are repetitive. "For if pain—you shall cause pain ... and cry—there will be a cry to me... hear I shall hear the cry." It seems that there are two pains, two cries and Hashem hears them all. What are the two pains that the orphan and widow experience? What are the two cries? And why does Hashem hear the cries twice?

The Story

A true story, that I heard, [but will only repeat with the names changed,] casts a light that can be used to explain the seemingly extra phraseology.

The sudden death of Velvel Mansberg, two months before Pesach, left his bereaved widow and four young children in a terrible state of despair. The community tried hard to help them put their lives together after their terrible ordeal.

During a trip to the shoe store a week before the Yom Tov, the salesman, who knew the sad situation, went to the back of the store. He came out with a very special treat. He slowly handed each child a large, helium-filled, Mylar balloon. He started with the youngest. "One for Tzippy, one for Dovi, one for Leah, one for Shimmi, and," he slowly said with a smile, "one for Mommy."

As the children were cherishing their shiny balloons, Leah began walking out of the store. She opened the door and confidently let go of her beautiful balloon. Both Mrs. Mansberg and the salesman watched in shock as the balloon floated skyward.

"Why did you do that?" snarled the insulted salesman. Trying to compose himself, he added, "You know, Leah, it is terribly wrong to throw away a gift—especially in front of the person who gave it!"

Five-year-old Leah ignored the salesman's protests as she watched the Mylar balloon float away. She waited until all that appeared was the image of a silver coin floating like a feather. With one eye focused on the clouds, she turned to her mother and stoically explained her actions. With tears swelling in her eyes she explained, "Tatty didn't get one."

The Message

The Kotzker Rebbe once explained, "Every pain you cause an orphan is twofold. In addition to the taunt or callous remark, there is another hurt. The orphan thinks, "He would not have done that if my father was here to protect me!"

Images of a lost loved one never leave the widow or child. Every action embodies a remembrance of their parent or spouse. Sometimes it is hard to realize that their feelings are amplified by deep reflections. "What would Mommy have said?" "What if my husband was alive?" "I am sure that my Tatty would not have let this bully start with me!"

Those tragic memories die hard. When there is pain, the pain is doubled, and so is the cry. First there is the pain of the actual occurrence, then there is the pain of reflection; what would have or could have been." It is important to guard our tongues and watch for any words that may cause pain. Flippant remarks may cause agonizing ramifications. Surely then, it is more important to watch for words that may double the pain. For Hashem tells us, "... hear I shall hear the cry." And He hears that pain—twice.

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These Are the Lawsby Rabbi Ari Kahn www.aish.com

This week's Torah portion begins with the words of God directed to Moses:

"These are the mishpatim (i. e. laws, judgments, ordinances) that you shall set before them." (Exodus 21:1)

In the aftermath of the Ten Commandments, the Torah proceeds with an extensive list of laws. On the one hand, it is difficult for us to imagine Judaism without these laws; in a sense, they serve as the core of Jewish life. On the other hand, the sequence of events in the Torah is challenging: Why are these laws taught at this juncture?

Generally, there is intrigue regarding the order of events in the Torah, and the question whether the sequence of events as recorded in the text reflects the actual order of their occurrence is hotly debated by the commentators.

In the instance of Parshat Mishpatim, this portion of the Torah may be divided into two basic sections -- law and narrative. The narrative section is the continuation of the theosophy depicted in chapters 19 and 20 of the Book of Exodus, but this follows the legal section. Therefore, we cannot help but give our attention to the choice of laws taught at this juncture, whose enumeration effectively "interrupts" the story of the revelation.

Indeed, the major emphasis of Parshat Mishpatim is law, the type which any society is in need of in order to live peacefully and equitably.

SOCIAL CONTRACT

In a sense, many of these laws may be described as a type of social contract. Once again, we must ask why this contract is needed at this point. Arguably, the Torah could have waited until later to lay out these laws, at the point where many other social laws are introduced.

(This question was posed by Rabbi Yosef Soloveitchik and is characteristic of his broad-based approach to the text. He asked not only what something meant, but what we can learn from the sequence in which it is presented, and where, a priori, the most logical context would have been for that teaching.)

The Jews were expected to build a new society, based on the newly-received Torah.

Some commentators see in Parshat Mishpatim an extension of the laws taught at Sinai, and therefore see these laws as fitting into the ten categories reflected in the Ten Commandments.

The Sforno sees the interpersonal laws which begin here as an extension of the Tenth Commandment -- "Do not covet... all which belongs to your neighbor." In order to be able to implement this teaching, ownership laws must first establish what belongs to you and what belongs to your neighbor, setting boundaries and thus making the fulfillment of the Tenth Commandment feasible.

However, there may be a simple suggestion to explain the "social contract" set up at this point: The Jews were expected to build a new society, based on the newly-received Torah. Therefore, it is essential to describe the basic bylaws expected of this new society. In a sense, this will be the litmus test of their acceptance of the Torah. If they can implement the Torah and live according to Torah law, acceptance of the Torah is complete.

This observation gives us entree to a deeper level of the relationship between the books of Genesis and Exodus, a relationship to which we have made reference on other occasions.

TEN STATEMENTS

We know that the Ten Commandments stand out as the epicenter of the relationship between man and God.

According to the rabbinic understanding of the Torah, creation was accomplished via ten deliberate statements [see Avot chapter 6:1]. Therefore, we may say that the world was created via ten statements, the brutal Egyptian regime was destroyed via ten plagues, and the Jews were elevated via the Ten Commandments.

Conceptually, we may describe this process as one of creation, destruction, and re-creation.

In Genesis, after creation there was destruction, the deluge which struck the generation of Noah. Significantly, the impetus for this punishment was the lack of a social contract, which resulted in a generation run amok.

The Midrash links the destruction of that generation with the very laws (or lack of observance of the laws) enumerated in this week's Parsha:

The end (kez) of all flesh (basar) is come before me: The time has come for them to be cut down (hikkazez); the time has come for them to be treated as unripe grapes (boser); the term of their indictments has come.

Why all this? Because the earth is filled with violence (hamas) through them. What is violence and what is robbery?

Said R. Hanina: "Violence refers to what is worth a perutah; robbery refers to what is of less value than a perutah. And this is what the people of the age of the Flood used to do: When a man brought out a basket full of lupines, one would come and seize less than a perutah's worth and then everyone would come and seize less than a perutah's worth, so that he had no redress at law. Whereupon the Holy One, blessed be He, said: 'You have acted improperly, so will I too deal with you improperly.' Hence it is written, Is not their tent-cord plucked up within them? They die, and that without wisdom. (Job 4:21): i.e. without the wisdom of the Torah. Between morning and evening they are shattered; they perish forever without any regarding (mesim) it (Job 4:20). Now mesim can only refer to judgment, as you read, Now these are the laws which you shall set (tasim) before them. (Exodus 21:1)." (Genesis Rabbah 31:5)

The relationship between the generation of the Flood and the laws of Parshat Mishpatim is further noted by another Midrash:

Another explanation of Now these (ve'eleh) are the laws:

Rabbi Abbahu said: "Wherever it is written ve'eleh ('and these'), it indicates an addition to objects previously mentioned, but where it is written eleh ('these'), it indicates the disqualification of the preceding. For example? These (eleh) are the generations of the heaven and the earth when they were created. (Genesis 2:4) What was disqualified there? God created a heaven and earth, but when He looked at them they were not pleasing in His sight, so He changed them back into waste and void; but when He looked at this [i.e., the present] heaven and earth, it pleased Him, and He exclaimed, These shall have generations. Hence, These are the generations of the heaven and the earth; but the first did not have any generations. Another example: These (eleh) are the generations of Noah (Genesis 6:9). What was disqualified? The generations of Enosh, the Flood, Kenan and his companions..." (Exodus Rabbah 30:3)

JUSTICE ABOVE, JUSTICE BELOW

In the words of the rabbis, if there is no justice "below" justice will reign from "above":

Rabbi Eleazar said: "Wherever there is no judgment [below] there is judgment [above]."

Rabbi Bibi, the son of Rabbi Ammi, interpreted, following Rabbi Eleazar: "If they have not judged, then My spirit [will judge man]."

Rabbi Meir said: "If they did not perform judgment below, am I too not to perform judgment above! Thus it is written, Is not their tent-cord plucked up within them? They die, and that without wisdom (Job 4L 21): i.e. through lacking the wisdom of the Torah. Between morning and evening they are shattered; they perish forever without any regarding (mesim) it (Job 4:20). Now mesim can only refer to judgment, as you read, Now these are the laws [judgments] which you shall set (tasim) before them (Exodus 21:1)."

Rabbi Yossi the Galilean interpreted: "No more shall My Attribute of Justice be suppressed [lit. 'judged'] before My Attribute of Mercy." (Genesis Rabbah 26:6)

If we then chart the parallel between Genesis and Exodus, we come to the realization that this was the perfect time to teach justice, in order to avoid the disastrous pitfalls which plagued man in Genesis. Immediately after the re-creation signified by the Ten Commandments, specific interpersonal laws needed to be taught.

This was the perfect time to teach justice.

However, the emphasis on justice and creating a just society runs somewhat deeper. The Midrash cited above makes reference to God's justice being suppressed:

Rabbi Yossi the Galilean interpreted: "No more shall My Attribute of Justice be suppressed [lit. 'judged'] before My Attribute of Mercy." (Genesis Rabbah 26:6)

NAMES OF GOD

In order to understand this idea we must note that different names for God are used in the Torah. The name Elohim signifies justice, and the description of creation uses this appellation for God.

Creation is based on justice. Justice can then be said to be a rule of nature, along with all other natural law. Just as God can suspend natural law at will and perform miracles, so too can God choose to suspend justice, and allow mercy to rule.

Another explanation of Now these are the laws:

It is written, The king by justice establishes the land (Proverbs 29:4). This refers to the Holy One, blessed be He, who created the world with justice, as it says, In the beginning, God (Elohim) created (Genesis 1:1). It does not say "the Lord (Adonai) created," but Elohim; likewise, not, "And the Lord (Adonai) said: Let there be a firmament," but "God (Elohim) said, etc., and similarly the rest. Thus, too, said David: For God (Elohim) is Judge. (Psalms 75: 8) to teach you that the world was created with justice. (Exodus Rabbah 30:13)

The name Elohim is also used at Sinai as an introduction to the Ten Commandments: And Elohim said all of these things saying. The Midrash sees Sinai as the source of justice being "unleashed," effectively redefining man's relationship with God.

Another explanation of Now these are the ordinances:

[It is written], And it came to pass on the third day, when it was morning (Exodus 19:16). In the morning the Torah was given, and in the evening the laws, as it is written, Between morning and evening they are shattered (Job 4:20). It can be compared to two men who entered an arena [for combat], one a professional, the other an amateur. What caused the amateur to be defeated? The fact that he had no one to instruct him. So God stood on Sinai, holding justice, as it says, And My hand take hold on judgment (Deut. 32: 41). (Exodus Rabbah 30:11)

And the lord spoke to Moses in the wilderness of Sinai ... Why "Mount of God"? Because God sat there in judgment; as it is said, Now these are the judgments (Exodus 21, 1). (Numbers Rabbah 1:8)

A NEW ORDER

Sinai was meant to create a new order. The Midrash sees a link between Sinai, slavery and the original creation:

Another explanation of Now these are the ordinances:

It is written, [A Psalm] of Shlomo. Give the king Thy judgments, O God ... that he may judge Thy people with righteousness. (Psalms 72:1).

Rabbi said: "Just as God enjoined obedience to the Ten Commandments, so did He exhort us concerning justice, because on it the world rests, as it says, The king by justice establishes the land (Proverbs 29:4). Through it also shall Zion be rebuilt, for it says, Zion shall be redeemed with justice (Isaiah 1:27); and through it the righteous became great, for it says, Happy are they that keep justice (Psalms 106: 3). You will find that there are many ordinances of this character. Because the Holy One, blessed be He, said: I am the Lord thy God, who brought thee out of the Land of Egypt, out of the house of bondage (Exodus 20:2). What does it say of a Hebrew servant? If you buy a Hebrew servant... (Exodus 21:2). God said: "As I created the world in six days and rested on the seventh, so for six years shall he serve you, after which he goes forth a free man." (Exodus Rabbah 30:15)

Here we see the basic expression of creation; Shabbat is linked thematically with the first of the Ten Commandments, and the first law in Parshat Mishpatim. The emphasis, though, is on justice.

The Sfat Emet (Mishpatim 5639), commenting on a different Midrash, explains that the relationship between the Mishpatim and the Ten Commandments is analogous to the relationship between Shabbat and the

week. Just as we work all week and then receive an additional soul on Shabbat -- an expression of heightened spirituality -- so, too, do we receive additional spirituality from these laws after the acceptance of the Ten Commandments. While this concept merits further explanation, within this teaching lies the core role of the laws of Parshat Mishpatim.

A WORLD WITHOUT JUSTICE

The role of the performance of justice is a Divine occupation, as we have seen. The world without justice is, in effect, rebelling against natural law. When man acts justly, he becomes a partner with the Divine. [It is important to note that Jewish judges are referred to as *elohim* in the Biblical text]:

Every judge who judges with complete fairness even for a single hour, the Writ gives him credit as though he had become a partner to the Holy One, blessed be He, in creation. (Shabbat 10a)

When judgement is executed with equity in this world, man becomes a partner with God, and therefore Divine justice is averted.

The Midrash goes further:

Another explanation of Now these are the ordinances:

It is written: Keep justice, and do righteousness (Isaiah 56:1). This bears out what Scripture says: These also are the sayings of the wise. To have respect of persons in judgment is not good (Proverbs 24:23). The Holy One, blessed be He, said: "What caused the judges to know how to judge? The fact that you received the Torah in which is written, These are the statutes and the laws, etc." (Deut. 12:1). Know, therefore, that To have respect of persons in judgment is not good. What is the lesson of, It is not good? This: when the judge sits and judges in truth, God, as it were, leaves His topmost heaven and causes His Presence to be at the judge's side, for it says, And when the Lord raised them up judges then the Lord was with the judge" (Shoftim 2, 18). But when He sees that he respects persons, He removes His Presence and goes back to Heaven. The angels then say to Him: "Lord of the Universe! What is the matter?" He replies: "I saw a judge who respects persons and I have removed Myself from thence," as it says, For the oppression of the poor, for the sighing of the needy, now will I arise, said the Lord (Psalms 12:6). What does God do? He draws His sword in front of him to remind him that there is a Judge above, as it says, Be afraid of the sword; for wrath brings the punishments of the sword, that you may know there is a judgment (Job 19:29). It is written she-din, namely, that there is a judgment in the world. (Exodus Rabbah 30:24)

When man judges fairly God's Presence, the Shechina, enters the world. Man has the capability of bringing the presence of God down to this world, and causing God's wrathful justice to be suppressed. The key is the performance of justice on the part of man.

THE PRESENCE OF GOD

The presence of God was felt at Sinai. The Vilna Gaon explained (commentary to Sifra Deznuta chapter 1) that after Sinai, the next command should have been the building of the Tabernacle. After all, the purpose of the Tabernacle was to "house" the Shechina that had descended to earth at Sinai, thus turning a one-time event into an ongoing relationship between man and God, an institution in Judaism.

Why, then, the "interruption" of laws which are taught in Parshat Mishpatim, the basics of justice? The Gaon explained that the performance of justice accomplishes the same goal: it brings the Shechina to earth.

The location of Israel's greatest seat of justice illustrates this point: The Sanhedrin sat on the Temple Mount, for if justice did not emanate from that holy mountain, the Temple itself could not stand.

The converse is also true: If we truly wish to rebuild Zion and cause the Shechina to once again dwell among us, the starting point is the establishment of justice:

Another explanation of Now these are the ordinances:

It is written, The strength of a king who loves justice (Psalms 99:4). Moses said to Israel: "See, God gave you His Torah; unless you obey His laws, He will take away His Torah from you, for God has only given you the Torah on the condition that you obey His laws, for it says, The strength of a king who loves justice."

If you do obey His laws, God will restore your courts of law, for it says, And I will restore thy judges as at the first, and after this it says, Zion shall be redeemed with justice (Isaiah 1:26- 27). (Exodus Rabbah 30:23)
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Rav Kook List

Rav Kook on the Torah Portion

Legislating Kindness

The Borrower's Liabilities

Rabbi S. R. Hirsch wrote that the laws obligating a borrower are "perhaps the most difficult of all the laws of Jewish Civil Law to comprehend." I borrowed a pencil from my neighbor, but it rolled off the table and broke in half. Do I need to pay for a new one?

"If a person borrows something, and it breaks or dies ... the [borrower] must make full restitution. However, if the owner was with him, he need not make restitution." (Ex. 22:13-14)

A borrower is accountable for all types of damage or loss - even for completely unpreventable accidents. Even if the borrowed pencil was swept away in a tornado, I am still obligated to buy a new one for my neighbor.

This comprehensive liability would appear to be unreasonable. If I had not borrowed the pencil, it would still have been lost when the tornado struck. Why should I have to pay? As the Talmud in Baba Metzia 36b puts it: "What difference does it make to the Angel of Death where it is located?"

Encouraging Chesed

Rav Kook explained that the Torah placed extra liabilities upon the borrower, even in cases when the article would have been lost even if not borrowed, in order to encourage people to be helpful and lend to one another. This is similar to the rationale for special rabbinical legislation protecting those who lend money, so that 'the door will not be closed' for would-be borrowers (Sanhedrin 32a). Since the lender receives nothing in return for his kindness, the Torah wanted to counterbalance any selfish thoughts that might prevent him from assisting his neighbor.

Strange Exception

This overall understanding helps explain the most peculiar aspect of the law of the borrower - his exemption from liability when *be'alav imo* - 'the owner was with him.' The Torah rules that if the owner was working for the borrower at the time of the loan (whether for pay or just as a favor), the borrower is no longer responsible for damages.

One might think that the Torah is referring to a situation where the owner and borrower were working together with the borrowed object, such as plowing a field together with a tractor. But the Sages taught in Baba Metzia 95b that it makes no difference what service the owner was performing for the borrower. Thus, if my neighbor was helping me with my computer when I asked to borrow his pencil, I am no longer liable for its damage or loss.

Even more surprising, the Sages taught that this exemption takes effect if the owner assisted the borrower at the time of the loan. What the owner was doing when the article broke, however, is irrelevant (Baba Metzia 94a-b).

Why should it matter if the owner was working for the borrower? I could understand if the owner was present when the object was damaged - he could see for himself that it was used properly. But why should it make a difference if he was present at the time of the loan? This exemption is so illogical that one highly-respected authority - the author of the Chavat Yair - wrote in despair: "This is an unsolved problem that I have taxed my brain to make sense of and find a reason for - but in vain."

No Need for Extra Measures

The explanation above, however, helps us solve this riddle. The Torah placed comprehensive liability upon the borrower in order to encourage kindness and generosity. In the case of *be'alav imo*, however, we see that

the owner assists the borrower more than is common between neighbors. The lender's service for the borrower indicates that they have a special friendship. In such a case, it is unlikely that the owner will refuse to lend out his possessions. Therefore, the Torah did not see a need to place extra liabilities upon the borrower in order to encourage the loan.

For this reason, the verse concludes with the law of a rented article: "If the article was hired, [the loss] is covered by the rental payment" (Ex. 22:14). The juxtaposition of these two cases indicates that the borrower - when the owner is working with him - is similar to a person renting an object. What is common to these two cases? In both situations, the lender is the recipient of some benefit from the borrower. Therefore, the borrower is not liable for accidental loss or breakage.

Borrowing a Horse to Rob a Bank

Finally, this reasoning helps clarify the Talmud's question in Baba Metzia 96a. The Sages debated whether one who borrowed an animal for illicit purposes - say, to rob a bank - is also liable if the animal dies. Why should the purpose of borrowing be a factor in the extent of the liability?

According to the reasoning above, this question becomes clear. If the borrower's motives are improper, the Torah would not wish to promote such a loan. It is preferable that the borrower not be made liable in all situations, thus discouraging the owner from lending out his animal.

(Adapted from Otzarot HaRe'iyah vol. II, p. 519)

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Weekly Halacha by Rabbi Doniel Neustadt

The Melachah of Knotting

The Sages of the Mishnah and the Talmud¹ do not clearly define the exact parameters of the melachah of knotting, the twenty-first of the thirty-nine forbidden forms of "labor" on Shabbos. The description of the Biblically prohibited knot, keshel shel k'yama, a permanent knot, is vague enough to allow for much dispute and debate among the Rishonim as to its exact identity. The debate focuses chiefly on the type of permanency required—must the knot be permanent in its intended duration, in its quality, or in both? This discussion ultimately leads into its natural extension—the definition of a Rabbinically prohibited knot. Several other issues are debated among the poskim, such as the length of time the knot must remain knotted in order for it to be considered permanent; the halachic differences between a knot tied by a professional ("craftsman") and one tied by an amateur; the status of a bow, etc.

Although some of these issues are ruled on definitively, others are not. Consequently, there are various opinions as to the practical halachah. Sometimes, the poskim take into account special circumstances—distress, physical discomfort, a pressing need to fulfill a mitzvah, etc. To better understand the practical applications of the halachos, we have listed some daily activities which involve this melachah:

Shoelaces: Shoelaces are usually tied with a "single knot" (technically, an "overhand" knot, the first stage of tying shoes) followed by a bow. It is permitted to tie a shoelace in this manner provided that the knot is intended to be undone within 24 hours. People who generally take off their shoes without untying the knot may not tie their shoelaces on Shabbos in this manner, unless they will be careful to untie the knot before 24 hours have elapsed. ²

A tight double knot, as is often tied on children's shoes to prevent the shoe from slipping off, may not be made on Shabbos even if it is intended to be undone within 24 hours.³ Still, in a case of distress (tza'ar), it is permitted to tie (or untie) a double knot on Shabbos, particularly if the knot is intended to be undone within 24 hours.⁴

Plastic bags: It is prohibited to twist the top of a bag, make a loop, pull the top through the loop and tighten it to form a knot. This type of knot is considered like a double knot which is prohibited.⁵ It is also forbidden to take the two top corners of a plastic bag, tie them and make a bow (as if tying a shoelace), since foods and other items put into plastic

bags often remain in them for several days.⁶ [In the atypical case where the item is being placed in the bag for less than 24 hours, this knot is permitted.]

There are, however, two permissible ways of knotting a plastic bag on Shabbos: 1) Making a single (overhand) knot only, by taking the two top corners of a plastic bag and tying them (like the first stage of tying a shoelace). Since such a knot will unravel even without manipulation, it is not considered a knot at all. After the single knot has been tied, one may not take the corners of the bag and tuck them under the single knot, since that strengthens the knot⁷ (just as a bow, which strengthens the knot, may not be made over a single knot if the knot is intended to remain for 24 hours or more); 2) Making a slip knot (a loop which is not completely pulled through and does not form a knot) at the top of the bag. This is not considered a knot but a bow.

Lulav: It is a mitzvah to tie the three minim—lulav, hadasim and aravos—together. This should be done on erev Succos, since it is forbidden to tie any knot (double knot; single knot with a bow; single knot with the ends tucked in) around a lulav on Shabbos or Yom Tov. The only solution for one who failed to prepare his lulav in advance is to wind a lulav leaf, etc., around the lulav, hadasim and aravos, make no knot whatsoever, but merely wind around and around so that the hadasim and aravos are "wrapped" around the lulav. The ends of the lulav leaf, etc., may be tucked in. Tucking in the ends is permitted in this case because no knot at all was made.⁸

Sefer Torah: Some poskim⁹ rule that it is prohibited to make a single knot and a bow (or a single knot with the ends tucked in under the band) when putting away the Sefer Torah on Shabbos at the Minchah service. Since this knot will remain intact for over twenty-four hours, it should not be made on Shabbos. The custom in most places, however, is to be lenient, and many poskim accept the leniency.¹⁰ Another option is to wind the band around the Sefer Torah without making any knot at all, and then tuck the ends under the band, as explained earlier in the case of a lulav which is bound on Yom Tov. Those congregations that use a band with metal clasps or a special band called a wimple avoid this potential problem altogether. ¹¹

Belts, gartels, scarves and kerchiefs: These items may be tied with a knot and a bow, a knot with the ends tucked in, or a loose double knot, since these knots are not normally tightened, and even if they are tightened, they are usually loosened within 24 hours.¹²

Tzitzis: It is forbidden to knot tzitzis strings to a tallis on Shabbos, or even to tighten the existing knots if they became loose,¹³ even if one intended to untie the knots within 24 hours.¹⁴ Tying a single knot at the end of a tzitzis string (to keep it from unraveling) is also forbidden, as such a tight knot is considered like a double knot.

Bandage: Gauze may be tied around a cut—even with a tight double knot—if there is no other way of securing it, e.g. through clips or bows. This is permitted because in a situation of physical discomfort a double knot is permitted to be made, when necessary.¹⁵

Plastic (or paper) twist ties: Some poskim¹⁶ rule that it is prohibited to tightly twist (or untwist) a paper-covered or a plastic-covered wire twister around a bag and then repeatedly twist together its two ends. This ruling is based on the view of the Rambam¹⁷ that one who twists two threads together is producing a rope and transgressing the melachah of knotting. According to this view, twisting the two ends of a twist tie together is similar to twisting two threads together to make a rope and may very well be prohibited. Although other poskim maintain that the two cases are not comparable and it is essentially permitted to twist these ties,¹⁸ it is recommended then one not twist "twisties" tightly. If the bag must be tightly sealed, then it is recommended that one twist the tie around the bag only once or twice and avoid doing so repeatedly.¹⁹

Note: When absolutely necessary, a non-Jew may be asked to tie a knot—even a tight double knot—provided that the knot is not intended to be "permanent"—to last indefinitely.²⁰

1 Shabbos 111b.

2 Mishnah Berurah 317:29.

- 3 Mishnah Berurah 317:14. See Chazon Ish, O.C. 52:17 who refers to this prohibition as a “chumrah b'alma” which has become the custom.
- 4 Rama, O.C. 317:1 and Aruch ha-Shulchan 317:10.
- 5 Mishnah Berurah 317:15.
- 6 Mishnah Berurah 317:29.
- 7 Mishnah Berurah 651:11.
- 8 Rama, O.C. 651:1 and Mishnah Berurah 11.
- 9 Minchas Shabbos 80:155. According to this view, it is also prohibited to knot a Sefer Torah band in this fashion on Thursday, since it has been untied on Shabbos morning.
- 10 Ketzos ha-Shulchan 123:9; Tzitz Eliezer 7:29; Rav S.Z. Auerbach, quoted in Shemiras Shabbos K'hilchasah 15, note 188; Rav Y.S. Elyashiv, quoted in Orchos Shabbos 10, note 47.
- 11 Used mainly in German congregations. According to Rav S. Schwab (quoted in Knots on Shabbos), this type of band was introduced in order to avoid the issue of knotting on Shabbos.
- 12 Sha'arei Teshuvah 317:1, as explained by Kaf ha-Chayim 317:23 and Shevet ha-Levi 8:60. See also Ketzos ha-Shulchan (Badei ha-Shulchan) 123:4, Toras Shabbos 317:2, Shemiras Shabbos K'hilchasah 15, note 175 quoting Rav S.Z. Auerbach, and Orchos Shabbos 10, note 16, quoting Rav Y.S. Elyashiv.
- 13 See Ketzos ha-Shulchan 123:4 and Shulchan Shelomo 317:1-5.
- 14 Beir Halachah 317:1, s.v. ha-kosher.
- 15 See Shemiras Shabbos K'hilchasah 15:55.
- 16 Rav S.Z. Auerbach in Shemiras Shabbos K'hilchasah 15, note 174; Rav Y.S. Elyashiv, quoted in Orchos Shabbos 10, note 51; Shemiras Shabbos K'hilchasah 9:14.
- 17 Quoted in Mishnah Berurah 317:34. Other Rishonim, however, do not agree that this is prohibited; see Beir Halachah 314:8, s.v. choslos. See Chazon Ish, O.C. 51:13.
- 18 Rav M. Feinstein (oral quote, The Shabbos Home, pg. 223; see Igros Moshe, O.C. 2:84 for a possible explanation); Chut Shani, vol. 2, pg. 228. See also Shevet ha-Levi 8:55 and Ohr le-Tziyon 2:29-2.
- 19 Ayil Meshulash, Kosher u'Matir, pg. 91, quoting Rav Y.S. Elyashiv; Shevet ha-Levi 10:61.
- 20 Mishnah Berurah 317:25.

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The Talis Exchange and Other Lost Stories By Rabbi Yirmiyohu Kaganoff

Question #1: THE TALIS EXCHANGE

Dovid asked me the following shaylah: “I placed my talis in shul and, upon returning, discovered that it had been replaced by a similar-looking talis. I left the talis undisturbed, and hung up a sign noting the exchange. Unfortunately, no one responded, and indeed, the owner may not even realize that he has my talis. Should I take his talis home? May I use it, or must I purchase a new one and leave his until he claims it, which may never happen?”

Question #2: THE LAUNDRY EXCHANGE

A laundry returned the correct quantity of items that had been brought in originally; however, the customer, Reuvein, later realized that one sheet was not his. A different customer, Shimon, picked up his items and noticed some things were missing however, the laundry insisted that they had returned whatever he brought. Shimon subsequently discovered that Reuvein had one of Shimon's missing sheets, and he clearly identified his missing sheet. Reuvein claimed that the sheet was a replacement for his sheet that was lost, and that he is, therefore, not required to return it. Must he return the sheet?

Question #3: THE WEDDING EXCHANGE

Someone attended a wedding with one coat and, mistakenly, returned with a different one. May he use this coat and assume that the other party is agreeable to the exchange? Does this depend on which coat is more valuable?

Question #4: AN UMBRELLA ON THE SUBWAY

On the subway you see a frum, unfamiliar person rush off the car, forgetting her umbrella. May you keep or use the umbrella, knowing that the owner will soon realize her loss?

SHO'EL SHELO MIDAAS

The concern in all these situations is that one is using someone else's property without permission. This is called sho'el shelo midaas, borrowing without the owner's knowledge, which is usually halachically equivalent to stealing (Bava Metzia 41a; 43b)! In general, one may not use an item until one receives permission from the owner.

CAN'T I JUST ACCEPT THE TRADE OF THE TWO ITEMS?

Since the loser is wearing my talis, why can't I simply assume that we have traded taleisim? I'll keep his talis, and allow him to keep mine. (Although the correct Hebrew plural is taliyos or talisos, I will use the colloquial taleisim.)

Although Dovid may grant permission to the other person to use his talis, can he assume that he has permission to use the other person's talis? Let us examine a relevant discussion:

EXCHANGED ITEMS AT THE TAILOR

Someone whose clothes were replaced with someone else's at a tailor may use what he received, until his garment is returned. However, if the exchange transpired at a shiva house or a simcha, he may not use the garment he received, but must hold it until the owner claims his property. What is the difference between the two cases? Rav answered: “I was sitting with my uncle, and he explained to me, ‘Sometimes people tell the tailor to sell the item for them’” (Bava Basra 46a).

We see from this case that if I exchanged a coat with someone else at a simcha or at a shiva, I may not wear the coat, since I am “borrowing” it without permission. The fact that the other person is using my garment, knowingly or unknowingly, does not permit me to use his. Even if the result is that I must purchase a replacement, I may have to do so, even though a perfectly nice garment is sitting unused in my closet, since the garment is not mine.

However, if the exchange happened in a tailor shop, I may use the replacement.

WHAT IS THE DIFFERENCE BETWEEN A TAILOR AND A WEDDING?

Why is the tailor shop different? The Gemara presents a rather cryptic answer to this question: “Sometimes people tell the tailor to sell the item for them.” What does this mean?

The early poskim explain that when the exchange transpired in a repair shop, one may assume that the following situation occurred:

Someone brought a garment to the tailor, asking him to sell it for him. The tailor erred and sold your garment instead, and then paid the money received (minus his sales commission) to the original owner of that garment. When you came to claim your garment, the tailor realized his error, and also realized that he must compensate you for your item, since he probably has no way to retrieve it. However, he had no cash available, so he gave you a replacement instead – the garment that he was supposed to sell (Tur and Sma, Choshen Mishpat 136:1). Since the tailor already paid the original owner for his garment, he now owns it and is fully authorized to give it to you as a replacement for your lost garment. This case is referred to as nischalfu keilim beveis ha'uman (items that were exchanged in a craftsman's shop).

The next passage in the Gemara's discussion is now almost self-explanatory:

Rav Chiya, the son of Rav Nachman, explained that the ruling of nischalfu keilim beveis ha'uman applies only if the repairman himself gave you the different garment, but not if his wife or children gave them to you.

Obviously, if the tailor's wife or child gave you the wrong garment, you cannot assume that this was because of the tailor's earlier error. It is more

likely that they simply mistakenly gave you the wrong garment, which needs to be returned.

Similarly, the following concluding passage of this particular discussion is clear.

Rav Chiya, the son of Rav Nachman, continued: The halacha of nischalfu keilim beveis ha'uman applies only if the repairman told you, "Here is a garment." However, if he said "Here is your garment," we assume that he erred, since he is not giving you your garment.

If the tailor had sold your garment in error and is now sheepishly providing you with a replacement, he would not tell you, here is your garment. Therefore, he must have mistakenly given you the wrong garment, and you must return it.

We see clearly that the ruling of nischalfu keilim beveis ha'uman applies only when I can assume that a tailor or other repairman inadvertently sold or disposed of my item and can legitimately offer me the replacement. Otherwise, the situation is comparable to the case of garments exchanged at a simcha, where one may not use the received garment without permission.

Thus, referring back to question #3 above: Someone attended a wedding with one coat and, mistakenly, returned with a different one. May he use this coat and assume that the other party is agreeable to the exchange?

The answer is that we have no basis with which to permit you to use the other person's coat.

At this point we can analyze Question #2.

A laundry returned to Reuvein the same number of items he had brought them; however, one sheet is not his. Shimon claims to be missing some items, which the laundry denies. Shimon proves that the sheet is his, yet Reuvein claims that the laundry gave it to him as a replacement for what they lost, and that he is therefore not required to return it. Must he return the sheet?

One of the interesting and surprising aspects of this shaylah is that this actual case was asked over 600 years ago!!

Answer: Shimon did not give the sheet to the laundry for them to sell. Therefore, the laundry gave Shimon's garment to Reuvein without authorization, and he must return it to its rightful owner, even if Reuvein has no other way of being compensated for his loss (Terumas HaDeshen #319). The reason for this is obvious: Laundries do not usually act as agents to sell people's clothing, and in any case, Shimon clearly denies ever making any such arrangement.

SO, WHAT IS THE STATUS OF THE TALIS?

Let us return to our first original question. Someone took Dovid's talis and left behind a similar-looking one. The owner has not responded to any of his notices, and Dovid suspects that he does not even realize that an exchange transpired.

Based on the above discussion, it would seem that Dovid has no choice but to treat the talis as unusable and to consider purchasing a new one. However, there is another Gemara discussion that affects our case, so don't run to the store just yet. Let us examine the following passage:

Shmuel said, "Someone who finds tefillin in the street should estimate their worth and may wear them himself" (Bava Metziah 29b). If the finder has no need for a pair of tefillin, he may sell them and put the money aside for the owner. The Rosh (Bava Metziah 2:16) rules that the finder may even use the money in the interim.

Shmuel's statement presents an obvious question:

His ruling seems to contradict the principle that borrowing an item without permission is tantamount to theft. Why can the finder wear (or sell) these tefillin? As we are all aware, one of the Torah's mitzvos is to return a lost object to its owner (Devorim 22:1-3; Shemos 23:4). How does the Gemara permit the tefillin finder to wear them and not return them to the owner? And, even if we correctly assume that "estimating their worth" means that he is responsible to return the value of the tefillin to their owner, if and when he locates him, why is this case different from the normal obligation to return the actual lost item itself to its owner? Obviously, there must be

something about tefillin that permits the finder to keep them and simply repay their estimated value.

Some poskim contend that this ruling applies only to a mitzvah object, such as tefillin, where the owner wants someone else to use them, rather than have them sit unused (Shach 267:16, in explanation of the Rambam, Hilchos Gezeilah 13:14). However, most authorities imply that this ruling applies also to non-mitzvah items, in cases where the owner is satisfied with simply receiving compensation equal to their value (see Tur and Shulchan Aruch, Choshen Mishpat 267:21). The basis for this second opinion is the continuation of the Gemara's discussion:

TEFILLIN VERSUS SEFORIM

The Gemara asks why someone finding tefillin may wear them, since this ruling appears to contradict a statement that someone who finds books may not use them, but must hold them for the owner. Why are tefillin different from seforim? The Gemara answers that a person wants to get his own books back, whereas he can always purchase new tefillin. This implies that people have no strong attachment to any specific pair of tefillin, whereas they have developed a bond with their own seforim, since they are difficult to replace. From this, one could infer that there is a difference between finding an item that the owner does not mind replacing and finding an item that he does not want to replace, and this would seem to have ramifications for someone who finds a talis, an umbrella, or any other easily replaced item.

Although this seems to be the obvious point of this Gemara, elsewhere the Gemara appears to rule otherwise. If someone found coins placed in a deliberate fashion, the finder may not spend this money and replace it with other coins, but must hold these very specific coins and return them to their owner (Bava Metziah 29b). Obviously, the owner is not concerned about receiving these specific coins, and would be very satisfied with receiving replacement money. Why is it not sufficient to simply return coins of the same value? We see that returning replacement value is not satisfactory, even when it makes no difference to the owner if the particular coins are returned to him, or if he is given others of equal value in their stead.

The answer is that in the case of lost tefillin, two factors must be met before one may use them. In addition to the point mentioned above, a second factor is that a finder who chooses not to use the tefillin but give them back becomes a guardian, who is responsible to care for them. He must then occasionally air them out and ensure that they are kept dry (Rosh, Bava Metziah 2:18). (When a person wears tefillin daily, he automatically airs them out at the same time, which benefits them.) Thus, the owner of the tefillin actually benefits more if the finder sets aside money, since there is now no risk of damage to the tefillin. This is qualitatively different from finding lost coins, which require no care other than storing them in a secure place.

We can therefore extract the following principles:

If taking care of a lost item requires some effort, and also, the owner does not care whether or not the original item is returned to him, the finder may estimate the value of the lost item in order to, eventually, repay this amount. Otherwise, the finder should hold the lost item and await the owner's return. (There is another case mentioned when the finder sells the lost item for a similar reason, but that case is beyond the scope of this article.)

Having established the rule, let us see which cases fit the rule, and which do not. Clothing does not usually fit this rule, since people are interested in getting back the same garment that they lost. A person is comfortable with his own clothes, and often purchasing something to one's taste is not a simple matter. Therefore, someone finding a lost garment may not sell it and hold the money for the owner.

ARE UMBRELLAS AND TALEISIM LIKE TEFILLIN?

On the other hand, the average person does not develop a personal attachment to his umbrella and is perfectly satisfied to have a usable replacement umbrella. Similarly, a man is usually not that concerned about his specific talis and is satisfied with a replacement. In addition, both of these items are comparable to tefillin and not to coins, since, if they are

never used, they become musty. (Normal use of an umbrella airs it out.) Therefore, someone who locates a lost umbrella may use it after estimating its value.

We are now prepared to answer Question #1 and also Question #4.

First, Question #4: On the subway you see a frum, but unfamiliar person rush off the car, forgetting her umbrella. May you keep or use the umbrella, knowing that the owner will soon realize her loss?

Clearly, she will despair of recovering her umbrella as soon as she realizes her loss. However, one may not pick up the umbrella until after she has realized her loss, and this may happen only some time after she leaves the subway. If you pick it up soon after its having been left, the umbrella is still the property of the person who lost it, and the one picking it up is responsible to return it.

However, a person is usually not concerned about owning his specific umbrella, but is satisfied with money to purchase a replacement. (If indeed, the umbrella that was lost appears to be a designer umbrella, the halacha will be different.) Therefore, even though the owner still owned the umbrella when you found it, you may claim the umbrella as your own, and simply make a mental note how much it is worth. Should you ever meet its owner, and should she prove that the umbrella was hers, you would have to compensate her for it.

And now, our analysis of the opening question, The Talis Exchange

Dovid had placed his talis in shul, and it was replaced by a similar-looking talis. His attempts to alert the owner were unsuccessful, and indeed, the owner may not even notice the exchange. May he use the other talis or must he purchase a new one?

I believe that most men do not feel attached to their particular taleisim, and this case is, therefore, comparable to the tefillin case of the Gemara. Assuming this to be true, someone who finds a lost talis may estimate its value and then either wear it or sell it. Either way, he should record the

value of the talis and intend to return it to the owner, should he ever come back for it. (When I first published this article, I received several responses disagreeing with me, contending that most people are more possessive of their taleisim than I felt they were.)

PECULIARITIES

The careful reader may have noted that our discussion is heading to an unusual conclusion. Although the Gemara rules that the owner is less concerned about retrieving his tefillin than retrieving his seforim, today, the opposite is generally true – an owner is usually not concerned about getting back the same sefer, since one can usually purchase it again in a bookstore. (However, the Gemara's halacha would remain true if he had written notes in the sefer, or for any reason that would give this particular sefer special meaning.)

On the other hand, many people own hand-picked tefillin and want their specific pair back (Minchas Elazar 4:9; see Pischei Choshen, Aveidah 6:ftn23). They may have purchased tefillin whose parshiyos were written by a specific sofer who no longer writes, or made by a specific batim macher who has a long waiting list. Thus, after analyzing the principles of the above-mentioned Gemara, the Minchas Elazar decides the opposite of its conclusion and rules that the original owner gets his tefillin back.

However, an average person is usually satisfied with a replacement pair of tefillin, provided that they are absolutely kosher and of equal halachic quality. Thus, although the principles of the Gemara are infinite, the specific cases that match them change with the specific society in which they occur.

Returning lost items is a beautiful and important mitzvah. As we now see, the details of observing this mitzvah are often very complicated – and can vary from item to item.

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