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INTERNET PARSHA SHEET ON Ki Seitzei - 5779

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Rabbi Yissocher Frand - Parshas Ki Seitzei 5772

The Torah Introduces The Concept of "Tough Love"

Parshas Ki Seitzei contains one of the Torah's more perplexing chapters -- the laws of the Wayward and Rebellious Son (Ben Sorer U'Moreh). The situation involves a male child between the ages of 13 and 13 and a half who begins to "act out" in a very dangerous manner. He steals from his parents. He is gluttonous in his consumption of meat and wine. The Torah prescribes very severe punishment: The parents must bring the child into court and the Beis Din will sentence him to stoning, the most severe of the capital punishments mentioned in the Torah. The Talmud in Sanhedrin asks why the Torah was so harsh with the Ben Sorer U'Moreh for behavior that certainly does not warrant the death penalty. The Gemara answers that the Torah realizes what the eventual outcome of such an adolescent will be. Eventually, he will not be able to sustain his lifestyle financially and will

come to rob from people. He will eventually get into an altercation in which he will take someone's life. It is better that he be put to death when he is relatively innocent than let him come to thievery, robbery, and eventually murder when he would be deserving of the death penalty! The Gemara adds -- at least according to one opinion -- that the situation of a Ben Sorer U'Moreh never actually occurred and never could occur. The reason for this is that the legal conditions necessary to execute such a child are so exacting and unlikely that it is virtually impossible for them to ever come to fruition. The Gemara justifies the fact that an "impossible" event is dealt with at length in the Chumash and in the Talmud with the principle "come expound its lessons and receive reward for that" (drosh v'kabel sechar). In one sense, this can be understood to mean that since it is part of the Torah, we will receive reward for studying it, irrespective of the practical application of these laws (in the same way that we receive reward nowadays for studying the laws of the Temple or other ritual practices that we are no longer able to observe on a practical level.) However, Rabbi Abraham J Twerski has a different insight in the expression drosh v'kabel sechar. He maintains that the Torah is teaching us a lesson here which should be expounded and for which we will gain practical insight and advice. The Torah is talking here about a concept which has perhaps become in vogue over the last 15 or 20 years, but was unheard of before that. This is the concept of "tough love," which the Torah introduced many millennia before any psychologist or social worker ever came up with the expression. Rabbi Abraham J. Twerski is himself a practicing psychiatrist and his area of specialization is addictions. He deals with the problem of drug addiction, which unfortunately, is not a rare problem even in our own community. As a practicing psychiatrist who has dealt with this, he makes the statement that the only way a person who has an addiction is going to be cured is through "tough love". That "tough love" means the parents who have such a child must at times act in ways that seem insensitive and cruel to the child. The parents cannot just keep providing the child with money to feed his habit. If it means that the child will be arrested for stealing money from others or that he will have to spend time in jail as a result of his crimes, so be it. The eventuality and the inevitability of a person who has an addiction problem is that the only way it is going to be ultimately dealt with is if it is to be cured once and for all. When the Torah records the Parsha of the Wayward and Rebellious son, it is informing us of the principle of "tough love". No human being is more merciful than the All Merciful One. How then can this Torah of Kindness whose ways are the ways of pleasantness proscribe that parents should take their children to court to have them executed? The answer is that this is the ultimate mercy, because the alternative is even worse than that. Just as if -- Heaven Forbid -- a child should have a malignancy on his leg and the only chance for survival would require amputation of the leg, Rachmana litzlan, the parents who brought that child to the hospital to have his leg amputated would not be viewed as cruel parents but as merciful parents, so too this idea applies to the (theoretical) case of parents who have to bring their Wayward and Rebellious son to Beis Din to undergo the punishment proscribed for a Ben Sorer U'Moreh. This is the only way, under those circumstances, to save -- at least the "World to Come" (Olam HaBah) -- of this child. The "Drosh v'kabel Sechar" of this chapter is that sometimes "tough love" must be applied. I always say never to pasken halacha (act in practice) based on ideas and opinions presented in my lectures. Certainly, regarding interacting with children and applying "tough love" to children acting out, no one should pasken from a lecture. But the concept is a valid one in certain situations of child raising and it is a prime lesson which we should be aware of in studying the laws of Ben Sorer U'Moreh: Sometimes what appears to be cruel, is the biggest salvation for a child.

The Reason For The Hatred of The Ammonites and Moabites

The Torah teaches that an Ammonite and a Moabite are not allowed to enter the Congregation of Hashem -- even 10 generations after they have converted to Judaism they are not allowed to intermarry with a member of

the Jewish nation. [Devorim 23:4]. We are furthermore commanded never to seek their peace or welfare [Devorim 23:7]. They are basically excommunicated from entry into the Jewish people. Next the Torah teaches, "You shall not hate an Edomite (convert), for he is your brother; you shall not hate an Egyptian (convert) because you were a stranger in his land. Their third generation offspring (following their conversion) may enter the Congregation of Hashem." [Devroim 23:8-9] Targum Yonasan adds a very interesting explanation on the prohibition to ever marry a descendant of an Ammonite or Moabite: Even if they convert (and profess their loyalty to Judaism), there is still deep seated hatred in their hearts that lasts forever. Logically, if we to ok a poll as to who would have a greater likelihood of hating the Jews eternally – the descendants of Esav (Edom), the descendants of Egypt, or the descendants of Lot (Ammon and Moav) most people would not chose the descendants of Lot. Esav has a long standing gripe with us. Esav felt that Yaakov stole his right as the first born. The Egyptians should certainly hate us – we in effect destroyed their entire country. We took the mightiest empire in the world and reduced it to rubble. Every one of their first born were killed. And yet, somehow after a few generations, the Edomite and Egyptian can overcome their perhaps understandable hatred of Jews. But we never really wronged the offspring of Lot, the nephew of Avraham Avinu. On the contrary, Avraham was terribly kind to Lot: he took him in, he set him up in business, and ultimately he saved Lot's life. Logically speaking, they should owe us a favor and love us. It is specifically those nations which hate us eternally! Why is that? I once heard the answer to this insight from the Rosh Yeshiva, Rav Yaakov Ruderman, zt"l, [1901-1987] who used to quote it in the name of the Chasam Sofer. This is a fundamental insight into human behavior. The Chasam Sofer used to say, "I don't understand why this person hates me. I've never done him a favor!" On the face of it, this does not seem to make any sense. We would expect the concluding statement to be, "I have never done anything wrong to him." However, that is not what the Chasam Sofer said. When one does a favor for someone, it creates a psychological debt that the recipient owes his benefactor something. Gratitude is implicitly expected and people do not like to be indebted to anyone. The greater the favor was, the greater the odds that it will be impossible to properly repay and the greater the chances that this debt which cannot be repaid will cause hatred in the heart of the recipient towards his benefactor. This is the difference between Ammon and Moab on the one hand and Edom and Egypt on the other. Truly, we destroyed Egypt, but after a few generations, one can get over that. The "offense" toward Edom happened 4000 years ago. Esav did all right for himself. They can get over that. But Lot realized that Avraham saved his life. If not for his uncle, he would not be around. That debt of gratitude, which could never be repaid could psychologically only be dealt with by denying the favor and hating the benefactor instead. That hatred of Lot for Avraham was passed down through his daughters to the nations of Ammon and Moab and it is a hatred which lasts forever.

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Parshas Ki Seitzei Parsha Summary for Parshas Ki Seitzei print Note: The Shabbos Torah Reading is divided into 7 sections. Each section is called

an Aliya [literally: Go up] since for each Aliya, one person "goes up" to make a bracha [blessing] on the Torah Reading.

In the course of history mankind's most ignoble times have been during war and conflict. It is almost as if we suspend our humanity and regress to our lowest common denominator; that of the wild beast. Murder, rape, and plunder accompany the soldier as he is given license to destroy that which should be most precious. It confirms, as the Torah teaches, that all morals and values rest upon the sanctity of human life. Devalue the pricelessness of life, and you undermine the foundation upon which all values and morals rest. The private domain of person and property then becomes subject to the unleashed amorality of the human animal.

Following the instructions at the end of last weeks Parsha as to how the Jew is to wage war, Moshe, in Parshas Ki Seitzei, presented 74 Mitzvos which highlight the value that the Torah places on the private domain of person and property.

1st Aliya: In an illuminating sequence of emotional and legal circumstances, Moshe forewarned us of the moral and familial dangers of warfare. A soldier brings home a non-Jewish female captive. Disregarding rational and obvious differences, he marries her, has his 1st son with her, and eventually resents the discord he has fostered upon himself, his "captive wife", and his extended family. Attempting to deny his responsibility in the "resentment turned to hatred" breaking apart his family, he attempts to deny his 1st born son's rights. This is illegal.

This can Produce the "Rebellious Son"; a child who does not value the private rights of person or property and will eventually be executed for his crimes against society. It's a tragedy that begs us to consider the long range consequences of our actions before giving legal license to the wild beast within each of us.

2nd Aliya: The laws regarding: hanging and burial; returning lost articles; the fallen animal; transvestitism; and the birds nest are detailed.

3rd Aliya: The laws regarding: guard rails; mixed agriculture; forbidden combinations; Tzitzit; the defamed wife; if the accusations against the wife are true; the penalty for adultery; the rape of a betrothed or unmarried girl; the prohibition against marrying a father's wife; the Mamzer; and the prohibition against marrying an Ammonite or Moabite are detailed.

4th Aliya: The laws regarding: marriage to Edomites or Egyptians; the sanctity of the army camp; sheltering run away slaves; prostitution; deducted interest; and keeping vows are commanded.

5th and 6th Aliyot: The laws regarding: workers eating while they harvest; divorce and remarriage; military exemptions for a new husband; taking a millstone as security for a loan; the punishment for kidnapping; leprosy; general laws regarding security for loans, are detailed.

7th Aliya: The laws regarding paying wages on time; the testimony of close relatives; concern for the widowed and orphaned; forgotten sheaves of grain; leftover fruit from the harvest; Malkos – flogging; the childless sister-in-law; the assailant and the wife who comes to the rescue; honest weights and measures; and remembering Amalek are commanded.

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from: Office of **Rabbi Berel Wein** <info@jewishdestiny.com> via auth.ccsend.com reply-to: info@jewishdestiny.com September 11, 2019, 1:27 PM subject: Parshat Ki Teitzei 5779 - Rabbi Berel Wein Home Weekly Parsha KI TEITZEI Rabbi Wein's Weekly Blog Printer Friendly KI TEITZEI

This week's Torah portion deals with many different issues of human behavior and family relations. We are all aware that the relationships between parents and children, as well as between other relatives in the same family are often difficult ones and fraught with potential danger, frustration and even tragedy. People within a family are very capable of disliking and even hating one another despite their biological and social connection. This is because in the basic family structure there exists a bond of love between

the members of the family that is natural and quite strong. And any time strong love is present, the possibility of strong hate always lurks in the background.

Precisely because children love their parents, they feel justified in holding them to unrealistic standards of behavior and attitude. And since parents often fall short of such absolute perfection, the resentment towards them can become so great as to lead to awful family disputes. Hard statistics reveal that most murders occur between perpetrators and victims who are related or know each other well. These family members have experienced disappointment and often complain of severe mistreatment. There are many current theories as to how to properly raise children and create tranquility and harmony within the family unit. But, as is true in almost all areas of life, one size does not fit all, and it is difficult to fit each separate case into any general rule. Because of this, it is obvious that every family must sort through relationships and affairs individually. Very rarely if ever can any outside source, no matter how wise or professional, solve the problems and workings of the family unit. From the narrative that appears regarding the rebellious son – a narrative that according to one opinion in the Talmud is to be treated only as a metaphor – it is clear that we are being taught that there are instances when no logical or rational solution is present or possible. It is difficult for us in our time, when we have unlocked so many doors regarding the mysteries of science, technology and medicine to have to admit that there are basic human problems that exist within family relationships that we are powerless to solve on our own. Later in the Torah we will read that there are many hidden things in human life that only Heaven can deal with. We can only do the best that we can, to the extent that we are physically, emotionally and intellectually able. There is no question that this limitation upon our omnipotence is very frustrating especially to modern humans who believe that they are capable of everything. By realizing that paradoxically we can accomplish more than we thought possible in times of difficulty, eventually we know that we must rely upon the God that infuses us with life, to help us solve all difficult situations and to accept God's will. Shabbat shalom Rabbi Berel Wein

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Parsha Potpourri
Parshas Ki Seitzei – Vol. 14, Issue 49
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(שלח תשלח את האם ואת הבנים תקח לך למען ייטב לך והארכת ימים) 22:7)
Parshas Ki Seitzei contains the mitzvah of shiluach haken – sending away the mother bird from her nest, and then taking her eggs or young for oneself. Rav Yosef Shalom Elyashiv recounted that in 2001, an old Jewish woman who lived in the Ezras Torah neighborhood in Jerusalem was visited by her grandson. When he noticed a bird sitting on eggs in a nest in her yard, he asked his grandmother for her consent to fulfill this rare mitzvah. Astonishingly, the old woman refused to give him permission to do so until he first asked the neighborhood Rav if he should perform this mitzvah. The grandson, who was a Torah scholar, politely asked his grandmother to explain what concern she could possibly have that would prevent him from fulfilling a Biblical commandment. To his surprise, his grandmother responded that that year was a Shemittah year, and she was worried that perhaps it is inappropriate to send away the mother bird during Shemittah. Her grandson respectfully explained that the laws of Shemittah forbid a person to work in his fields, but have no connection to the mitzvah of shiluach haken. Nevertheless, the old woman remained adamant in her position that she would not allow her grandson to send away the mother bird until he first consulted the local Rav, who was Rav Simcha Bunim Waldenberg, the son of the Tzitz Eliezer. When the embarrassed grandson

presented his “question” to the Rav, Rav Waldenburg excitedly responded that only a few minutes earlier, somebody had shown him that the Rashash (one of the greatest Kabbalistic sages of the past 300 years, whose full name was Rav Shalom Sharabi) writes that performing this mitzvah during a Shemittah year can cause a person damage and harm. In fact, the sefer Kan Tzipor quotes the Rashash as maintaining that one should not perform this mitzvah during the 7-week period between Pesach and Shavuot, nor from Rosh Hashana until Shemini Atzeres, as the deeper mystical rationale for the mitzvah does not apply at these times. When Rav Elyashiv recounted this story, he expressed his tremendous wonder and admiration for the simple faith and complete trust in the Sages of a woman from an earlier generation. Nevertheless, as a matter of practical Jewish law, Rav Chaim Kanievisky, Rav Yaakov Hillel, and Rav Yitzchok Zilberstein all rule that a person who has the opportunity to fulfill this mitzvah should do so even during these periods, explaining that the words of the Rashash are intended only for those who conduct their entire lives according to mystical teachings, whereas ordinary people should follow the rulings of the revealed Torah and Shulchan Aruch, which makes no such distinctions and indicates that the mitzvah may be performed at these times.

כי יקח איש אשה ובא אליה ושנאה ושם לה עלילת דברים והוציא עליה שם רע ואמר את האשה הזאת לקחתי ... ואקרב אליה ולא מצאתי לה בתולים ולקח אבי הנער ואמה והוציאו את בתולי הנער אל זקני העיר השערה (וענשו אתו מאה כסף ונתנו לאבי הנערה כי הוציא שם רע על בתולת ישראל) (19-22:13)
Parshas Ki Seitzei discusses the case of a man who marries a woman and comes to hate her, so he falsely accuses her of engaging in immoral conduct prior to their wedding as grounds to terminate the marriage. As the allegation against the bride is also an attack on her parents and the upbringing that they provided her, her parents come to her defense and debunk the unfounded claims. If they are able to prove their case, the elders of the city punish the husband with lashes, and he must also pay 100 silver shekels to his wife's father for attempting to besmirch the family's reputation. Curiously, in referring to the bride as a נערה (adolescent woman), the passage begins by spelling the term נער, with a kamatz under the נ in lieu of a ה at the end of the word, but it concludes by describing her as a נערה – with a ה. The Vilna Gaon (Niddah 5:7) writes that when a woman gets married, she becomes a partner in all of her husband's traits and accomplishments, which is represented by the attachment of a feminine ה to each of them. For example, if she marries a wealthy עשיר, she becomes an עשירה. Accordingly, when discussing a single girl, it is appropriate to describe her as a נער with a kamatz under the נ, with the ה at the end omitted to symbolize that she does not yet possess the shared attributes that come through marriage. In light of this insight, Rav Mordechai Gimpel Yaffe explains that the slandered young woman is initially called a נער – without a ה – because her husband is attempting to sever their ties on the pretext of his accusation. By the end of the passage, however, her parents have successfully disproven his false allegation and the elders of the town have ruled that he was lying. In such a case, the Torah stipulates that he is forbidden to ever divorce her and she shall remain his wife forever, and it alludes to this permanent bond by referring to the wife as a נערה, which connotes that she is now a fully-married woman.

כי יקח איש אשה חדשה לא יצא בצבא ולא יעבר עליו לכל דבר (בקי יהיה לביתו שנה אחת ושמה את אשתו אשר לקח) (24:5)
The Torah exempts a newlywed man from the army during the first year of his marriage so that he can focus on gladdening his new wife. The Yerushalmi (Bikkurim 3:3) adds that as a chosson (groom) begins the next chapter in his life, all of his prior sins are forgiven. However, Rav Yisroel Reisman points out that this is difficult to reconcile with the ruling of the Bavli (Kiddushin 49b) that if a completely wicked man betroths a woman on the condition that he is righteous, they are legally betrothed due to the possibility that he may have had thoughts of repentance. According to the Yerushalmi, there should be no need to deem him righteous because of the chance that he did teshuvah, for a groom is forgiven for all his

transgressions, in which case the condition was automatically fulfilled without any action on his part. Citing the commentary of Rav Yoshiyah Pinto on Ein Yaakov (Yevamos 63b), Rav Reisman resolves the apparent contradiction by explaining that there are no free gifts in the world of spirituality, and anything worthwhile must be earned through our own efforts and exertion. A chosson isn't magically forgiven simply because he gets married. Rather, his forgiveness is placed in a box, where it remains suspended pending the choices he will make as he commences life with his new bride. If he views marriage as an opportunity to welcome the Shechinah (Divine Presence) into his new home and resolves to leave the immature follies of his single days behind, then he has earned the right to be forgiven for all of his misdeeds. If, on the other hand, he doesn't appreciate the fresh start he has been given and opts to begin his marriage by continuing all his juvenile practices, it is illogical that such a groom would merit forgiveness, and his potential atonement will remain locked inside the box. In stipulating that a newlywed couple is not to be distracted for a full year, the Torah is instructing us to adopt the first approach. We are supposed to see shana rishona (the first year of marriage) as a new beginning, which when utilized properly to build a new home of spiritual growth and kedusha (holiness) is deemed even more valuable than joining the national army at battle.

Rabbi Yisroel Reisman - Parshas Ki Seitzei 5768

23:2 **ב לא-בא פצוע-דכא וזרות שפכה, בקהל ירוך** In the Torah there are probably 305,000 letters. Almost all the letters are identical in all Sifrei Torahs, except for the word "Daka." The Rama and Radak have a Machloikes how it should be written either with a Hei or an Aleph at the end of the word. This Machloikes Rishoinim turns into a Machloikes of Halachah L'maiseh on how the Sefer Torah should be written. Among Ashkenazim and Sefardim everyone has a Hei at the end except for the Teimanim and Lubavitch who have an Aleph. It then is a Shaila if a non Chabad person can make a Brachah in a Chabad Sefer Torah. Mipnei Hashaloim, if someone finds themselves in a Shul with the Sefer Torah that has the Aleph, they can make a Brachah on it. If someone is having a Sefer Torah written for them, and the Soifer is someone from Chabad, you must make sure to tell them to write Daka with a Hei.

כ וְלַנֶּעֱר לֹא-תַעֲשֶׂה דָבָר, אִין לְנַעַר חֲטָא מְוֹת: כִּי כְאֲשֶׁר יִקּוּם אִישׁ עַל- 22:26 **רעהו, וירצחו נפש--כן, הדבר הזה** That someone who does an Aveira B'ones is Patur. There is an interesting Stiras Harambam. In Hilchos Avoda Zorah, the Rambam writes that if someone is forced to be Oved Avodah Zora B'ones, of course the Halacha is Yeihereig V'al Ya'avov (to get killed and not perform the sin of idol worship). However, the Din is if someone didn't withstand the test and did perform idol worship that he is not Michuyav Misah. Ones Rachman Patrei applies even in a case of Avodah Zorah that you are Patur from an Onesh. He failed to be Mekayeim the Mitzvah of Kiddush Hashem for which he was Mechuyav, however, Ones Rachmana Patrei applies even in a case of Avodah Zorah and he has the Heter of Ones.

There is another Rambam in the 5th Perek of Hilchos Yesoidei Hatorah. The Rambam there says that if a person is ill and the only way to be healed is to eat from the fruit of an Asheira tree, which is Abaz'rai'hu of Avoida Zorah, that you must be killed and not eat the fruit. The Rambam says if that person were to eat the fruit from that tree than he gets Malkus. This contradicts the person who bowed down to Avoida Zorah and didn't receive a punishment. The Ohr Sameach asks this question on the Rambam and gives the same Teretz as Rav Elchanan.

Rav Elchonon is Mechaleik between 2 types of Oines. There is one type of Oines that a person is forced physically, meaning someone points a gun at him and forces him to do something. There the act is not really his act. If someone would take a person and physically bend his body in front of an Avoida Zorah, we wouldn't say that the person is bowing. The other person

is using this person's body to bow. So too if someone points a gun at someone and asks him to bow to an Avoida Zorah, the Rambam considers it the man with the gun who is doing the Mai'se. So it is an Oines and he is Patur.

This is not so with eating from the Asheira tree. This is not the same type of Oines. In the case of the Avoida Zorah, this person would be delighted if the Avoida Zorah would just disappear. Not so the person who is ill and needs the food of the tree for his Hatzolah. If someone would take that fruit away, the person would be distraught. So someone who does a Hatzolah because of Pikuach Nefashois does not have the same rules of Oines and he is punished.

This is the Pshat with Esther. All along when Esther was married to Achashveiroish when she was physically forced to live with Achashveiroish, and we know that since Isha Karka Oilam Hi that she is not required to let herself be killed instead of Znus, and therefore since it was an Oines, she didn't become Assur to her husband.

Not so when she went to Achashveiroish as a means of Hatzolah for Klal Yisrael. This would be comparable to eating from the Asheira tree. She did it and she is still Assur to her husband Mordechai.

This Pshat actually helps us appreciate the Gadlus of the Hofetz Chaim. This Rav Elchonon and Ohr Sameach, the Mishna Berura says in half a line. In the Halacha of Brocha Rishonah of Birchas Hapeirus in Siman (204) Raish Daled, the Taz asks a Stira between two Se'ifim. In 240:8 the Rama says if someone forces you to eat something, you don't make a Brocha. In 240:9 it says, if someone eats Treif because of a Sakana, you do make a Brocha. The Taz asks that it is a Stira because both are Oines and yet by someone forcing you to eat you don't make a Brocha and when you are an Oines to eat Treif for a Refua you do make a Brocha? The Mishna Berura says when you are forced to eat something you are an Oines in the Mai'se itself, which is like Esther all the years living with Achashveiroish. On the other hand when someone is ill and takes something to eat that is Hatzalah through an Issur and you do make a Brocha because it is not called an Oines Gamur.

[1]Rabbi Yaakov Tzvi Mecklenburg (born approximately in 1785 and נפטר in 1865) was a disciple of Rabbi Akiva Eiger and served as Rabbi in the Prussian city of Konigsberg.

[2] See also הלכות תפילה תשובה רנב and sources cited in fn 232.

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Elul Through Yom Kippur: 40 Days of Recreating Our Reality

Based on a Naaleh.com shiur by

Rebbetzin Leah Kohn

The month of Elul is a special eit ratzon (time of favor). Let us study what happened during this period and thereby better understand what Elul is about. Klal Yisrael experienced great miracles in Egypt. Hashem revealed himself on the night of Pesach and later on at the Red Sea. Eventually the Jews arrived at Har Sinai and experienced more miracles and revelation. There was an intense and close relationship with Hashem. However soon after they failed with the Sin of the Golden Calf. When Moshe delayed in returning with the luchot, they saw in it a lack of fulfillment of his prophecy. They also saw a vision of Moshe lying dead in heaven. They assumed he had died. Then they got over the reality of being without a leader and created the golden calf. It was a very difficult test. The nation who followed Hashem into the desert and said naaseh v'nishma were on a very high spiritual level. They were the foundation of Klal Yisrael. If they failed, it must have been a very tough challenge. Why did Hashem test them? Moreover, it seems as if He set them up for failure by enabling the Satan to fool them into thinking

Moshe was dead. The miracles in Mitzrayim and on Yam Suf were gifts given to the Jews. In Shir Hashirim it says, "Dodi li v'ani lo- My beloved one is to me and I am to him." Hashem first gave us these gifts that we did not deserve fully. Gifts received without much effort can be lost easily. It's not as precious as something earned. When Hashem gave Moshe the first luchot it was supposed to stay with Klal Yisrael forever. If they wouldn't have failed with the golden calf, Mashiach would've come. The Jewish people needed to get to a high spiritual level and they needed to draw the other nations with them. However, before the giving of the Torah, Amalek came to fight the Jewish people and cooled off the 'waters of the bath,' not only for the Jewish people but for the other nations as well. As a result, Mashiach could not come yet. Shem MiShmuel explains that Klal Yisrael were in fact ready and could go in to Eretz Yisrael, but the other nations weren't worthy. It seems unfair, as if we were liable to suffer for the other nations. But in reality, it gave us another opportunity to bring kiddush Hashem into this world. If the nations would come back to Hashem as a result of our influence, it would be our accomplishment. Hashem gave the Jewish people a very difficult test. If they would've overcome it, they would have turned all the gifts they got into something they deserved and their mission would've been accomplished. However, the effort needed to do so was almost beyond human capacity. And even more so, Hashem helped the Satan bring the Jews to sin. Chazal explain that the generation of the desert had to pave a new path to teshuva for Klal Yisrael for all generations. When they failed and then repented, they created the DNA for teshuva. Chazal say each time Hashem brings a punishment to the Jews, there's a trace of cheit haegel. What was not accomplished in cheit haegel would be accomplished in all generations. As a result of their failure, we are part of the mission to overcome the struggles Hashem places before us. The Sefas Emes says Hashem always gives good with greater measure than he gives difficulties. If we are part of the difficult consequences, we are also given the opportunity to do teshuva. The 40 days from Rosh Chodesh Elul to Yom Kippur correspond to the 40 days in the desert when the Jews repented and returned to Hashem. It's a period of time where we can tap into the power of teshuva forged by our forefathers and recreate our relationship with Hashem.

Elul Through Yom Kippur: 40 Days of Recreating Our Reality Part II Rosh Hashana celebrates the creation of man and the completion of creation. It's when Hashem defines the spiritual gifts He will give us in the current year. How much holiness will he bestow upon us? How much Divine help will we get to accomplish our mission? Hashem gives us spiritual gifts in order that we will be able to fulfill our mission. The way we develop it, is via actions in the physical sense. The first day of Rosh Hashana Hashem defines our spiritual gifts. On this basis, the second day defines what physical gifts we will receive for the year to accomplish our spiritual goals. Rosh Hashana has the nature of the Exodus, the Splitting of the Sea, and the giving of the Torah. It's the time when Hashem grant gifts. But while then it was given freely to us, Hashem wants us to earn it now. The Jews sinned with the Golden Calf because they weren't completely worthy to receive the gifts. Hashem now gives us the opportunity to correct it. He gives us the entire month of Elul to work on ourselves and do teshuva so that on Rosh Hashana we are ready to receive His spiritual gifts and use it in the proper way.

In Shir Hashirim, Elul is described as, "Ani l'dodi v'dodi li- First I am to my beloved and then my beloved is to me." Based on the work I invested in Elul, that is how much I'll receive on Rosh Hashana which leads to Yom Kippur and the receiving of the second set of luchot. The first luchot were a complete gift, while the second luchot were earned. This indicates to us the sheleimut (completion) of kabalat haTorah on Yom Kippur. Whereas on Shavuot it was a gift, on Yom Kippur it came from us. This is why Yom Kippur is followed by Simchat Torah, the culmination of a year's worth of investment and accomplishment must result in ultimate joy.

In Mizmor L'toda we say, "Hu asanu v'lo anachnu." The word "Lo" is written with a lamed, vav and read with a lamed, aleph. If we combine the two, we get the word Elul. The Chidushei Harim explains, to the extent that

we realize lo anachnu, it's not us, to that extent will we recognize we are His. That is the definition of Elul. We want to invest in Elul so that we might then appreciate and preserve the gifts Hashem presents us during the High Holy days. In order that we will deserve what we receive, Hashem put us in a physical reality which has the potential to remove us from Him. Nature appears like cause and effect. Eating and sleeping immerse a person in physicality. Overcoming the test is recognizing that physicality is only a means to an end which is building a relationship with Hashem and coming close to Him.

The Sefas Emes explains two verses in Tehilim based on a Midrash. "Yasichu yoshvei shaar u'negivot shotei shachar-People sit at the gate and talk about me and those who are drunk and sing, speak about me." The verse that follows is, "V'ani tefilati lecha Hashem eit ratzon - I pray to Hashem at the opportune time." What is the connection between the two verses? The Midrash says, the first verse refers to the nations who eat and drink and become drunk, mocking Hashem and the Jewish people. In contrast, when the Jewish people eat and drink and the time comes for tefilah, they get up and pray. The Sefas Emes says, when the nations pray to Hashem, they want to get what they want. The Jewish people are different. Of course, we must pray for what we need as Hashem is the source of everything. But what we are truly looking for is the eit ratzon, the closeness.

Elul in the Midst of Summer
Based on a Naaleh.com shiur by
Rebbetzin Tziporah Heller

Teshuva requires shedding one's old garments and donning new ones. And we're afraid, mainly because we've tried and failed before. Doing teshuva seems unreal. It doesn't seem like a shoe we can wear. It's liking have a size 8 foot and trying to put on a size 9 shoe. You think you're too small for your role. In reality, if you put the shoe on, Hashem will help you grow into it. You have to believe that Hashem is waiting for you, with your yetzer hara, your history of failure. He is waiting for you to open the door, because in His eyes, no matter how far you've fallen, you are still His sister, His dove, His beloved, His perfect one. One of the practices that open the door to teshuva is tzedakah. The body has an iron grip on the soul which says, "Don't move." Giving money to charity breaks this bond. Nobody really likes money in and of itself. We like what it can buy, a spacious apartment, good food, nice clothing... Experientially, when you give tzedaka what you're saying is, "There's something I like more than money," and that can break down every barrier.

You might want to give more tzedakah but you don't have more money. No one's giving you an Elul raise. So, if you can't give more, give better. The Rambam lists the levels of tzedakah. The lowest rung is giving face to face. In your mind there's still the big I whose giving and the small you whose receiving. But you can move it up a notch if you're nice to the person. Make a remark about the weather. Smile... ask how they are. It builds bridges. The highest rung is helping someone take care of themselves. If you find someone struggling and teach him how to write a resume, how to get an interview, how to talk to HR, how to find positions in the area he's looking for, that is the greatest level.

Another thing you can do in Elul is to think about the barriers between you and other people. You might say, "Why should I be the one to tear down the wall? I don't like that person." If Hashem sees all of what we are and can still say to you, "My beloved one, my perfect one," you can do the same. That person's soul is as perfect as yours. We have all sorts of thoughts. So does the other person. What you're thinking may be expressed in what you say and do. This person may be trapped in their negative thinking. Who will bring down the walls? You have to do it. You have to search your own thoughts, speech, and action and do what you have to do to make things right again. There's a custom to recite Psalm 27, L'David Hashem ori from Rosh Chodesh Elul through Shemini Atzeret. Some communities say it at Shachrit and Mincha and some at Maariv. The psalm begins, "Hashem is my light."

There's light. I can see how things truly are, if I want to. "Who shall I fear?" Think about all the things you're afraid of, losing your job, something bad happening to your family, rejection, poverty, ill health, losing your reputation. Of course, there's what to fear about. But if you believe that Hashem is your light, you have a different set of questions. The question isn't, "Do I like my situation or not?" The question is, "Could I still be what I could be in this situation? Could I still be in touch with my perfect soul and accomplish what I was meant to." And the answer follows, "Place your hope in Hashem. Strengthen yourself and He will instill courage in your heart."

[**Rav Kook Torah**] Ki Teitzei: Free Will versus Causality Inbox x Chanan Morrison <ravkooklist@gmail.com> Wed, Sep 11, 1:01 AM (1 day ago) to Rav Unsubscribe

?Ki Teitzei: Free Will versus Causality

Maakeh_guardrail The Torah commands us to set up a guardrail (ma'akeh) to prevent people from falling off the roof. A straightforward mitzvah, if there ever was one. Nonetheless, a deeper look into this mitzvah leads us to a complex philosophical topic. To what extent are events pre-determined, and to what extent do we have free will? To what degree are we responsible for our actions?

'The One Who Is Falling'

"When you build a new house, you must place a guardrail around your roof. Do not allow a dangerous situation in your house, for the one who is falling could fall from it" (Deut. 22:8). The language in the verse is awkward. What does it mean, "the one who is falling"? Is not the Torah warning against a possible future event? Or has he already started to fall? The Talmud (Shabbat 32a) explains as follows:

"This person [who fell] was predestined to fall since the six days of Creation. That is why the verse refers to him as 'the one who is falling.' Reward is brought about through a person of merit, while punishment is brought about through a person of guilt." This Talmudic statement needs to be examined. If the one who fell was supposed to fall anyway, why should I bother with the guardrail? He would have fallen anyway! Where do free will and personal responsibility enter the picture?

Two Systems Governing the Universe

When we witness the phenomenon of cause and effect in the world, we are lead to ponder the extent of our personal freedom to act versus underlying, pre-ordained causes. It is important to note that, while free will assumes complete freedom of action, this does not negate the possibility of requisite causes.

We recognize in the economic and political spheres that, despite freedom of personal initiative, there exist overall factors that may neutralize any such attempts at change. For example, the initiative to setup a high-tech company in a backward, third-world country may fail due to lack of infrastructure and skilled labor, political corruption, etc. This is also true in the moral and spiritual realms. We have complete freedom of action and choice, but other underlying factors may negate the actual outcome of our actions. Even when great changes occur, they too may be simply part of the overall divine plan.

In some cases, the discerning eye will detect the effects of actions of free choice, while in others, we see the footprints of pre-ordained causes. In fact, both of these systems - freedom of choice and causality - are tools by which the universe is governed. Together they achieve the overall universal goal, as it says in Isaiah 16:5, "With kindness and truth, the throne will be established."

Means and Ends

We may divide all activity into means and ends. (In specific instances, however, this distinction may not be obvious, as an action may be a means in one aspect and a goal in another.) Means do not make a permanent impression on the world on their own accord; their significance is due to what they cause. Means relate primarily to the power of free choice. There exist a variety of means that may lead to a particular end; if a goal is not

attained through one medium, it will be achieved by another. Ultimate ends, on the other hand, relate to pre-ordained causes.

Now we can understand better the Talmudic principle, "Reward is brought about through those with merit, and punishment through the guilty." This is the 'magical' connection between the two systems, freedom and causality. Through the act of free will by some individual - the means - the appropriate pre-ordained goal, be it reward or punishment, is achieved. In the case of the guardrail, it is the free will of the house-owner, who failed to erect a ma'akeh, that led to the punishment of the one predestined to fall.

(Gold from the Land of Israel (now available in paperback), pp. 329-331.

Adapted from Ein Eyah vol. III, p. 172)

See also: The Rebellious Son - Preventive Medicine

from: Aish.com <newsletterserver@aish.com> via em.secureserver.net date: Sep 12, 2019, 9:14 AM subject: Shabbat in Ibiza; When UK Saved 4000 German Jews; Jewish History of Afghanistan

Animal Welfare Ki Tetzai (Deuteronomy 21:10-25:19) Sep 8, 2019 by **Rabbi Lord Jonathan Sacks** 40 SHARES Animal Welfare Animals do not have rights, but we have duties towards them.

Ki Teitse is about relationships: between men and women, parents and children, employers and employees, lenders and borrowers. Strikingly, though, it is also about relationships between humans and animals.

Descartes thought that animals lacked souls. Therefore you could do with them as you pleased. Judaism does not believe that animals lack souls - "The righteous person cares about the nefesh of their animal," says the book of Proverbs (12:10). To be sure, nefesh here probably means "life" rather than "soul" (neshama in Hebrew). But Tanach does regard animals as sentient beings. They may not think or speak, but they do feel. They are capable of distress. Therefore there is such a thing as animal distress, tza'ar baalei chayim, and as far as possible it should be avoided.

So we read in Parshat Ki Teitse: "Do not muzzle an ox when it is treading grain" (Deut. 25:4). What is intriguing about this law is that it parallels provisions for human beings as well: "When you come [to work] in your neighbour's vineyard, you may eat as many grapes as you desire to satisfy your hunger.... When you come [to work] in your neighbour's standing grain, you may take the ears with your hand" (Deut. 23:25-26). The principle is the same in both cases: it is cruel to prevent those working with food from eating some of it. The parallel is instructive. Animals, not just humans, have feelings and they must be respected.

Another law is: "Do not plough with an ox and donkey together" (Deut. 22:10). The ox is stronger than a donkey, so expecting the donkey to match the work of an ox is cruel. Each animal species has its unique role in the scheme of creation that we must respect.

The most fascinating animal legislation in this parsha is the law of "sending the mother bird away":

If you come across a bird's nest beside the road, either in a tree or on the ground, and the mother is sitting on the young or on the eggs, do not take the mother with the young. You may take the young, but be sure to let the mother go, so that it may go well with you and you may have a long life. (Deut. 22:6-7)

Much has been written on this command. Here I discuss only the analysis given by Moses Maimonides, fascinating in its complexity. There is a law that appears twice in the Mishnah, stating that if a leader of prayer says, "Your mercies extend even to a bird's nest," they are to be silenced.[2] The Talmud offers two possible explanations, of which one is that such a prayer "makes it seem as the attributes of God are an expression of compassion, whereas in fact they are sheer decrees."

In both his commentary to the Mishna and his law code,[3] Maimonides adopts this view. He adds: If the reason for sending the mother bird away were Divine compassion towards animals then, in consistency, God should have forbidden killing animals for food. The law therefore should be

understood as a decree (gezerat hakatuv), and has nothing to do with compassion, human or Divine.

In Guide for the Perplexed, however, Maimonides adopts the opposite approach. There he rejects the very idea that there are commands that have no reason. There is a purpose to killing animals for food is, he says, because meat-eating is necessary for human health. Shechitah (ritual slaughter), however, has been ordained because it is the most painless way to kill an animal. He continues:

It is also prohibited to kill an animal with its young on the same day, in order that people should be restrained and prevented from killing the two together in such a manner that the young is killed in the sight of the mother, for the pain of the animals under such circumstances is very great. There is no difference in this case between the pain of human beings and the pain of other living beings, since the love and tenderness of the mother for her young ones is not produced by reasoning but by imagination, and this faculty exists not only in man but also in most living beings...The same reason applies to the law which enjoins that we should let the mother bird fly away when we take the young.[4]

So Maimonides, contrary to the position he takes in his law code, here states that the law does have compassion as its logic. Moreover, what it seeks to avoid is not physical pain to the animal but psychological distress.

Maimonides' view of animals has been confirmed by recent findings in biology that suggest that many species do indeed resemble humans in their ability to form groups, engage in reciprocal altruism, and display a range of emotions.[5] In most animal species, it is the mother that forms an ongoing bond with the young. Among animals, fatherhood is usually far less developed. So Maimonides' explanation in The Guide is empirically well-founded.

However, elsewhere in his Guide,[6] Maimonides takes yet a third position. Divine Providence, he says, extends to individuals only among humans. Amongst animals, it applies solely to a species as a whole. So the reason we must not cause animals pain or distress is not because the Torah is concerned about animals but because it is concerned about humans. We should not be cruel:

There is a rule laid down by our Sages that it is directly prohibited in the Torah to cause pain to an animal. This rule is based on the words [of the angel to Bilaam], "Why have you beaten your donkey?" (Num. 22:32). The object of this rule is to make us better, that we should not assume cruel habits, and that we should not needlessly cause pain to others - that on the contrary, we should be prepared to show pity and mercy to all living creatures except when necessity demands the contrary.

Maimonides thus seems to embrace three sharply conflicting views:

The law of the mother bird is a Divine decree with no reason. This law is intended to spare the mother bird emotional pain. This law is intended to have an effect on us, not the animal, by training us not to be cruel. In fact all three are true, because they answer different questions.

The first view explains why we have the laws we have. The Torah forbids certain acts that are cruel to animals but not others. Why these and not those? Because that is the law. Laws will always seem arbitrary. But we observe the law because it is the law, even though, under certain circumstances, we may reason that we know better, or that it does not apply. The second view explains the immediate logic of the law. It exists to prevent needless suffering to animals, because they too feel physical pain and sometimes emotional distress as well. The third view sets the law in a larger perspective. Cruelty to animals is wrong, not because animals have rights but because we have duties. The duty not to be cruel is intended to promote virtue, and the primary context of virtue is the relationship between human beings. But virtues are indivisible. Those who are cruel to animals often become cruel to people. Hence we have a duty not to cause needless pain to animals, because of its effect on us. Hence the third proposition. Interestingly, Maimonides' analysis was repeated almost exactly, six centuries later, by the greatest philosopher of modern times, Immanuel Kant.[7]

This is a subtle and nuanced approach. Animals are part of God's creation. They have their own integrity in the scheme of things. We now know that they are far closer to human beings than philosophers like Descartes thought. This would not have been news to the heroes of the Bible. Abraham, Moses, and David were all shepherds who lived their formative years watching over and caring for animals. That was their first tutorial in leadership, and they knew that this was one way of understanding God Himself ("The Lord is my shepherd" [Ps. 23:1]).

Judaism also reminds us of what we sometimes forget: that the moral life is too complex to summarise in a single concept like "rights." Alongside rights, there are duties, and there can be duties without corresponding rights.

Animals do not have rights, but we have duties towards them. As several laws in Parshat Ki Teitse and elsewhere make clear, we must not cause them unnecessary pain or emotional distress.

As we saw last week in the case of environmental legislation in Shoftim, Genesis 1 gives us the mandate to "subdue" and "rule" creation, including animals, but Genesis 2 gives us the responsibility to "serve" and "guard." Animals may not have rights but they have feelings, and we must respect them if we are to honour our role as God's partners in creation.

Shabbat Shalom.

NOTES

1. See Tom Regan and Peter Singer, eds., *Animal Rights and Human Obligations* (Englewood Cliffs, NJ: Prentice Hall, 1989), 13-19.
2. Mishna Brachot 5:3; Mishna Megilla 4:9.
3. Maimonides, *Mishneh Torah*, Hilchot Tefilla 9:7.
4. Maimonides, *Mishneh Torah*, Hilchot Tefilla 9:7.
5. See on this the many works of primatologist Frans de Waal, including *Good Natured* (Cambridge, MA: Harvard University Press, 1997); *Chimpanzee Politics* (Baltimore, MD: John Hopkins University Press, 2007); *The Age of Empathy* (London: Souvenir, 2011); *The Bonobo and the Atheist* (New York: W. W. Norton and Co., 2014); and *Are We Smart Enough to Know How Smart Animals Are?* (New York: W. W. Norton and Co., 2017).
6. *Guide for the Perplexed*, III:17.
7. Immanuel Kant, *Lectures on Ethics* (London: Methuen, 1930).

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Hashavas Aveidah – Returning Lost Objects

Parshas Ki Seitzei

By Rabbi Doniel Neustadt | Series: Weekly Halacha | Level: Advanced

A discussion of Halachic topics related to the Parsha of the week. For final rulings, consult your Rav.

So shall you do for any lost articles of your brother, that may become lost . . . you shall not hide yourself (22:3).

This verse in this week's parashah prompts us to review and update some of the laws of hashavas aveidah, returning lost objects. Many of the rulings in the Talmud and Shulchan Aruch concern objects and situations which were common in the olden days, such as fruit falling from trees or animals running away from their owners. In this review, we will attempt to apply the halachos to modern-day cases and situations. First, however, we must explain the basic rules.

THE BASIC OBLIGATION

One who finds an object that has been lost(1) is obligated to return it to its owner. If the finder picks up the item and then decides to keep it for himself, he transgresses two negative commandments and one positive one.

One may not ignore his obligation and simply walk away from the lost item. If he does so, he transgresses a negative commandment.

Men and women are equally obligated in this mitzvah(2).

The lost object must be worth more than a perutah(3) in order for the mitzvah to apply. If an odd glove, shoe, or rubber is found, one is still obligated to return it even though it is worthless by itself, since it has value to the owner who has its mate(4).

There is no obligation to return an item – even if it is worth a perutah – if it is clearly insignificant and the owner does not care about it. Similarly, one need not return an item which has obviously been abandoned by its owner and is found lying in the street(5).

Although the basic halachah does not require returning the item of a non-Jew [or even of a Jew who can be halachically classified as a rasha le'hachis, intentionally and deliberately wicked(6)], it is proper to do so in order to sanctify Hashem's Name – kiddush Hashem. If failing to return the item may cause a desecration of Hashem's Name, a chillul Hashem, the finder must return it(7).

If one finds a lost object on Shabbos in an area where carrying is forbidden, he may not pick it up(8). Even if it is found in an area where carrying is permitted but the item is muktzeh, many poskim(9) hold that one should not pick it up(10).

EXEMPTION FROM THE BASIC OBLIGATION

The mitzvah of hashavas aveidah applies only as long as the owner of the item expects and hopes that the item will be found and returned. If, however, the owner has given up hope of recovering his loss and has written it off, the Torah does not obligate the finder to fulfill the mitzvah of hashavas aveidah. The halachah is as follows:

If the owner despaired of recovering his loss, the finder may keep the item. The halachah considers it as if the item has now become his, since the owner forsook ownership once he despaired of ever recovering his loss(11).

But this applies only if the owner despaired of recovering his loss before the item was found. If, however, the item was found before the owner realized he had lost it [and before he had a chance to give up hope of finding it], then the finder must return the item to its owner – even though the owner had subsequently despaired of recovering it(12).

Thus one who finds an item and is in doubt about whether or not he must return it, should resolve three issues: 1) Is the owner aware that he lost the item? 2) Even if the owner is aware of his loss, how does the finder know if the owner has given up hope of recovery? 3) Even if the owner has despaired of recovery, how do we know when he despaired – before the item was found or after?

Our Sages have formulated two criteria to help resolve these questions:

If one finds an item which will be missed by its owner – either because of its weight or size (like a box or a bag), or because of its importance (like a wallet or loose cash) – we can assume that the owner is aware of his loss, since a person constantly checks his pockets to make sure that his belongings are safe.

In certain situations we can reasonably assume that, by the time the item was found, the owner had already despaired of recovering his loss. For example: If an item is lost in a public area and it had no simanim (identifying marks) on it. No reasonable person can expect to recover such an item. The item had identifying marks on it but it was “lost to all”, e.g., it was swept away by a flowing river(13).

In all such cases, the finder will have despaired of recovering his loss. Consequently, if the finder picked up the item after the owner gave up hope, he is no longer required to return it. It is, however, proper to go beyond the strict requirements of the halachah and return any object to a person who offers proof of ownership – even if he has despaired of recovering it (14). It is considered the “proper and right” thing to do(15). A finder should be made aware of what is required of him according to the basic halachah, as well as the “proper and right” conduct which exceeds the demands of the basic halachah(16).

WHAT ARE IDENTIFYING MARKS?

As stated earlier, when there are no special characteristics by which the owner can prove that the lost object belonged to him, we assume that the owner has despaired of recovering his loss. The finder may then keep the item.

What are considered identifying marks?

Unique markings on the object itself.

Being able to identify the area in which the object was lost. If, however, many people put such objects in the same place, this is not considered a mark of identification(17).

The way the object was packaged or bound. If, however, many people package or tie such objects in the same manner, it is not considered a mark of identification(18).

The unique number of articles found(19).

The unique weight or measurements of the objects.

Coins or bills have no identifying marks in halachah. Even if the owner knows the serial numbers of the bills, or that his name is written on them, these are not considered valid proof of ownership since it is possible that the owner gave the coins or bills to someone else, and the other person lost them(20).

FOOTNOTES:

1 “Lost” means that it is clear that the owner dropped the item unknowingly. If it is evident, however, that the item was intentionally placed in a certain spot, the object is not considered “lost” and it should be left in its place undisturbed.

2 Kiddushin 34a. See also Shitah Mekubetzes, Bava Metziah 30a, quoting the Rosh.

3 C.M. 262:1. In 1980, Harav M. Feinstein (Hashavas Aveidah, Responsa 1) wrote that a perutah could be worth a nickel.

4 Harav M. Feinstein (Hashavas Aveidah, Responsa 4). Similarly, if a photograph is found it must be returned even though it is actually worth less than a perutah, since it is worth more than that to its owner; Mishpatei ha-Aveidah, pg. 71.

5 Mishpatei ha-Aveidah, pg. 72-73, based on C.M. 359:1.

6 C.M. 266:2. Nowadays, the vast majority of non-observant Jews do not fit into that category; Chazon Ish Y.D. 2:28.

7 C.M. 266:1.

8 Beur Halachah O.C. 266:13.

9 Beur Halachah, *ibid.*, is undecided on this issue, but Shulchan Aruch Harav (Hilchos Metziah 40) and Chasam Sofer O.C. 42 rule that severe muktzeh, like money, may not be moved for the purpose of hashavas aveidah. Harav S.Z. Auerbach (Shemiras Shabbos K'hilchasah, pg. 236) tends to hold that even light muktzeh should not be moved, since returning a lost item is not considered “a permitted activity”. See page 336 for an elaboration.

10 Kicking the muktzeh to a safe place, however, is permitted according to the Mishnah Berurah 308:13.

11 Several poskim hold that only an adult can give up hope of recovering the item, but a minor cannot. Not all poskim agree; see Pischei Chosen, pg. 249 and Mishpatei ha-Aveidah, pg. 85 for conflicting views.

12 C.M. 262:3. The rationale can be explained in one of two ways: 1) Once an item is picked up by the finder, he becomes obligated to return it. The owner's abandonment of hope of recovering the object can no longer release him from that obligation (Tosfos Bava Kama 66a). 2) Once the item is picked up by the finder, he becomes obligated to guard it for the owner. The item is then considered as if it is really in the domain of the owner. One cannot be considered to be in the halachic category of having given up hope of finding an item when it is in his domain, even though he does not realize it (Ramban Bava Metziah 26b).

13 C.M. 259:7. In this case, however, even if the item was found before the owner despaired, and even before the owner realized it was lost, the finder may still keep it; Bava Metziah 21b.

14 C.M. 259:5. However, one does not have to publicize his find; Shulchan Aruch Harav (Hilchos Metziah 18).

15 In certain cases, such as when the loser is poor and the finder is wealthy, a Jewish court can even “force” the finder to do the “right” thing and return such an item to its rightful owner, even though according to the basic halachah the item clearly belongs to the finder; Shach 259:3; Aruch ha-Shulchan 259:7.

16 Mishpatei ha-Aveidah, pg. 35.

17 Rama C.M. 262:9.

18 Sma C.M. 262:35.

19 22C.M. 262:3.

20 C.M. 262:13; Igros Moshe C.M. 4:45-3. Nevertheless, a talmid chacham who is well-known for his honesty may claim that he recognizes the money and that it belongs to him. The finder will then have to return the item to the claimant.

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Preparing Cholent For Shabbos

Parshas Ki Seitzei

By Rabbi Doniel Neustadt | Series: Weekly Halacha | Level: Advanced

Question: What must be done in order to properly prepare cholent for Shabbos?

Discussion: Preparing cholent for Shabbos on top of the stove or inside the oven (crock pots are addressed in a separate discussion) is susceptible to the following Shabbos violations:

The Rabbinic prohibition of putting food on a heat source before Shabbos and leaving it on during Shabbos. The reason for this prohibition is to prevent one from inadvertently “stoking the coals,” whose modern equivalent is adjusting the knobs or dials to raise the temperature.

The Rabbinic prohibition of returning — on Shabbos — food to a heat source, since then, too, one would be inclined to adjust the temperature. In addition, this is prohibited because it appears to be “cooking.”

To avoid these potential violations when preparing cholent on a stovetop, the following guidelines must be adhered to: Although not halachically mandated, many poskim recommend that the fire be covered by a blech, even if the cholent is fully cooked before sunset.[1] If the cholent is less than half-cooked [or under extenuating circumstances, only a third cooked], a blech is halachically required.[2] Whether or not the knobs, dials or computerized number pads need to be covered as well is a subject of debate among contemporary poskim: Some require it[3], others strongly recommend it,[4] while others do not consider it important at all[5]. To remove a cholent pot from the fire on Shabbos with the intention of putting it right back on, e.g., to add water to it or to serve it at a kiddush before a meal, the following conditions must be met. These conditions are known as the “conditions for returning”:

1.The fire (and knobs[6]) must be covered with a blech. A blech may be placed over the fire on Shabbos[7]. 2.The cholent must be completely cooked and still warm when returned to the flame.

3.The cholent pot should not be put down on any surface. B’diavad, if the cholent pot was put down on a table or countertop[8] (not on the floor[9]), it may still be returned to the blech[10].

Question: What must be done in order to properly prepare cholent for Shabbos on a hotplate?

Discussion: Most poskim rule that even cholent which is less than half-cooked may be placed before Shabbos on a hotplate, even without a covering, since a hotplate has just one temperature setting that cannot be adjusted[11]. Returning food to an uncovered hot plate, however, is debatable: Many poskim forbid doing so[12], while others are more lenient[13]. In order to satisfy the views of all poskim, cooked hot food should only be returned onto a hotplate if it is covered with a thick layer of aluminum foil.

Question: What must be done in order to properly prepare cholent for Shabbos inside the oven?

Discussion: It is advisable that the cholent be fully cooked before Shabbos begins. If it was not, or b’diavad, as long as the cholent is half cooked [or under extenuating circumstances, a third cooked], it may be left in the oven.

If the cholent is not cooked to even this extent, then the cholent may not be left inside the oven — unless an oven insert is placed inside it.

In the opinion of many poskim, if the cholent was removed from inside the oven on Shabbos it may not be returned to the oven — unless there is an oven insert inside[14]. Even though in some ovens no fire is visible, still there is nothing that distinguishes the oven from its regular weekday appearance; it still looks like someone is cooking and the chance of their adjusting the temperature is still very real. [A minority opinion maintains that if the stove knobs etc., are covered or removed, and a piece of silver foil is placed underneath the pot, the cholent may be returned to the oven as long as it is completely cooked, still warm and was not put down on any surface, as detailed earlier.[15]]

This prohibition poses a problem to those who want to eat some of their Shabbos cholent on Friday night. They cannot remove the cholent from the oven, since, as we just explained, it is forbidden to put it back in. They cannot dish cholent out of the pot while it is still inside the oven, since it is a Rabbinic prohibition to dish out food while it is still on the fire, even if the food is completely cooked[16].

A possible solution to the problem is the following compromise: The oven rack should be slid part-way out of the oven so that the pot is not directly over the flame. The other part of the pot should remain inside the oven in an area which is yad soledes bo (at least 110° F). In this manner the cholent is not really being removed from the oven, and “returning” it would be permitted.

1. Based on Rama 253:1, as explained by Beur Halachah, s.v. v’nahagu. Chazon Ish, O.C. 37:3 disagrees, and holds that a blech is not necessary when the cholent is at least half cooked.

2. Although Chazon Ish, O.C. 37:11 disagrees and does not permit placing a less than half-cooked cholent on the fire even if the fire is covered with a blech, most poskim do not agree with his view; see Kaf ha-Chayim 253:11; Maharshag 2:50; Eidus l’Yisrael, pg. 119; Igros Moshe, O.C. 1:93; Rav Y.Y. Weiss (Kol ha-Torah, vol. 42, pg. 14); Tzitz Eliezer 7:15; Shevet ha-Levi 1:91.

3. Rav A. Kotler (quoted in Sefer Hilchos Shabbos, pg. 338); Rav Y.Y. Weiss (Kol ha-Torah, vol. 42, pg. 14); Shevet ha-Levi 1:93.

4. Igros Moshe, O.C. 1:93; Be’er Moshe 7:3-4;

5. Rav S.Z. Auerbach (Shulchan Shlomo 253:5-3); Rav Y.S. Elyashiv, quoted in Orchos Shabbos 2:9, note 14.

6. According to the various views quoted earlier.

7. Igros Moshe, O.C. 1:93; 4:74-29; Rav S.Z. Auerbach (Shemiras Shabbos k’hilchusah 1, note 60); Rav Y.S. Elyashiv (Otzros ha-Shabbos, pg. 96); Shevet ha-Levi 1:91. Chazon Ish, O.C. 37:11; 50:9, however, holds that a blech may not be put on Shabbos if the metal will heat up to yad soledes bo, which is almost always the case.

8. Rav S.Z. Auerbach and Rav Y. S. Elyashiv (Shevus Yitzchak, pg. 155).

9. See Sha’ar Hatziyun 253:50. Placing the pot in a place where one would usually put the pot once one is finished with it would be the same as placing it on the floor. Therefore, one may not return a pot to a stovetop even b’diavad once it was placed in the fridge (even if it is still hot)..

10. Mishnah Berurah 253:56; Igros Moshe, O.C. 2:69.

11. Har Tzvi, 1:136; Igros Moshe, O.C. 4:74; Shevet ha-Levi 5:30. [A minority opinion disagrees and maintains that the halachos of a hot plate are no different than those of a stovetop; see Orchos Shabbos 2:13, quoting Rav Y.S. Elyashiv.]

12. See Chazon Ish 38:2; Igros Moshe 4:74-35; Shevus Yitzchak, pg. 102-103, quoting Rav Y.S. Elyashiv.

13. Rav S.Z. Auerbach , quoted in Shemiras Shabbos k’Hilchashah, third edition, 1, note 83.

14. Igros Moshe, O.C. 4:74-26, 27; Minchas Yitzchak 3:28; Rav Y.S. Elyashiv (Otzros ha-Shabbos, pg. 98).

15. Rav A. Kotler (quoted in Sefer Hilchos Shabbos, pg. 354); Shevet ha-Levi 3:48.

16. Mishnah Berurah 318:117; Igros Moshe, O.C. 4:74:9. See Chazon Ish 37:15, who is somewhat more lenient.

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