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INTERNET PARSHA SHEET ON MISHPATIM - 5772

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"Jewish Business Ethics"
by **Meir Tamari**
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The possession of money and the satisfaction of economic wants are a real "need" of people, part of man's powerful desires. Money is dealt with in Judaism in exactly the same way as are all man's other needs, such as sex, food, clothing, and the like. This need, too, is recognized as being legitimate, provided it operates within a certain framework, the parameters of which are laid out clearly in rabbinic commentaries on the Torah and in Jewish legal decisions: Material needs are an inclination which has to be educated and sanctified. Judaism views this desire as one of the most powerful of man's urges and needs, and so has fenced it with far more mitzvot than those, for instance, of keeping kosher. Much of the textual material on this subject, however, has not been related to modern life, and its relevance to present-day economic conditions has not been articulated. On the surface, many of the rabbinical texts deal with what seem to be unsophisticated economies and primitive agrarian ways of earning a living. They discuss damages which result from a goring ox, or a pit in the public thoroughfare. They forbid beautifying apples, combing horses, or feeding cows in a way to beautify them for sale. There are discussions about the breeding of certain animals in the Land of Israel, and about removing trees and pits. None of this seems to be relevant to today's sophisticated stock markets, hi-tech industries,

telecommunications and the post-industrial economy in which we live.

Despite the illusion of non-relevance, however, even a casual glance at our society will show that the basic issues have not really changed. The greed and jealousy that led to strife and bloodshed ages ago still exist. Man's insatiable desire for wealth still controls him and therefore has to be dealt with. Just as the issues remain the same, so too, the Torah's answers are the same. What is required is to translate the texts so that their relevance to the modern economy is revealed...

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Because the subject matter is man's mundane involvement in the materialistic world of economic wealth and physical assets, it is easy to lose sight of the moral and ethical issues involved, even when studying the relevant legal texts. There is a constant danger of viewing the material simply as legalistic discussions rather than an expression of sanctity and the implementation of the Divine Will. However, the Talmudic dictum: "He who wishes to achieve saintliness should study the Talmudic tractates addressing business dealings," makes Judaism's understanding of the spiritual effect of economic behavior quite clear.

When a person is judged by the Heavenly Court after his death, he is asked two questions: "Did you set aside time for Torah study? Did you do your commerce in an ethical manner?" Furthermore, the talmudic tractate, Ethics of the Fathers, considered to be a prime repository of the moral and theological wisdom of Judaism, was placed not in those orders of the Mishnah dealing with prayer, the Shabbat and Festivals, or the Temple and its ritual, but in the economic order of Nezikim. Nezikim means "damages," and indeed much of it is devoted to the financial responsibilities flowing from wealth and its effects on other people and their property. The Sages, however, understanding the spiritual issues involved, provided an alternative name for the talmudic order, "Damages" -- Sefer Hayeshu'ot, the Book of Redemption.

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People are often surprised that wealthy men can commit economic crimes, even though they have more than enough. This should not really surprise us, since the Sages pointed out that no man has enough -- "one who has 100 wants 200." This drive is one that is never satiated. Old age and physical weakness do not lessen man's lust for money as they do other lusts.

Once a wealthy man collapsed on Yom Kippur and needed to be fed. The rabbi of the shul gave instructions that he should be given to drink, measure by measure, as is ruled. This did not suffice. The man went on crying, "I'm dying, feed me. If you do not do so I will die. Brothers, have mercy!"

The congregants turned to the Rabbi of Sans, and asked what should be done. The rabbi approached the dying man and whispered in his ears, "I will give you permission to eat a full meal on Yom Kippur and so save yourself, but you will have to donate 500 rubles to the charity funds."

Suddenly the man's color returned, he stood up, brushed off his clothes, and said, "You know, Rebbe, I am feeling much better now." It should not be imagined that the spiritual involvement with money and the moral issues posed thereby are something involving only marginal groups. Society does not become destroyed for incurring the displeasure of God because there are a few thieves or robbers. Judaism has always accepted that people often fail in their spiritual duties, that all people have desires no matter how exalted they may be. Every man has a breaking point. As the Baal Shem Tov put it, the only man who does not have desires is a dead one. This means that all are faced with this moral challenge of money. The 18th century commentator, Rabbi Moshe Chaim Luzzatto, in his text "Path of the Just", points out that very few people are professional robbers or thieves, but everyone in society faces the challenge of cutting corners, chiseling, conniving and petty thievery. One Chassidic authority comments that this is why the injunction against

stealing in the Torah is written in the plural, whereas the injunction in the Ten Commandments, understood to refer to the theft of humans for sale, a marginal action, is referred to in the singular.

* * *

Judaism views economic evils as the beginning of the destruction of both Jewish and non-Jewish societies. The commentators, discussing the sin of biblical Sodom, argue, inter alia, that the reason for the cities' destruction was their refusal to share their wealth with others, while the fate of the Generation of the Flood was sealed, according to the Sages, by the sin of theft.

The chassidic Admor of Sochochow queried the latter. Since we know that the Generation of the Flood transgressed three major sins -- idolatry, adultery, and bloodshed -- for which the penalty is death, why did the rabbis say the world was destroyed because of theft, which does not merit a death penalty? He answered that theft is the beginning of the unraveling of the entire social fabric, which leads to the three major sins, and therefore, it was theft that led to their destruction.

In the Jewish world, the same centrality of economic morality applies. It is well known that the rabbis saw groundless hatred as the reason for the destruction of the Second Temple in Jerusalem in 70 AD, yet the Jerusalem Talmud ascribes the reason for the destruction to the fact that the Jews of that generation loved money. Similarly, the writings of the prophets Isaiah, Amos, and Jeremiah foretell the destruction of the First Temple -- partly attributed to the theft and avarice which had become rampant.

Since Torah aims not only at creating saintly individuals but at establishing the framework for a holy nation, the community at all levels -- local, national, and during these years of exile, even internationally -- is a prime vehicle for implementing Jewish legal decisions. This is true not only of questions of education, marriage, divorce, keeping kosher, and the like, but also of taxation, business disputes, welfare, and restraints on consumption. The overall effect is the existence of a collective cohesive entity, within which the individual's actions are permeated and regulated by the Torah. It would seem that the breakdown of the autonomous communal structure in 19th-century Europe, which made religious observance more of an individual than a collective phenomenon, also weakened the effect of economic Jewish legal rules.

In the present-day absence of the autonomous community system, only increased study of the religious issues involved in modern business can lead to their reinstatement in our daily lives. Understanding the Jewish legal relevance can lead to greater observance, so that one may be able to rise to the level demanded of the businessman in the following words of Maimonides (Mishneh Torah, Laws of Knowledge, 5:1):

The commerce of the talmid chacham [the Jewish role model] has to be in truth and in faith. His yes is to be yes and his no, no; he forces himself to be exact in calculations when he is paying, but is willing to be lenient when others are his debtors. One is not to buy on credit when he has the wherewithal to pay cash, nor should one be a surety for a loan [getting involved in potential conflicts which are not of his concern] or serve as a representative to collect others' debts [in both these cases, according to the commentators Raivad and Kesef Mishneh, Maimonides is not referring to acts of charity or assisting in collecting debts from recalcitrant debtors].

He should keep his obligations in commerce, even where the law allows him to withdraw or retract, so that his word is his bond; but if others have obligations to him he should deal mercifully, forgiving and extending credit. One should be careful not to deprive one's neighbor of his livelihood [even where this is legal] or cause hardship and anguish to others [either bodily or financially]. One who does all these things is the one referred to by the prophet Isaiah, when he said, "You are My [God's] servant, Israel, with whom I exalt."

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From: Rabbi Goldwicht [rgoldwicht@yutorah.org]

Subject: Parashat Mishpatim 5766

WEEKLY INSIGHTS BY RAV MEIR GOLDWICHT

Parashat Mishpatim

This Shabbat we will read parashat Shekalim, the first of four special parshiot we read in preparation for Pesach, in which HaKadosh Baruch Hu instructs Moshe to collect a half-shekel from every Jew over the age of twenty as "kofer nefesh, atonement for the soul." How is it possible, Moshe asks, to designate a specific amount as kofer nefesh? A person faced with life-or-death would gladly give up everything that his life be spared! How can a half-shekel attain kofer nefesh? HaKadosh Baruch Hu answers that Moshe has misunderstood. What He wants is for every Jew to give a "coin of fire." What does HaKadosh Baruch Hu mean by this coin of fire?

Additionally, the Rambam rules in the first perek of Hilchot Shekalim that the mitzvah of machatzit hashekel is so important that one must sell his clothing in order to fulfill it. The Rambam rules similarly regarding two other mitzvot: the arba kosot, so that even the poorest Jew will feel free once a year, and ner Chanukah, so that every Jew participates in the pirsumei nisa. But what is so significant about the machatzit hashekel that requires one to sell the shirt off his back?

And finally, Rashi writes that the half-shekels were used to make the adanim of the mishkan, which essentially formed the foundation of the mishkan. If it were up to us, we would use it for something else -- the menorah, the aron, the shulchan, perhaps. Why did that silver go to the adanim?

The answer to these three questions is as follows: We know that it is halachically forbidden to count people; in addition, counting brings about calamity. How, then, did Hashem ask Moshe to count B'nei Yisrael using the half-shekels?

In order to understand this, we must understand the difference between Hashem's counting and human counting. When we count people or objects, our starting point is arbitrary; we simply label one object "one," another object, "two," and so on and so forth. One is not an "absolute," so to speak. Reuven, Shimon, or Levi could be labeled "one" and it would make no difference. But in Judaism, One refers to the Absolute One; it is not an arbitrary label. One refers to that which has no second. When we count people, labeling Reuven one, we have essentially moved Hashem out of the picture. This is what brings about the calamitous consequences of counting. The only acceptable counting is that which declares Hashem One and brings us closer to Him.

This is the significance of the machatzit hashekel, which brings us closer to Hashem by reminding us to cleave to Hashem no matter our life circumstances; even the poorest of the poor must remain attached to Hashem despite his poverty and adversity. And one who cleaves to Hashem through difficulty will merit closeness to Him through tranquility.

This is the coin of fire that Hashem desired as a kofer nefesh. Fire is the one thing that, if you give to someone, remains with you. Anything else, once given, is lost to the original possessor. But fire can be transferred at no cost; in fact, even more fire is created. The coin of fire indicates that the machatzit hashekel should be given with the feeling that the giver is not losing anything, but rather creating more, connecting more, gaining more. This is the type of feeling, of connection to one's fellow man and to HaKadosh Baruch Hu, that brings kaparah to the soul.

This is also why the silver of the machatzit hashekel was used for the foundation of the Mishkan. When we believe and understand that HaKadosh Baruch Hu is before all, above all, and at the center of all, we have the key to bringing down the Shechinah.

If we truly understand the significance and implications of the mitzvah of machatzit hashekel, truly connecting to our fellow man and understanding that giving to others comes at no loss to ourselves, we will merit giving the machatzit hashekel in the Beit HaMikdash, on the highest of mountains, in Yerushalayim.

Shabbat Shalom v'Chodesh Tov!

Meir Goldwicht The weekly sichah is compiled by a student. Please feel free to forward the weekly sichah to friends and family. If you aren't yet subscribed, you can subscribe here. A PDF version of this week's sichah can be found talliskattan@sbcglobal.net.

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Subject Torah Weekly

**Ohr Somayach :: Torah Weekly :: Parshat Mishpatim
For the week ending 18 February 2012 / 24 Shevat 5772
by Rabbi Yaakov Asher Sinclair - www.seasonsofthemoon.com
Insights**

So Close And Yet So Far Away

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

We perceive G-d 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.

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Subject Peninim on the Torah by Rabbi A. Leib Scheinbaum

**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 hehrech, 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 yeshivah 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 it 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 mitzvah asei, positive commandment, if they do not possess yiraas Shomayim. The entire fulfillment of a mitzvah 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 singled 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

Thoughts on the Weekly Parsha from
Lord Jonathan Sacks

Orthodox Union / www.ou.org

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 the soul; 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.

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MI'ORAY HA'AISH BY RABBI ARI KAHN ...

These Are the Laws by 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 Leazar: "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 Deznitua 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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by Rabbi Doniel Neustadt (dneustadt@cordetroit.com)

Yoshev Rosh - Vaad HaRabanim of Detroit

Weekly Halacha by Rabbi Doniel Neustadt

The Melachah of Knotting

The Sages of the Mishnah and the Talmud 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, *keshet 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’almah” 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 Metzia 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 Metzia 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 Metzia 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 Metzia 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.