



BS"D

## INTERNET PARSHA SHEET ON MISHPATIM - 5779

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subject: Rav Frand - Two Promises You Can Bank On

These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: # 1064 The Doctor That Erred. Good Shabbos!

The Chidushei HaRim Distinguishes Between Promise in Mishpatim and Promise in B'Shalach

Towards the end of Parshas Mishpatim, we are promised that if we worship Hashem "... He will bless your bread and your water and will remove illness from your midst." [Shmos 23:25]. The Chidushei HaRim contrasts this pasuk with a similar pasuk in Parshas B'Shalach, which promises that if we keep the Torah then: "...any of the diseases that I placed upon Egypt, I will not bring upon you..." [Shmos 15:26].

The Chidushei HaRim writes that the pasuk in Mishpatim is a blessing for success in our efforts to make a livelihood (parnassa) while the pasuk in B'Shalach refers to protection from illness. People get sick and have illnesses. So, the Almighty promises – in B'Shalach – that those illnesses that have befallen the Egyptians, will not happen to Israel in the future ("I will not bring upon you"). Regarding the physical ailments mentioned in B'Shalach, we are told "I will not place them upon you" (future tense).

Our pasuk in Mishpatim, however, is referring to an illness that is already within the person. Therefore, it states "I will remove illness from your midst." Apparently, here the Torah is speaking about something the person has already. What is this illness that the person has that is apparently in our system already? The Chidushei HaRim says it is a specific 'disease' called 'Dayga' – 'Daygas haParnassa', namely worry about making a proper living. This is something that occupies most of humanity – fear that they will not be able to put bread on the table for their families. This is a 'disease' that a person does not catch from germs. It is already within each of us.

The pasuk is teaching that Hashem will bless us with good livelihoods. As a result, this 'disease' that is potentially within everybody's system will be removed from our midst. The Chidushei HaRim explains that the end of our

pasuk here in Mishpatim (regarding removal of the 'disease' of worry about parnassa) goes in tandem with the beginning of that same pasuk which promises us that we will make a good living – having plenty of food and drink on our tables. As a result, one of mankind's great ills will be taken away from us – I will remove the fear and concern of not making a living from your midst.

### Honesty Is the Torah Policy

The pasuk states in this week's parsha, "From a matter of falsehood distance yourself." [Shmos 23:7] This is the Torah's admonition about being truthful and honest. The commentaries point out that this is the only midah [character trait] from which the Torah specifically instructs us to distance ourselves ('Tirchak'). We are commanded to stay as far away as possible from sheker [falsehood]. Do not skirt the truth; run away from sheker.

It is well known that if Rav Yaakov Kamenetsky exemplified one particular midah, it was his pursuit of truth (derishas ha'Emes). I once read in a biography that as someone whose name was Yaakov, he took it upon himself to excel in the attribute of pursuing truth in all his dealings as we know the Patriarch Yaakov typified the characteristic of truth (Titen Emes l'Yaakov [Micha 7:20]).

I would like to relate two stories about this great Rosh Yeshiva that demonstrate his adherence to the midah of Emes [truth].

A fellow came to Rav Yaakov and asked him the following shaylah [question]: He wished to take off from his job on the day of Purim. Although Purim is only a rabbinic holiday and strictly speaking work is not prohibited, he wanted to celebrate the day as it should be celebrated, not to come home late in the afternoon and run through perfunctory fulfillment of the day's rituals.

Under normal circumstances, his employer allowed employees to take a personal leave day but his company at that time was exceedingly busy and they had made a temporary policy that they were not allowing personal leave days during this busy period. So, he went to Rav Yaakov and asked if he might be able to take it as a sick day. He felt that he had a couple of justifications for requesting such an absence on those grounds. First of all, Purim follows Ta'anis Esther which is a fast day which leaves a person a bit weak and fatigued. Second of all, Purim is a time which, due to all the drinking and feasting done on that day, leaves nobody feeling very good, certainly not by later in the day.

This is bending the truth somewhat because he was not really sick and strictly speaking, sick days are reserved for people who are really sick. How did Rav Yaakov answer this Shaylah? Did he tell him to take off the day and observe Purim as a Jew should observe it and bend the truth, or otherwise?

Rav Yaakov instructed him that Purim is a Rabbinic holiday and "You shall distance yourself from falsehood" is a Biblical command. It is a no brainer. Go to work and fulfill the obligations of Purim before or after work to the best of your ability. Work on Purim rather than say something that is not true.

When I told over this incident in one of my speaking engagements, a person from the audience came over to me and told me another story about Rav Yaakov:

When Rav Yaakov was rav in Toronto, the shul presented him with a silver platter as a Purim present for Purim. A few days after Purim, one of the shul members saw Rav Kamenetsky in a Toronto Pawn Shop with this very same silver platter. The member thought it highly inappropriate. The shul gave their rabbi a gift and he went to pawn it! The member was shocked. He went back and told other members of the shul and the Board of Directors. The Baale Batim, being Baale Batim, came to Rav Yaakov and asked him "What kind of business is this – you went to pawn our gift in a pawn shop?"

In olden times a Rav did not get a salary. He got "Rabbonishe Gelt". What's "Rabbonishe Gelt"? When you go to the Rav to sell your Chometz, you slip him a little gift. For funerals, weddings, and other special occasions, members gave their Rav money. Rav Yaakov told the "Committee of

Inquiry” that part of “Rabbonishe Gelt” is when the congregation gives their rabbi a gift before Purim. That being the case, he told them, this was part of his salary. If it is part of his salary, he felt, he needed to declare it on his Income Tax form as earned income. “I need to know how much the silver platter is worth so I know how much to declare.” So, he took it into the pawn shop to assess the fair market value of the platter so that he could accurately record it as part of his income tax declaration.

This is another example of the honesty of Rav Yaakov Kamenetsky. When I told over this second story about honesty of Gedolei Yisrael, another person from the audience came up to me and told me a third such story – this one about Rav Aharon Soloveitchik, z”l.

Rav Aharon Soloveitchik for many years commuted from Chicago to New York. After his brother Rav Yosef Baer Soloveitchik, stopped giving the shiur in Yeshivas Rabbeinu Yitzchak Elchanon, Rav Aharon used to give the shiur there. He was also the Rav haMachshir for Streits’ Matzah. In short, he commuted on a weekly basis between his home in Chicago and New York City.

One time he came to the airport with his mother-in-law, who was travelling with him that day and he came up to the ticket counter and ordered two tickets. The agent behind the counter said “Rabbi, you are in luck! We are having a special – Spouses Fly for Free – today!” Rav Aharon responded, “This is not my wife, this is my mother-in-law.” The agent told him, “Do not worry. We do not check marriage licenses.” He questioned the clerk – “Do you have permission to do that?” She hemmed and hawed. Rav Soloveitchik then asked to see her supervisor. The supervisor also told him, “Do not worry. We never check. You are a male and she is a female. Take the special.” Rav Aharon then again questioned the supervisor: Do you have permission from the company to do that? She could not tell him definitively that she had permission from the company to knowingly give the Spouses Fly Free special to a couple that were not husband and wife so Rav Aharon he refused to accept the discounted tickets.

This is Eirlichkeit [honesty]. This is fulfillment of “M’Dvar Sheker Tirchak.” I am not paskening whether or not we are strictly obligated to turn down such an offer if we are travelling with our daughters or mothers-in-law rather than our wives, but it is certainly an Eirlichkeit. Certainly, when it is an out and out falsehood, when it is clearly bending the truth, we indeed need to distance ourselves.

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Technical Assistance by Dovid Hoffman; Baltimore, MD dhoffman@torah.org This week’s write-up is adapted from the hashkafa portion of Rabbi Yissochar Frand’s Commuter Chavrusah Series. ..A complete catalogue can be ordered from the Yad Yechiel Institute, PO Box 511, Owings Mills MD 21117-0511. Call (410) 358-0416 or e-mail tapes@yadyechiel.org or visit <http://www.yadyechiel.org/> for further information. Rav Frand © 2018 by Torah.org. Torah.org: The Judaism Site Project Genesis, Inc. 2833 Smith Ave., Suite 225 Baltimore, MD 21209 <http://www.torah.org/learn@torah.org> (410) 602-1350

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**Weekly Parsha MISHPATIM**  
**Rabbi Wein’s Weekly Blog**

It is difficult, in the extreme, to understand the concluding part of this week’s Torah reading. It is recorded that the noble people of Israel somehow gazed and saw the likeness of heaven and they were not immediately punished nor struck down for having done so. The Torah has made it abundantly clear in many places that no human being while alive can see, so to speak, a corporeal vision of the Lord.

If this be the case, then what is this verse and the Torah telling us? What does it mean that these noble people were able to gaze upon the Divine presence? As is the case in almost all the narratives that appear in the Torah,

there are various interpretations of this issue that have been advanced over the ages. Most of these opinions reflect the idea that these great and noble people gazing upon the Divine presence is to be understood in a metaphorical sense and not literally.

After having experienced the revelation at Sinai and the granting of the Torah to the Jewish people, this cadre of special people now attempted to understand the methodology by which God runs the world. They thought that they had achieved such a level of spirituality that they were able to do so. They somehow combine the idea of physical reality in their understanding of God and for this they would later suffer negative consequences. Their ambition, even for spirituality, was a reach too far.

In the Torah reading that we will hear in a few weeks, we will see that our great teacher Moshe also attempted this leap of understanding the Divine completely. God will tell Moshe of the impossibility of his request. Being human, no matter how great one is, automatically limits one’s understanding and true appreciation of the Creator. It is a line that no human being can cross and retain life, as we understand it to exist.

The Midrash seems to indicate that Moshe did have such an opportunity at the beginning of his mission, at his encounter with God at the burning bush. Moshe was not willing to avail himself of that opportunity then and the Lord informs him now that it is far too late for that opportunity to be revised. Nevertheless, Moshe has the strongest relationship with Heaven that any human being ever experienced or could experience. But even that relationship – the face-to-face conversations, so to speak, with God – is to be viewed as not achieving a complete understanding of the Divine and of the methodology employed by Heaven to guide the world and human events. Perhaps that is what the rabbis of the Talmud meant when they said, “simply let them ignore and disassociate themselves from Me and just observe the Torah that I have granted them.” Much of the world at various times confuse human beings with God or as being God. Judaism comes to tell us that there is an indelible line between the two that can and never will be crossed.

Shabbat shalom  
Rabbi Berel Wein

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**Loving the Stranger (Mishpatim 5779)**  
**Rabbi Jonathan Sacks**

There are commands that leap off the page by their sheer moral power. So it is in the case of the social legislation in Mishpatim. Amid the complex laws relating to the treatment of slaves, personal injury and property, one command in particular stands out, by virtue of its repetition (it appears twice in our parsha), and the historical-psychological reasoning that lies behind it: Do not ill-treat a stranger or oppress him, for you were strangers in Egypt. (Exodus 22:20)

Do not oppress a stranger; you yourselves know how it feels to be a stranger [literally, “you know the soul of a stranger”], because you were strangers in Egypt. (Ex. 23:9)

Mishpatim contains many laws of social justice – against taking advantage of a widow or orphan, for example, or charging interest on a loan to a fellow member of the covenantal community, against bribery and injustice, and so on. The first and last of these laws, however, is the repeated command against harming a ger, a “stranger.” Clearly something fundamental is at stake in the Torah’s vision of a just and gracious social order.

If a person was a son of proselytes, one must not taunt him by saying, “Remember the deeds of your ancestors,” because it is written “Do not ill-treat a stranger or oppress him.”

The Sages noted the repeated emphasis on the stranger in biblical law. According to Rabbi Eliezer, the Torah “warns against the wronging of a ger in thirty-six places; others say, in forty-six places.”[1]

Whatever the precise number, the repetition throughout the Mosaic books is remarkable. Sometimes the stranger is mentioned along with the poor; at others, with the widow and orphan. On several occasions the Torah specifies: “You shall have the same law for the stranger as for the native-born.”[2] Not only must the stranger not be wronged; he or she must be included in the positive welfare provisions of Israelite/ Jewish society. But the law goes beyond this; the stranger must be loved:

When a stranger lives with you in your land, do not mistreat him. The stranger living with you must be treated as one of your native-born. Love him as yourself, for you were strangers in Egypt. I am the Lord your God. (Lev. 19:33–34)

This provision appears in the same chapter as the command, “You shall love your neighbour as yourself” (Leviticus 19:18). Later, in the book of Deuteronomy, Moses makes it clear that this is the attribute of God Himself: “For the Lord your God is God of gods and Lord of lords, the great God, mighty and awesome, who shows no partiality and accepts no bribes. He defends the cause of the fatherless and the widow, and loves the stranger, giving him food and clothing. And you are to love those who are strangers, for you yourselves were strangers in Egypt.” (Deut. 10:17–19)

What is the logic of the command? The most profound commentary is that given by Nachmanides:

The correct interpretation appears to me to be that He is saying: do not wrong a stranger or oppress him, thinking as you might that none can deliver him out of your hand; for you know that you were strangers in the land of Egypt and I saw the oppression with which the Egyptian oppressed you, and I avenged your cause on them, because I behold the tears of such who are oppressed and have no comforter... Likewise you shall not afflict the widow and the orphan for I will hear their cry, for all these people do not rely upon themselves but trust in Me.

And in another verse he added this reason: for you know what it feels like to be a stranger, because you were strangers in the land of Egypt. That is to say, you know that every stranger feels depressed, and is always sighing and crying, and his eyes are always directed towards God, therefore He will have mercy upon him even as He showed mercy to you [and likewise He has mercy on all who are oppressed]. [3]

According to Nachmanides the command has two dimensions. The first is the relative powerlessness of the stranger. He or she is not surrounded by family, friends, neighbours, a community of those ready to come to their defence. Therefore the Torah warns against wronging them because God has made Himself protector of those who have no one else to protect them. This is the political dimension of the command. The second reason, as we have already noted, is the psychological vulnerability of the stranger (we recall Moses’ own words at the birth of his first son, while he was living among the Midianites: “I am a stranger in a strange land,” Ex. 2:22). The stranger is one who lives outside the normal securities of home and belonging. He or she is, or feels, alone – and, throughout the Torah, God is especially sensitive to the sigh of the oppressed, the feelings of the rejected, the cry of the unheard. That is the emotive dimension of the command.

Rabbi Chayim ibn Attar (Ohr HaChayim) adds a further fascinating insight. It may be, he says, that the very sanctity that Israelites feel as children of the covenant may lead them to look down on those who lack a similar lineage. Therefore they are commanded not to feel superior to the ger, but instead to remember the degradation their ancestors experienced in Egypt.[4] As such, it becomes a command of humility in the face of strangers.

Whichever way we look at it, there is something striking about this almost endlessly iterated concern for the stranger – together with the historical reminder that “you yourselves were slaves in Egypt.” It is as if, in this series of laws, we are nearing the core of the mystery of Jewish existence itself. What is the Torah implying?

Concern for social justice was not unique to Israel.[5] What we sense, however, throughout the early biblical narrative, is the lack of basic rights to which outsiders could appeal. Not by accident is the fate of Sodom and the

cities of the plain sealed when they attempt to assault Lot’s two visitors. Nor can we fail to feel the risk to which Abraham and Isaac believe they are exposed when they are forced to leave home and take refuge in Egypt or the land of the Philistines. In each of the three episodes (Genesis chapters 12, 20, 26) they are convinced that their lives are at stake; that they may be murdered so that their wives can be taken into the royal harem.

There are also repeated implications, in the course of the Joseph story, that in Egypt, Israelites were regarded as pariahs (the word “Hebrew,” like the term *hapiru* found in the non-Israelite literature of the period, seems to have a strong negative connotation). One verse in particular – when the brothers visit Joseph a second time – indicates the distaste with which they were regarded:

They served him [Joseph] by himself, the brothers by themselves, and the Egyptians who ate with him by themselves, because Egyptians could not eat with Hebrews, for that is detestable to Egyptians. (Gen. 43:32)

So it was, in the ancient world. Hatred of the foreigner is the oldest of passions, going back to tribalism and the prehistory of civilisation. The Greeks called strangers “barbarians” because of their (as it seemed to them) outlandish speech that sounded like the bleating of sheep.[6] The Romans were equally dismissive of non-Hellenistic races. The pages of history are stained with blood spilled in the name of racial or ethnic conflict. It was precisely this to which the Enlightenment, the new “age of reason,” promised an end. It did not happen. In 1789, in revolutionary France, as the Rights of Man were being pronounced, riots broke out against the Jewish community in Alsace. Hatred against English and German immigrant workers persisted throughout the nineteenth century. In 1881 in Marseilles a crowd of ten thousand went on a rampage attacking Italians and their property. Dislike of the unlike is as old as mankind. This fact lies at the very heart of the Jewish experience. It is no coincidence that Judaism was born in two journeys away from the two greatest civilisations of the ancient world: Abraham’s from Mesopotamia, Moses’ and the Israelites’ from Pharaonic Egypt. The Torah is the world’s great protest against empires and imperialism. There are many dimensions to this protest. One dimension is the protest against the attempt to justify social hierarchy and the absolute power of rulers in the name of religion. Another is the subordination of the masses to the state – epitomised by the vast building projects, first of Babel, then of Egypt, and the enslavement they entailed. A third is the brutality of nations in the course of war (the subject of Amos’ oracles against the nations). Undoubtedly, though, the most serious offence – for the prophets as well as the Mosaic books – was the use of power against the powerless: the widow, the orphan and, above all, the stranger.

To be a Jew is to be a stranger. It is hard to avoid the conclusion that this was why Abraham was commanded to leave his land, home and father’s house; why, long before Joseph was born, Abraham was already told that his descendants would be strangers in a land not their own; why Moses had to suffer personal exile before assuming leadership of the people; why the Israelites underwent persecution before inheriting their own land; and why the Torah is so insistent that this experience – the retelling of the story on Passover, along with the never-forgotten taste of the bread of affliction and the bitter herbs of slavery – should become a permanent part of their collective memory.

It is terrifying in retrospect to grasp how seriously the Torah took the phenomenon of xenophobia, hatred of the stranger. It is as if the Torah were saying with the utmost clarity: reason is insufficient. Sympathy is inadequate. Only the force of history and memory is strong enough to form a counterweight to hate.

The Torah asks, why should you not hate the stranger? Because you once stood where he stands now. You know the heart of the stranger because you were once a stranger in the land of Egypt. If you are human, so is he. If he is less than human, so are you. You must fight the hatred in your heart as I once fought the greatest ruler and the strongest empire in the ancient world on your behalf. I made you into the world’s archetypal strangers so that you

would fight for the rights of strangers – for your own and those of others, wherever they are, whoever they are, whatever the colour of their skin or the nature of their culture, because though they are not in your image, says God, they are nonetheless in Mine. There is only one reply strong enough to answer the question: Why should I not hate the stranger? Because the stranger is me.

Shabbat Shalom

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### **Mishpatim: Tablets of Stone**

#### **Rav Kook Torah**

In the Torah reading of Mishpatim, the Torah makes an abrupt switch. The previous parashah of Yitro deals with great, universal topics: the Revelation at Sinai and the Aseret HaDibrot, the Ten Commandments.

From the heights of these lofty themes, the Torah descends into the nitty gritty of everyday life. Mishpatim deals with servants, thieves, and kidnappers. We read about personal injury, damages, and negligence, and laws for lending money and borrowing articles.

In short: Judaism is not just about fundamental beliefs and principles. The Torah's ideals must permeate all aspects of life.

Lest one think that the two Torah portions are unrelated, the end of Mishpatim returns to the saga of Sinai, completing the account started in Yitro. At Sinai, God told Moses:

“Come up to Me, to the mountain, and remain there. I will give you the stone tablets, the Torah and the mitzvah, that I have written for the people's instruction.” (Ex. 24:12)

What exactly are “the Torah and the mitzvah” that God promised to give Moses?

All from Sinai

Third-century scholar Rabbi Shimon ben Lakish explained that each term in the verse refers to a different component of Torah:

- “The stone tablets” refers to the Aseret HaDibrot.
- “The Torah” is the Five Books of Moses.
- “The mitzvah” is the Mishnah.
- “That I have written” refers to the Ketuvim (the ‘Writings,’ the third section of Tanakh).
- “For the people's instruction” is the Talmud.

“This teaches that all of these were transmitted to Moses at Sinai.” (Berakhot 5a)

Clearly, Rabbi Shimon did not mean that everything was explicitly revealed to Moses. The Talmud in Menachot 29b relates that God showed Moses a vision of Rabbi Akiva, the renowned second-century scholar, lecturing to his students. Moses became distressed when he realized that he could not follow the lesson. Then one of the students asked Rabbi Akiva, “Our master, what is the source for this law?” The great scholar replied, “It is a law given to Moses at Sinai.” Upon hearing this, Moses was immediately relieved.

The specific case was unfamiliar to Moses. But Rabbi Akiva affirmed that its true, ultimate source was Mount Sinai.

The point of Rabbi Shimon's exegesis is that the Oral Law - the Mishnah and the Talmud - are faithful applications of Sinaitic Law to the realities of life in second-century Eretz Yisrael and fifth-century Babylon. Not adjustments to the Torah to accommodate new times, but careful application of the guidelines set down at Sinai.

Tablets of Sapphire Stone

Rav Kook asked an interesting question: why were the Ten Commandments engraved on stone tablets? Why was it significant to mention the raw material used to make the tablets?

One might think that it is only necessary to be faithful to the spirit of the Torah - that is the essence of Judaism. The details, the specific rules of conduct, however, depend on the current culture and norms of society. They must be adapted to fit the needs of the day. In other words, we need not be overly concerned with the detailed legal code of Mishpatim. What is important is following the general spirit of Yitro.

Therefore, the Torah relates that the tablets were made of stone. According to the Midrash, it was not just any stone, but sapphire. This material was so tough that a hammer swung against them would be smashed to pieces. God used tablets made of unbreakable sapphire to emphasize that even the Torah's physical manifestation - i.e., its day-to-day practical laws - may not be changed.

The concept of the Torah's immutability, even in the details of everyday life, is particularly relevant to this verse. Sometimes the oral tradition appears to contradict the simple meaning of the written Torah. One might mistakenly think that the Talmudic sages adjusted Torah law to conform to the norms of their time. Rabbi Shimon ben Lakish taught that there are no changes in the Torah. The Mishnah and Talmud are rooted in oral traditions that go back to Mount Sinai. “All of these were transmitted to Moses at Sinai.”

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***Ohr Somayach :: Torah Weekly :: Parshat Mishpatim***  
***For the week ending 2 February 2019 / 27 Shevat 5779***

***Rabbi Yaakov Asher Sinclair - www.seasonofthemoon.com***  
***Insights***

#### ***A Just Precedent***

***“All that G-d has said, we will do and we will hear.” (24:7)***

The everlasting praise of the Jewish People is that we pledged, “We will do” before “We will hear.” As a result, 600,000 ministering angels descended and tied two crowns to each one of us — one crown corresponding to “We will do” and another one corresponding to “We will hear.”

The implication of the Talmud (Tractate Shabbat 88a) is that we received those crowns specifically because we said “We will do” before “We will hear,” and not just because we said both of these statements.

What was so important about the precedence of “doing” over “hearing”?

There are two aspects to Torah. There is the Torah that we must know in order to fulfill the mitzvot, and there is a Torah that we are commanded to learn, regardless of its practical application.

Had we said, “We will hear and we will do,” it would have implied we were willing to learn the Torah only to fulfill its mitzvot. By saying “We will hear” after already saying “We will do,” the implication is that even after we have learned enough Torah “to do,” we will continue to learn the Torah for its own sake — to hear. This is because the Torah is the wellspring of all existence, and we will continue to fathom its depths to the limit of our strength and ability — for it is holy, and its holiness has no end.

*· Source: Based on the Beis HaLevi*

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#### **Rabbi Daniel Stein**

##### **Verbal Abuse**

The Torah stresses the importance of treating the most vulnerable members of society in an exceedingly gentle and sensitive fashion, as the pasuk states, “You shall not wrong (lo tonu) the convert etc. You shall not mistreat any orphan or widow” (Shemos 22, 20-21). However, in fact this prohibition applies not only to converts, orphans, and widows, but extends to other

people within the community as well, as we are told, "And do not wrong (v'lo tonu) one another" (Vayikra 25, 17). The Gemara (Bava Metzia 58b) posits that since a general prohibition against cheating others is already recorded in the earlier pasuk, "you shall not wrong (al tonu) one another" (Vayikra 25, 14), this latter prohibition must be directed towards additional forms of mistreatment, specifically hurtful speech or even verbal abuse, known as onaas devarim.

Rabbi Avraham Pam once observed, "Over the past few years, so much has been written and said concerning the sin of speaking lashon hara etc. However, there is another sin relating to speech about which very little is spoken, and that is onaas devarim." Rav Pam continued and reflected upon the irony of this phenomenon. Lashon hara is evil speech which is perpetrated about someone else, usually in their absence. However, the prohibition of onaas devarim relates to hurtful and even abusive remarks that are made directly to the victim, in their presence, which can obviously be all the more offensive and traumatic, and therefore arguably deserves greater attention and vigilance. Indeed, we find certain instances in halacha where a verbal assault is treated more severely than a physical attack, which of course is also a heinous crime.

For example, while it is well established, that a doctor can cause a wound for a medical or rehabilitative purpose, cruel and insulting comments are prohibited even when one has the best of intentions. The Gemara (Bava Basra 16a) attests that Peninah taunted Chanah (Shmuel 1, 1) about her childlessness only in order to encourage her to daven with greater intensity. Nonetheless, despite her noble objective, the pain Peninah caused Chanah with her words was intolerable, and she was ultimately punished bitterly as a result. The Vilna Gaon suggests that this lesson is alluded to in the language of the ensuing pasuk, "If you dare cause him pain, so that he shall cry out to Me, I shall surely hear his cry" (Shemos 22, 22). Even if one only caused grief to the orphan or the widow, for their own benefit, "so that he shall cry out" to Hashem with greater devotion, it is still forbidden.

Similarly, the Baal Haturim (Breishis 21, 10) claims that the Jewish people were exiled specifically to the land of Egypt as result of the unforgiving manner in which Sarah unceremoniously evicted Hagar the Egyptian from her home, as the pasuk states, "She said to Avraham, 'Cast out that slave-woman and her son.'" Rav Shlomo Kluger alleges that the familiar statement of the Pesach Haggadah, "And he went down to Egypt forced by the word," does not refer to the "word" of Hashem, but rather to Sarah's callous words towards Hagar. Even though Sarah acted aggressively for the sole purpose of preserving the spiritual integrity of Yitzchok, her descendants were punished for her abrasive tone. Rav Chaim Shmuelevitz (Sichos Mussar) compares a person who speaks harshly to others to one who ventures into an ominous blaze. No matter how virtuous their intentions, they will inevitably become burned.

In addition, the Ramban (Shemos 21, 15) notes that the method of capital punishment administered for cursing a parent is more stringent than the death penalty which accompanies striking a parent. Rav Eliyahu Baruch Finkel proposes that this reflects the reality that often the emotional wounds of betrayal and isolation created by the denunciations and condemnations of one's own child, can be more profound and painful than a physical bruise or gash. The Maharal (Nesivos Olam) explains more deeply, that verbal assaults can be so pernicious and poignant because they are not targeted at the external body which is naturally trained to heal over time, but rather with intent to harm the soul of a person, to diminish their self-worth, significance, and contribution. For this reason, the recovery process from the emotional wounds of hurtful comments can be complex and prolonged, and can never be confined to a financial settlement or mitigated by monetary compensation. One of the subtler differences between the two competing versions of musical notes (trop) that accompany the ten commandments, known as the taam tachton and the taam elyon, is that in the taam tachton there is a pasach underneath the letter tzadi in the word "lo tirtzach" - "do not murder", while in the taam elyon there is a komatz. The word "pasach" is related to the word

"lifsoach" - "to open," and the word komatz is associated with "likmotz" - "to close." The Chasam Sofer suggests that this teaches us that in order to avoid verbal murder, and to preserve the dignity and wellbeing of others, we need to be able to close our mouths and refrain from speaking harshly and in a hurtful manner towards others. At the same time, when we witness verbal abuse, we must summon the courage and strength to open our mouths, to protest, protect, and defend the lives and self-esteem of the innocent and all those who need our help.

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Parsha Parables By Rabbi Mordechai Kamenetzky

***Drasha Parshas – Mishpatim***

***Facing the Enemy***

***Rabbi Mordechai Kamenetzky***

Receiving the Ten Commandments may have been the pinnacle of the Jewish experience, but by no means did Judaism end there. In this week's portion the Torah details a myriad of pecuniary laws, which include torts and damage law, as well as the laws of physical injury and impairment compensation. A nation that has just emerged from a brutal enslavement surely needs a strict code to discipline their freedom. But what bothers me is the order of the laws that are given this week. The first commandments, in a set of more than 50 intricate laws detailing almost every aspect of life's complexities, concern the laws of servitude. Parshas Mishpatim begins with the words, "when you will acquire a Jewish servant, he shall serve six years and on the seventh he shall go free." (Exodus 16-1)

It is astounding. The Jews just spent the last 210 years as slaves. Why would they even entertain thoughts of taking servants? Shouldn't the first laws dictate compassion for other humans, thus enforcing total equality of an entire, newly liberated nation? Of all the laws dictated to a newly liberated people, shouldn't the concepts of masters and servants be loath to them? Why are those laws given first?

Shalom had never left the small hamlet in Yemen and finally was sent a ticket to Israel by his cousin Moshe. The airplane ride, his first experience with any technology, was absolutely frightening. Not only was it the first time he had seen an airplane, it was the first time he had even seen steps! Upon his arrival at Ben-Gurion airport, the mad rush of taxis truly terrified Shalom, but his cousin Moshe, who lived on a small settlement not far from the Lod train station, eased his fears by sending a driver to pick Shalom up from the airport.

The driver dropped off the dazed immigrant near the train station and gave him directions to the farm. "Walk beside the train tracks for about a mile. You can't miss it," he exclaimed. Shalom, who had never seen train tracks in his life and had never even seen a train, chose to walk right between the two iron tracks. After about five minutes he saw a giant machine bearing down directly upon him.

"Toot toot!" the train whistled. The conductor waved frantically at Shalom as he tried to stop the mammoth machine. Shalom froze as he stood aghast at this marvelous site. "Toot toot!" went the whistle once more. The train could not stop! At the last moment, Shalom quickly jumped out of the way and the train hurtled by, missing him by a hair. Shalom was thrown by the rush of air that accompanied the speeding train. As he picked himself up, all he could see was a enormous black beast fleeing down the track, mocking him with a shrill, "toot toot."

Bruised and shaken he hobbled the rest of the way along the tracks until he arrived at his cousin's farm.

Moshe saw his cousin, Shalom and could not have imagined what happened to him. But Moshe figured, there was time to talk over a glass of hot tea. He

put up a shiny black kettle to boil on the stove, but no sooner had the kettle began to whistle when poor Shalom jumped from his chair and began to shout. He grabbed a broom that stood in the corner of the kitchen and swung wildly at the whistling teapot smashing it with all his might. "Believe me," he yelled, "I know! You have to destroy these monsters while they are still young!"

The Torah understood the Jewish nation's feelings toward its own experience. Slavery is loathsome and reprehensible. The impact of that experience could have shaped an unhealthy attitude toward servitude even in a humane and benevolent environment. Therefore the Torah immediately directed its very humanitarian laws of servitude — clearly and openly. Six years of service and no more. A servant can never be humiliated or degraded. In fact, the rules of Jewish servitude are so humane that the Talmud surmises that "whoever owns a servant has actually acquired a master. If there is only one pillow in the home — the master must to give it to his servant!" So instead of shirking from the difficult task of detailing the laws of servitude or pushing them to a back-burner, the Torah discusses those laws first — without any apologies.

Because in an imperfect world there are imperfect situations. People steal. They owe money. They must work for others to pay off debt or money they have swindled. But when the problems and injustices of life are dealt with in a Torah way, the imperfect world can get a little closer to perfection. *Text Copyright © 1996 by Rabbi M. Kamenetzky and Project Genesis, Inc. Rabbi M. Kamenetzky is the Dean of the Yeshiva of South Shore. Drasha is the e-mail edition of FaxHomily, a weekly torah facsimile on the weekly portion. FaxHomily is a project of the Henry and Myrtle Hirsch Foundation Drasha © 2018 by Torah.org.*

### Rav Bezael Rudinsky

Transcribed by Avi Zelefsky <avizelefsky@gmail.com>  
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This week's parsha is the first parsha after matan torah. This shows the importance of Mishpatim. Rashi says that the 'vav' in "v'eila hamishpatim" serves to connect mishpatim with parshas yisro to teach us that just like the halachos in yisro were given at har sinai, the mitzvos in mishpatim were also given at har sinai. This also shows the importance of parshas mishpatim. On the flip side, rashi says that the word "lifneihem" comes to exclude taking judgement to the courts of the goyim. Why would we think to take our halachos to the goyim? It seems a little degrading!

The gemarah in berachos says that Hashem isn't only present by a large bes din, but also by a bes din of three. The gemara says: I'd think that the bes din is just making peace. Ko mashma lan that Hashem is also there. What does that mean: only making peace? Is making peace not what we go to bes din for?

The first mitzvah to start the parsha is an eved ivri. The only way for bes din to sell the Jew is that he must have stolen, he must be so poor that he can't pay, and he can only be sold if his labor is worth exactly how much he stole. The chances of this happening is one in a million! Why start off the torah like that?

We find that the nesiiim brought a number of karbanos in the mishkan/beis hamikdash. They brought a par, which represented avraham avinu feeding the malachim, the ayil, which represented akeidas yitzchok, and a keves, which represented yaakov and his business deals with lavan. Why would we bring a business deal into the beis hamikdash?

What is most difficult about keeping the mitzvos is doing the logical mitzvos only because Hashem commanded us to keep them, not because it seems logical. This is parshas mishpatim, the parsha of dinim. Many laws might seem to be logical, but one needs to fulfill it because Hashem said so. The gemarah in brachos is teaching this. I would think that bes din is only making peace. No, the real reason is because Hashem is there and Hashem is commanding that this should happen.

You would think that the slave that was sold should not be treated well. He stole! But no, the master must give the pillow if there is only one pillow. Yaakov's deal with lavan is brought into the mishkan because yaakov lived a life of doing the mitzvahs because Hashem commanded him to do so. May we live up to this important level.

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### Shema Yisrael Torah Network Peninim on the Torah - Parshas Mishpatim

פְּרִשְׁתַּי מִשְׁפָּטִים תִּשְׁלַח

וְרִצְעֵה אֶדְנִי אֶת אָזְנוֹ בְּמַרְצֵעַ וְעַבְדּוֹ לְעַלְמַי

**And his master shall bore through his ear with the awl, and he shall serve him forever. (21:6)**

Why does the Torah command the master to bore the Hebrew slave's ear, rather than any other organ of the body? *Rashi* quotes *Chazal* who teach that, "The ear – that heard at *Har Sinai* (when the Torah was given), 'For *Bnei Yisrael* are My servants,' and this person (*eved Ivri*) acquired a (new) master for himself – should be bored with the awl... They are My servants and not servants to servants." The *Rosh* observes that the *gematria*, numerical equivalent, of *martzea*, awl, is 400. *Klal Yisrael* was to be enslaved by the Egyptians for 400 years. Hashem shortened their time by 190 years. Yet, this man (who had been an indentured servant for six years) seeks to extend his servitude. Let his ear be bored.

*Avdus*, servitude, is defined as the abrogation of one's personal will in deference to a master. The servant/slave has no personal will. It is all about his master. *Chazal* (*Pirkei Avos* 2:4) state: *Bateil retzoncha mipnei retzono*, "Nullify your will before His." A Jew's will is to serve Hashem, to do whatever the Almighty asks of him. A Jew does not have his own will exclusive from Hashem's will.

*Horav Yitzchak Zilberstein, Shlita*, relates the story of the *Ohr Sameach's meshamesh bakodesh*, personal attendant, a *gabbai*, sexton, who was totally devoted to his *Rebbe*. Whatever the *Ohr Sameach* would ask of him, he would carry out to the personal satisfaction of his *Rebbe*. One day, the *Ohr Sameach* asked him to perform a specific mission for him. The man felt that it was not worth doing. (In other words, he disagreed with his *Rebbe* concerning the efficacy and value of this activity.) The *Ohr Sameach* reiterated his request. He wanted it done, regardless of his aide's misgivings. The aide replied that executing this mission involved difficulty in carrying it out. The *Ohr Sameach* calmly said, "I want it to be done – regardless of the possible difficulty and questionable efficacy." The aide was adamant in his position. He was immovable. (Clearly the *Ohr Sameach* had not ordered him to do it; otherwise, it would have been insolent not to listen.)

Understandably upset, the *Ohr Sameach* asked, "Why is it that you never listen to me?" Shocked, his aide countered, "Why does the *Rebbe* say 'never'? I always carry out the *Rebbe's* wishes to the fullest extent. This is the first time that I feel it will not work." The *Ohr Sameach* explained, "Every time that you have conformed with my request, you have done so only because you have agreed with me. In other words, you were not listening to me; you were listening to yourself! You proved this by not doing what I asked you to do today. It was not to your liking, so you demurred."

One who serves a master does not have the option of deciding to do what is agreeable to him or what he fancies. He does not have the luxury of making decisions; he only executes the decisions of his master. Likewise, we have no room in our religion for selective observance. We do not pick and choose *mitzvos* according to our liking, convenience or sensibilities. There are 613 *mitzvos*. This number is not random.

כָּל אֱלֹמֵנָה וְיִתּוֹם לֹא תִעֲנֶנּוּ. אִם עָנָה תִעֲנֶנּוּ אִתּוֹ כִּי אִם צִעַק יִצְעַק אֱלֹי שְׁמַע אֶשְׁמַע צִעַקְתּוּ

**You shall not cause pain to any widow or orphan. If you (dare to) cause him pain .... For if he shall cry out to Me, I shall surely hear his outcry. (22:21,22)**

The widow and orphan represent all of the weak and disadvantaged, those who have no one to protect them or to look out for their interests. Sadly, there are those who take advantage of the weak, either because they are easy prey or because the tormentor himself is so insecure that he must “beat up” on the weak in order to maintain a false sense of self-dignity. The Torah tells us in no uncertain terms that Hashem Himself will intervene on behalf of the weak and disadvantaged because, when they cry, their tears go directly to Him. Hashem listens to everyone, but the widow and orphan have His “ear” more readily than others. Hashem will be exacting with His punishment of those who torment the weak. One who causes pain to the widow and orphan should expect severe and swift retaliation from Hashem.

Noticeably, the Torah reiterates the pain caused by the tormentor, *ano saaneh*; it doubles with the outcry of the afflicted, *tzaok yitzak*; and it is likewise redundant stating the punishment, *Shamua Eshma*. Why does the Torah repeat itself three times? *Horav Baruch Sorotzkin, zl*, explains that the Torah seeks to underscore the pain suffered by the widow and orphan (and all others like them who are weak and disadvantaged, who have no one to look out for them). When someone takes advantage of a widow or an orphan, the victim experiences a dual feeling of pain and helplessness. Aside from their response to the actual pain, they feel an added emotion of misery, resulting from the awareness that had their husbands/fathers been alive, this would not have happened. No one would dare to subject them to such misery if they knew that they were protected, that there was a “man in the house.” Thus, when they cry out, their outcry is doubled: for the actual pain, and its accompanying reminder that they are alone in the world. Hashem will listen and respond to the dual pain with equitable punishment.

The *Rosh Yeshivah* is teaching us a powerful lesson concerning how we should view our interpersonal relationships. When we cause pain to our fellow Jew, we must take into consideration that there will be collateral damage for which we will also have to answer. We rarely take into consideration that the innocuous joke or ribbing at the expense of another Jew might not be as benign as he thinks. He may not take it in the manner that we dish it out. Furthermore, he might be someone who has dealt with bouts of depression for any number of reasons, and, just when he thought he had it controlled, someone came along and took advantage of him. The person might be uncaring, unfeeling and narcissistic, an individual who just wanted to have a laugh at someone else’s expense. Little does he realize that he just added another nail in the poor fellow’s coffin.

Perhaps one may offer an alternative reason for the redundancy of the *pesukim*. *Horav Aryeh Levine, zl*, was lovingly and reverently referred to as the *Tzaddik* of Yerushalayim for his multifarious acts of *chesed*, kindness, visiting the prisoners who were incarcerated by the British ruling government during its Mandate. He would make it a point to visit and comfort all bereaved women and children, not exclusively widows and orphans of those who had died at the hands of the British government. *Rav Aryeh* understood that comforting the bereaved was critical, not only because of the obvious pain sustained over their present loss, but also because a person who suffers a loss invariably has questions of faith. His overall conviction will, to some extent, become compromised. Thus, by consoling him, not only does he revitalize the mourner’s spirit and courage to go on, but he also returns his faith to its original strength.

Bearing this in mind, we become aware of another aspect of the collateral damage catalyzed by impinging on the feelings of the disadvantaged. They are miserable and alone. All they have is Hashem. When someone inflicts harm on them or takes advantage of them, however, they begin to question Hashem. The tormentor is now responsible for another sin. This is perhaps another reason why the Torah speaks in redundant terms.

**אם כסף תלוה את עמי**

**When you lend money to My People. (22:24)**

Lending money should be simple. After all, if I have and he does not have, why not share? There is always the slight issue of being paid back, but that usually happens. The Torah says, *Im kesef talveh es ami*, “When you lend money to My People.” The *halachah* is that if one has some money available for lending purposes, and he has the option of lending either to a Jew or a gentile, he should lend *Ami*, My People. A Jew precedes a gentile. Naturally, since we are open - minded, progressive, independent individuals, we might question this *halachah*. It is after all my money, which I earned legitimately through hard work. I should be able to decide with whom I would rather do business. Indeed, if I lend to the gentile I may charge interest and make a few dollars (of which I will certainly contribute a portion thereof to *tzedakah*, charity), while, if I lend to my Jewish brother, I may do nothing of the sort. Additionally, so many laws are involved in lending to a Jew. If he does not have the money, I cannot even bother him for it. How can such a headache be imposed upon me and my money?

*Horav Ezra Barzel, zl*, begins by quoting the *Baal Haturim*, who comments concerning the opening words of our *parsha*, *V'eileh ha'mishpatim asher tasim lifneihem*; “And these are the statutes that you shall place before them” (*ibid.* 21:1). The word *ha'mishpatim* is an acronym for “*ha'dayan metzaveh she'yaaseh psharah terem yaaseh mishpat*.” When the litigants stand before a judge, he should encourage them to be flexible, and both should compromise. Rather than execute the law (whereby one wins and one loses), they should both sit down, talk it over and come to a meeting of the minds in a compromise. Why? If it is my money, then I should not have to give up one cent of that which belongs to me. Why should I compromise with one (one whom I consider to be) a thief?

Furthermore, we find in *Sefer Devarim* (14:21), “You shall not eat any *neveilah*, carcass; to the *ger (toshav)*, stranger, who is in your cities shall you give it that he may eat it.” The *ger* in our *parshah* is a full-fledged gentile who, because he accepts upon himself to observe the *sheva mitzvos bnei Noach*, seven Noahide commandments, receives the title of *ger toshav* (resident convert). Thus, he is allowed to live among the Jews. As a result of his unique status, we are commanded to give him the *treifah*, carcass (unslaughtered non-kosher animal) without charge. The law is quite specific that we should extend ourselves toward the *ger toshav*, to the point that if we have the option of selling the carcass to a gentile or giving it to a *ger toshav*, we give it away. “Why is this?” the owner complains. “I can make a few dollars off of the gentile. Instead, I have to give it away to the *ger toshav*.” We are only too happy to be nice, welcoming and kind, but to lose easy money? Why?

*Rav Barzel* gives one answer to all of these questions. Indeed, if the money/possessions belonged to the person, it is agreed that he has a right to decide how he wants to spend his money. The money, however, does not belong to us. It belongs (all of it) to Hashem *Yisborach*. *Li hakesef v'Li hazavav ne'um Hashem*. “To Me (belongs) the silver; to Me (belongs) the gold, says Hashem” (*Chagigi* 2:8). Hashem is in control. It is His money, which He permits us to use in accordance with His rules.

**ויאמרו כל אשר דבר ד' נעשה ונשמע**

**They said, “Everything that Hashem has said, we will do and we will listen.” (24:7)**

When a friend comes over to ask for a favor, the usual responses are: “Depends on what you ask”; “If it does not take too much time; “If it does not conflict with my schedule;” “If it is ‘legal.’” Rarely does one respond, “Sure, whatever you want.” Having said this, let us now appreciate *Klal Yisrael's* response to Hashem’s Torah: *Naaseh v'Nishma*; “We will do, and we will listen.” No questions; no stipulations, no reasons: simply, whatever Hashem asks of us we are prepared to do. Veritably, this response is part of our DNA. When Hashem called Avraham *Avinu*, the Patriarch’s immediate reply was, *Hineni*, “I am here,” ready and willing to do whatever is asked of me. “It depends” is not part of our spiritually-oriented lexicon. This is the meaning of *Naaseh v'Nishma*, “We are servants of Hashem.” As such, we

make no stipulations. Servants act, they say “yes” without reservation, without contingency. They are servants.

When *Klal Yisrael* happily declared *naaseh v’Nishma*, Hashem raised the mountain over their heads and said, “If you accept the Torah – good; if not – there will be your graves.” Religious coercion would be the immediate reaction of those who do not possess a modicum of *seichel*, common sense. Obviously, when something is crucial for a person’s life, compelling him to take it is not coercion. Imagine (an analogy used by the *Baalei Mussar*, Ethicists) that a child steps on a rusty nail. His father takes him to the doctor, who prepares to give him a tetanus shot. The child demurs. The father insists. The child screams, “Absolutely not; it will hurt.” His father does not accept “no,” because the pain that the shot might cause cannot in any way be compared to the pain and dire consequences of not being inoculated.

Coercion is a term that is applied when one has a choice and is forced to act against his choice. We have no choice with regard to Torah acceptance. One must understand that if he does not accept the Torah, the consequences are dire and permanent. Hashem was intimating in very definite terms that accepting the Torah was not optional. The alternative is: “There will be your graves.”

It goes even further. The term *adam*, man, human being, *mentch*, applies only to one who accepts the Torah. *Horav Reuven Karlinsten, zl*, observes that on *Pesach* we offer the *Korban Omer* which consists of *seorim*, barley, while on *Shavuos* we bring the *Shtei HaLechem*, Two Loaves of bread, which are made of wheat. Barley is the food of animals. What is the food of humans? Is the Torah telling us something? *Rav Karlinsten* explains that *Pesach* precedes *Shavuos*, the festival marking the giving and acceptance of the Torah. Since on *Pesach* we have not yet been inducted into the Torah way of life, our *korban*, offering, is comprised of barley, animal feed. We have yet to achieve human being status. *Shavuos* celebrates this milestone. We are now worthy of being called *adam*, man. Our offering has been upgraded to wheat.

*Shlomo Hamelech* says (*Koheles* 12:13), *Sof davar hakol nishma es haElokim yera v’es Mitzvosav shmor, ki zeh kol ha’adam*, “The sum of the matter, when all has been considered: Fear G-d and keep His commandments for this is (all of) a man’s (whole duty).” Ostensibly, we are being forewarned to observe all of Hashem’s *mitzvos*, to follow in His ways. Why the concluding words: *ki zeh kol ha’adam*? What does this have to do with *mitzvah* observance? *Horav Elchonon Wasserman, zl*, explains that the *pasuk* is giving the reader the definition of a Torah mentor: a *yarei Shomayim* who performs *mitzvos*. He can only be considered an *adam* if he fulfills these two criteria. Apparently, there must be a difference between man and the Torah’s designation of *Adam*. Indeed, we find that *Chazal* state, *Atem kiruyin Adam v’oumos ha’olam k’ruyim adam*; “You (*Klal Yisrael*) are called *adam* (bestowed with the designation of Adam), but not the nations of the world.”

A number of explanations are offered for this *Chazal*. I would like to use *Horav S.R. Hirsch*’s definition of *adam* as being related to *hadom*, footstool, in a phonetical analysis. Man is the footstool for the Divine, so to speak. Hashem rests upon us. Man is the closest revelation of the Divine on earth. As transmitter and bearer of the glory of G-d on earth, *hadom/adam* spares a Superior Being from placing His feet on earth. Thus, by achieving Hashem’s Will, we spare Him from having directly to fulfill His will on earth. This obviously can only be achieved by an *adam*/man who can, by his actions, represent the *Shechinah*, Divine Presence.

The following story (related by *Rav Reuven Karlinstein*) is a classic, in the sense that it gives the reader an idea of the meaning of Torah to the Jew, as well as how a Jew who does not learn Torah – even if he is involved in all types of *mitzvos* and carries out varied forms of *chesed*, acts of lovingkindness – appears. Torah is vital; it is critical not only to our being included in the “*adam*” designation, it is who we are. Thus, without it, we are missing a crucial part of our DNA.

The *Mashgiach*, *Horav Yechezkel Levinstein, zl*, was undisputedly a saintly and holy person whose entire life was intertwined with Torah. Torah was a part of him. He was *kulo* Torah, all Torah. Nonetheless, he was not satisfied. He felt deficient since he was not actively involved in performing acts of *chesed*. He decided that (in order to fulfill the requirement of performing *chesed*) he would establish a *g’mach*, acronym for *Gemillas Chesed*, organization for the performance of good deeds, a free loan organization, whereby he would lend money to those in need. It was a great idea, one which would greatly benefit the Jewish community. There was one “minor” issue: the *Mashgiach* had no money. It was impossible to lend money to those in need if he had nothing to lend. He turned to his students and asked if they might know someone who had excess money who would be willing to share in the *z’chus*, merit, of this *g’mach*.

The students let the word out that the venerable *Mashgiach* was searching for a partner for his *g’mach*. It did not take long before a wealthy Jew from New York answered the call of the *Mashgiach*. Although not a student of either the *Mashgiach* or any of the *yeshivos* where the *Mashgiach* had served in this position, the man was excited to help, and he did so with an impressive sum. This was the basis of the *Mashgiach*’s famous, often-used *g’mach*. The man’s reward was incredible *nachas*, spiritual satisfaction, from his children, sons and sons-in-law, each achieving distinguished *ben Torah* status, with his grandchildren beginning to follow in their path. Yet, there was one request this man had: he yearned for a visit with the *Mashgiach*. The *Mashgiach* was a busy person, wholly devoted to his many students and to his own personal *avodas ha’kodesh*, service to Hashem. Still, he was a *mechutan*, close relative; like the parents of a *chossan/kallah*, they shared in a joint investment. Therefore, he left for *Eretz Yisrael* and proceeded to visit the *Mashgiach*.

The man introduced himself as the *Mashgiach*’s partner. The *Mashgiach* was a man of few words. He replied, “I have heard that you support all of your children in their Torah pursuits. This is impressive. May Hashem grant you the years and wherewithal to continue in this lofty endeavor.” The *Mashgiach* suddenly stopped speaking and looked pensively at the man before him. “Tell me,” the *Mashgiach* asked, “do you learn?” The man was floored. How should he respond? To tell the truth that he did not make the time to learn would be a disaster. No one tells the *Mashgiach* that he cannot somehow find the time to learn. To lie would be unthinkable. So, he said the truth, “I do not personally have time to study Torah.”

The *Mashgiach* remained silent, digesting the man’s response. How could an observant Jew not make the time to learn? “Do you realize that you will leave this world naked; you will have nothing in *Olam Habba*?” End of conversation. The *Mashgiach* returned to his learning. The man, visibly shaken, left the *Mashgiach*’s home. As soon as he returned home, he proceeded to the home of one of the *Roshei Yeshivah* whose *yeshivah* he supported and said, “*Rebbe*, you must find me a *chavrusa*, study partner.” The *Rosh Yeshivah* was taken aback by this “unusual” request. In the past, their conversation had always been about money, how much he was willing to contribute to the *yeshivah*. It was never about his learning. Something was amiss. “Is everything alright with you?” the *Rosh Yeshivah* asked. “It is unlike you to come to me to set up a *chavrusa* for you. Has something happened that I should know about?”

The man opened up to him and explained that the *Mashgiach* had told him that, without Torah study, he would be leaving this world barren, totally exposed, without any protection for what might await him in the World to Come. He must devote a part of his day to Torah study. It must become an integral part of his day. This way he would no longer leave this world unprotected. The *Rosh Yeshivah* himself became the man’s *chavrusa*.

Two lessons can be derived from this story. First, we see how *Rav Chatzkel*, the *Mashgiach*, defined *hakoras hatov*, gratitude. This man had enabled him, via his gift, to establish a *g’mach* through which he had helped many in need. The *Mashgiach*’s idea of gratitude was not offering accolades and



praises (usually for the purpose of extracting another contribution). He gave the man the ultimate gift, by implying to him that he would not receive the welcome in *Olam Habba* that he was expecting. Second, why would he not receive a great welcome? That he was not learning should not have devalued his multifarious acts of *tzedakah* and *chesed*. He supported his entire family in *kollel*, and contributed heavily to *yeshivos* and *mosdos ha'chinuch*. Yet, the *Mashgiach* said that despite his wonderful works of *chesed*, if he did not study Torah, he would receive a “cold” (since he would be naked) welcome in *Gan Eden*: *Ki heim chayeinu v'orech yameinu*, “For they are our life and the length of our days.” More Torah equals more life.

### ***Va'ani Tefillah***

#### **משען ומבטח לבדיקים – *Mishaan u'Mivtach latzaddikim*. Mainstay and Assurance of the righteous.**

Are they not one and the same? What is the difference between a *mishaan*, mainstay, and *mivtach*, assurance? *Horav Zev Tzetzik* explains that, at times, a person is confronted with adversity, and he has no way out; he has nothing to hope for, not even a trace of salvation on the horizon. In contrast, at other times, the situation appears quite bleak, but there is a slight glimmer, a faint ray of light. That burst of sunshine provides enough light that the person relies on it to tide him over until he emerges from his present challenge and reaches a point in which he has true *bitachon*. To do so, however, he requires that glimmer of light, that crutch that will enable him to survive temporarily.

It may be compared to one who needs \$25,000 to marry off his daughter. It is for him an enormous sum of money; for him, a sum which he has no avenue for ever obtaining. Suddenly, someone gives him \$1000. It may be nothing compared to what he actually needs, but it engenders in him the hope that salvation will arrive.

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Ohr Somayach

Insights into Halacha

Rabbi Yehuda Spitz

***Ohr Somayach :: Insights Into Halacha***

*For the week ending 18 February 2012 / 24 Shevat 5772*

***The Halachic Power of a Diyuk***

***Rabbi Yehuda Spitz***

*This week's parsha, Mishpatim, contains the Torah's first mention of the prohibition of mixing Bassar B'chalav, milk and meat. Yet, when the Mishna codified this halacha it changed one word; one which has potential halachic ramifications...*

Many people, when learning a shtikel Torah or a geshmake sugya, will inevitably make some sort of diyuk in their learning, whether in the words of the Tannaim and Amoraim, the Rishonim, or even in the Acharonim, in order to “come out with pshat”. This is basically an inference to understand the intent of the text, based on the precise choice of words used. These diyukim are usually in the realm of pilpul or lomdus, and sometimes “pashut pshat”, but every now and then an innocuous looking line might have actual halachic ramifications.

I would like to cite two prime examples of this based this week's parsha, Parshas Mishpatim, where we find the first time the Torah mentions the prohibition of Bassar B'Chalav - mixing milk and meat. The Torah actually mentions this three times[1], to teach us that there are three separate prohibitions[2] involved: cooking, eating, and deriving benefit from this forbidden mixture[3]. Rabbinically, even eating chicken and milk together is prohibited[4]. Due to the nature and potential for possible mix ups, Chazal made several other takkanos[5] to make sure that “ne'er the twain shall

meet”, including not having people eating both meat and milk at the same time at the same table[6], the waiting period mandated after eating meat and the rinsing, washing and palate cleansing required after eating milk products[7].

The first Mishna in the Chapter in Maseches Chullin[8] dealing with the laws of Milk and Meat begins: “Kol HaBassar Assur Lvashel BeChalav... V'assur L'haalos Im HaGvina al HaShulchan”. “All meat (except for fish and grasshopper) is forbidden to cook in milk... and it's forbidden to place (this meat together) with cheese on the table”.

The famed Rashash (Rabbi Shmuel Schtrashoun of Vilna)[9] notes that when it comes to the prohibition of cooking milk and meat, the Mishna used the same words as the Torah, meat and milk. Yet, when it came to the Rabbinical injunction of not placing them both on the same table, instead of milk, the Mishna switched to the word cheese. To explain the Mishna's choice of words, the Rashash makes an incredible three halachic diyukim in three separate aspects of this law, just from this one line of Mishna!

The halacha mandates that one who has partaken of milk products must do a three step process: kinuach - palate cleansing by eating a hard food item (ex. cracker), rechitza - hand washing, and hadacha - rinsing out of the mouth, before being able to have a meat meal[10]. The Rashash infers from our Mishna's switching to the word cheese that it is emphasizing that this 3-step halacha only applies to eating actual cheese, since it is likely to leave some residue in the mouth. However, drinking good ol' fashioned plain liquid milk, which does not, would only require a mouth rinsing (hadacha). Most authorities follow the Rashash's diyuk and rule this way as well[11].

As mentioned above, one of the steps needed after eating a milk meal before eating something meaty is rechitza - washing hands to make sure no residue remains. The Rashash is medayek again from the Mishna's stressing of the word cheese that this hand washing is only necessary if one ate cheese - a milky food that was held in one's hands. This would exclude actual milk, since it cannot be held in one's hands, but rather requires a container or cup to be able to drink it. Furthermore, in view of the fact that one's hands remain clean after drinking some milk (chocolate or otherwise), he opines that rechitza is not halachically required, similar to the Pri Chadash's ruling that one who eats cheese with a fork (and thereby keeping his hands clean) does not have to wash his hands afterward. Although the basic halacha seems to follow the Rashash's diyuk on this also[12], many feel that nevertheless one should still wash his hands after drinking a milk product, as hand washing does not usually entail too much effort[13].

It is well known[14] that if two people are eating together at a table, one eating meat and the other dairy, that a hekker, or something used to show that there is something different here (i.e. separate placemats, or putting something distinctive down), is required to highlight the fact that one is eating meat and the other dairy, and in order to serve as a constant reminder not to chas v'shalom possibly eat from each other's plates and stumble in the prohibition of eating milk and meat together. The Rashash feels that the Mishna's emphasis on the word “cheese” impacts this area as well. He maintains that the requirement of a hekker is dependant on the possibility of the food getting mixed up, and the one eating cheese might end up eating meat, and vice versa. Therefore, if one is merely drinking milk from a cup, there already is a built in hekker: the cup itself! Without the aid of the cup, the milk would not even be able to be drunk, let alone be possibly mixed up with the meat on the table. Therefore, he posits, if one is drinking milk at the same table with someone eating meat, no further hekker is required. The basic halacha seems to follow the Rashash's diyuk on this as well[15], though several contemporary authorities feel that it is worthwhile to be stringent, based on people's propensity to “dunk” their biscuits into their coffee[16], and the common occurrence of an open cup of coffee spilling[17].

Another excellent example of a related diyuk which has great halachic relevance is based on the wording of the Rema. The Shulchan Aruch rules that after eating meat one must wait six hours before eating milk[18]. He

then adds, based on the Rambam[19], that this waiting period even applies to one who merely chewed meat without actually swallowing it. The Rema, in his glosses to this halacha, writes with a slight variation, that it is proper to wait six hours after eating meat before cheese.

The illustrious Rabbi Akiva Eiger[20], infers from the Rema's choice of words "after eating meat", that he meant to dispute the Shulchan Aruch's ruling on chewing. He maintains that the Rema's intent was to rule that after merely chewing meat, one would not have to wait the full six hours, rather the "ikar din" of only one hour before being allowed to eat milk products. Even though many authorities do not agree with this inference, and rule that even by chewing meat one has to wait the "full count"[21], nevertheless several authorities do rule like Rabbi Akiva Eiger's understanding of the Rema's position, and allowing for leniency for one who simply chewed[22]. In conclusion, as the Chofetz Chaim was wont to stress (albeit by the issues of lashon hara), we should never underestimate the (halachic) importance of even just one word.

- [1] "Lo Sevashel Gedi B'Chaleiv Imo". Parshas Mishpatim (Shmos Ch.23, 19), Parshas Ki Sisa (Shmos Ch.34, 26), and Parshas Re'eh (Devarim Ch.14, 21).
- [2] There is, however, some debate as to how many of the 613 mitzvos this prohibition counts as. The Rambam (Sefer HaMitzvos, Lo Sa'aseh 186 & 187) and the Sefer HaChinuch (Mitzva 92 & 113) count it only as two mitzvos. The Tashbatz (Zohar Rakia, Azharos HaRashbag 197 - 200), however, counts it as the full three mitzvos, while the BeHa"G (Lavin 58) counts it as only one mitzvah. See Rabbi Yitzchak Aharon Kramer's recent Arichas HaDaas (on Hilchos Basar B'Chalav and Taarivos, Ch. 1, footnote 4).
- [3] Chullin 115b - Tanna D'bei Rabbi Yishmael - as the Biblical source for this prohibition. See Rashi's commentary to Mishpatim ibid. (end s.v. lo sevashel) and Tur / Shulchan Aruch Y"D 87, 1. The Baal HaTurim, in his commentary to Devarim ibid (s.v. lo sevashel) brings 'proof' to this source, as the Gematria of the words "lo sevashel" (do not cook) equals that of the words - "Issur achila u'bishul v'hanaah" (prohibited for eating and cooking and deriving benefit) = 763.
- [4] Tur / Shulchan Aruch ibid; Rambam (Hilchos Mamrim Ch.2, 9) goes as far as to say that anyone who claims that a chicken and milk mixture is Biblically prohibited violates the Biblical commandment of "Bal Tosif". This is the halacha, (following the Rambam, Rifand Rosh's understanding of the Mishna in Chullin 113a) and not like Rashai (Yam Shel Shlomo Chullin Ch. 8, 100) and Bach (ad loc 2) who hold like Tosafos' (Chullin 113a s.v. basar) understanding of the Mishna - see Shach (ad loc 4).
- [5] Gemara Chullin 114b. Rashi (ad loc s.v. aval hacha) understands this to mean that it is all considered one gezaira; however the Taz (Y"D 88, 1) seemingly understands that this case is an exception and Chazal made a gezaira l'gezaira. See Pri Megadim (ad loc M.Z. 1, based on Lechem Mishna - Hilchos Maachalos Asuros Ch. 9, 20 and Kenesses HaGedolah - Y"D 88 haghos HaTur 3), Chochmas Adam (40, 11), Yad Avraham (ad loc) and Aruch Hashulchan (ad loc 3).
- [6] Tur/ Shulchan Aruch Y"D 88, 1 & 2, based on Mishna & Gemara Chullin 103b - 104a and 107b.
- [7] Tur/ Shulchan Aruch Y"D 89, based on Gemara Chullin 105.
- [8] Chullin 103b - 104a.
- [9] In his commentary to the above-mentioned Mishna 103b.
- [10] Y"D 89, 2.
- [11] Including Rav Chaim Falag'i (Yafeh Lev vol. 8), and the Darchei Teshuva (Y"D 89, 2). Although the Badei Hashulchan (Y"D 89, 43) feels that one should be stringent with this, based on the words of the Issur V'Hetter (40, 8), see the Zair Hashulchan (Y"D 89, Pnei Hashulchan 78) who refutes this. Similarly, even though the Divrei Malkiel (Shu"t vol. 5, 47) opines not to rely on this (for a different reason), Rav Ovadia Yosef (Shu"t Yabia Omer vol. 6, Y"D 7 end 1 and Shu"t Yechaveh Daas vol. 3, 58, in the footnote) disproves his reasoning and concludes that the ikar follows the Rashash on this. Rav Moshe Sternbuch (Shu"t Teshuvos V'Hanhagos vol. 2, 390) and the Yalkut Yosef (IV"H vol. 3, 89, end 46, & 56) also rule this way.
- [12] Including the Pri Chadash (Y"D 89, 20), Shulchan Gavoah (ad loc, 8), Ba'er Heitiv (ad loc end 13) and Aruch Hashulchan (ad loc, 8).
- [13] Including the Pri Megadim (Y"D 89 S"D 20), Chida (Shiyurei Bracha ad loc 15), Atzei Ha'Olah (Hilchos BB"C 3, 12 & Chukei Chaim 9; he maintains that a fork is actually worse than a cup, as one might use his hands to push the food onto the fork) [Darchei Teshuva (above) implies this way as well], Ben Ish Chai (Year 2, Parshas Shlach 14), and Kaf HaChaim (Y"D 89, 34).
- [14] Tur/ Shulchan Aruch Y"D 88, 2; based on Gemara Chullin 104b. See earlier article "Ma'aseh Avos = Halacha L'Ma'aseh".
- [15] Aruch Hashulchan (Y"D 88, 6).

[16] Shu"t Maadanei Melachim (77), explaining his reasoning why he wrote to be machmir lchatchila in Maadanei Hashulchan (88, 3). IY"H the halachic issues of "coffee-dipping" will be further explored in a future article.

[17] Rav Y.S. Elyashiv in Ha'aros B'Maseches Chullin (103b s.v. v'asur); Shaarei Shalom (on Piskei HaBen Ish Chai Y"D 88, 1, 1), based on the Maleches Shlomo (in his commentary to Mishnayos Chullin ad loc); similar to the Yad Avraham's (ad loc) shitta, that open containers of milk or meat require extra vigilance due to their propensity to spill. An interesting minority opinion on this is the Badei Hashulchan's (Y"D 88, 6 & Biurim s.v. al), who feels that one must be stringent with this, based on the opinion of the Ran, that the problem is that we are worried that one might even eat whatever is on the table, and rules that it forbidden to have even a sealed bag of milk on a table while eating meat. However, aside for the fact that the Aruch Hashulchan ruled explicitly like the Rashash, the other machmirim did also, and only said to be stringent lchatchila based on the tendency of an open cup to spill. See also Rabbi Yaakov Scozylas's recent Ohel Yaakov (on Issur V'Hetter pg. 139, footnote 6) who cites Rav Chaim Kanievsky's ruling, that there is no halachic issue with having a meat meal with a sealed bag of milk on the table.

[18] Y"D 89, 1.

[19] Rambam (Hilchos Maachalos Asuros Ch.9, 28). This ruling is also cited by the Tur (Y"D 89, 1). See Taz (Y"D 89, 1) and Pri Megadim (ad loc, M.Z. 89, 1).

[20] Y"D 89, 2.

[21] Including the Pri Toar (Y"D 89, 3), Pri Megadim (ad loc M.Z. 1, lo plug), Pischei Teshuva (ad loc, 1), Shiyurei Bracha (ad loc, 12), Atzei Ha'Olah (Hilchos BB"C 3, 2), Zivchei Tzedek (Y"D 89, 4), Ben Ish Chai (Year 2, Parshas Shlach 19), Yalkut Me'am Loez (Parshas Mishpatim, pg. 890), Shu"t Kapei Aharon (30), Kitzur Shulchan Aruch (46, 9) and Kaf Hachaim (Y"D 89, 4).

[22] Including the Yad Yehuda (Y"D 89, Pih" a 1 & Pih" k 3), Aruch Hashulchan (ad loc, 4), and Badei Hashulchan (ad loc 38). See also Maadanei Hashulchan (ad loc 4), who concludes that in a case of need, an Ashkenazi definitely has what to rely upon.

For any questions, comments or for the full Mareh Mekomos / sources, please email the author: [yspitz@ohr.edu](mailto:yspitz@ohr.edu).

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda, and l'zchus for Shira Yaffa bas Rochel Miriam and her children for a yeshua teikef u'miyad!

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Yeshivat Ateret Yerushalayim

From the teachings of the Rosh Yeshiva

**Rav Shlomo Aviner Shlit"a**

Ha-Rav answers hundreds of text message questions a day. Here's a sample:

Which Transgression is Worse

Q: Which transgression is worse between these two...?

A: It is forbidden to ask such question. "We will listen and we will perform everything G-d told us" (Shemot 24:7).

Shidduch with Someone Who Visits Har Ha-Bayit

Q: I went on a Shidduch with a wonderful guy and he just told me he visits the Temple Mount. Should I break it off?

A: No. One needs Ahavat Yisrael.

Short Cut through Kotel Plaza

Q: Is it permissible to take a short cut through the Kotel Plaza, or is it forbidden just as it is forbidden to take a short cut through a Shul?

A: It is permissible. It does not have the holiness of a Shul. Only the cordoned off area is considered a Shul.

Spitting During Aleinu

Q: Is there an obligation to spit during Aleinu when one says "To nonsense and emptiness"?

A: No. There are some, such as Chabad Chasidim, to belittle idol worship (Taz, Yoreh Deah 179:5). Others refrain from doing so because it is impolite and an infringement on the holiness of the Shul (It is related in the book "She'eilat Rav" [Volume 1 p. 232] that Ha-Rav Yosef Shalom Elyashiv would make a movement with his lips as if he was spitting, but would not actually spit. And it says in the book "Sefer Ha-Gan" that spitting is defined as sticking one's tongue out a bit, and this was what Ha-Admor Imrei Sofer of Erlau would do and spit a little bit. Halichot Ve-Hanhagot Imrei Sofer Volume 1, p. 86 and in note #3. Me-Mechitzat Zekeini p. 234. And a woman once called Ha-Rav Mordechai Shmuel Ashkenazi, Rav of Kefar Chabad, and said that she forgot to spit during Aleinu. He responded: Spit now. In the book "Ha-Rav Mordechai Shmuel Ashkenazi p. 686).

Women Asking for Tzedakah in Shul

Q: In our Shul, women enter the men's area during the Davening to collect Tzedakah. All of our requests for them to stop have not helped, nor have our threats to call the police. What should we do?

A: Either call the police or put a guard at the door.

Yawning

Q: Is it true that one must cover one's mouth when he yawns so that his soul doesn't come out of his body?

A: Nonsense. It is a superstition with Muslim roots that a yawn comes from Satan. One should cover his mouth, however, because it suggests boredom and is impolite. In actuality, there is no scientific explanation why we yawn. There is, however, an explanation of "Mirror neuron" (why others yawn when they see someone else yawn). By the way, animals also yawn.

Atonement for Speaking Ill of Someone in Public

Q: I spoke ill of a Torah scholar in public. I apologized to him and he accepted my apology.. Do I have to write an apology letter to all those who heard it?

A: Yes. A transgression in public must be atoned for in public.

Hidden Recording

Q: Is it permissible for me to record a discussion I have with a Rabbi without his knowledge?

A: No. It is deceitful. And the same applies to any person, not only a Rabbi.

Book of Yonah

Q: Did the story of Yonah actually happen or is it a parable, as someone told me?

A: It is real (See Ha-Rav's commentary of the Book of Yonah).

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**Tidbits of Interest -**

**Some Aspects of the Halachos of Ribbis**

**By Rabbi Yirmiyohu Kaganoff**

Question #1: Small Thanks

"May I give a small present of thanks to someone who helped me out with a loan?"

Question #2: Doing a Chesed

"Can I violate ribbis by doing a chesed?"

Question #3: Lending my Credit Card

"How can you violate ribbis by letting someone use your credit card?"

There are a total of six different prohibitions that can be violated when creating and paying a loan in which there is interest. Someone who loans money for interest is in violation of the Torah's prohibition, even before any interest is, indeed, charged or collected (see Bava Metzia 62a; Shu"t Mahar" a Sasson #162).

According to the Mishnah, not only do the borrower and the lender violate the prohibition against ribbis, but the witnesses to the loan, the co-signer on

the loan and the scribe who writes up the loan document are also in violation of the prohibition (Bava Metzia 75b). Thus, anyone causing the loan to be finalized is in violation of this mitzvah. This would include someone who notarizes a loan document that includes a ribbis provision, and might even include a lawyer who draws up a document that includes provisions for ribbis (Bris Yehudah 1:6).

The halachos of ribbis are quite complex, and a review of some of the halachos is always in order. From my experience, even seasoned Torah scholars make mistakes about these halachos and may even have business activities that violate the prohibition of ribbis. What makes these matters even more regrettable is that virtually every one of these situations can be alleviated easily by usage of a heter iska, which will be explained later in this article.

Chazal were so concerned that someone would violate the prohibition of ribbis that they wanted the lender to gain no perceived advantages from the loan, even when the gains are completely of a non-monetary nature. Thus, the lender may not ask the borrower to do him a favor that he would not have asked had he not loaned him money (Tosafos, Bava Metzia 64b s.v. Avol). Similarly, the borrower may not invite the lender to his simcha, if he would not have invited him otherwise. It is even prohibited for the borrower to thank the lender for the loan (Graz, Hilchos Ribbis #9).

Chazal also prohibited ribbis that occurs before or after the loan exists. For example, it is prohibited for the borrower to bring a small gift to the lender, as a token of thanks for the loan (Mishnah Bava Metzia 75b). This is prohibited, even after the loan has been paid off, and even many years later.

**Ribbis Without a Loan**

The halacha prohibits charging for the use of one's money, even when a loan did not actually take place. Thus, a merchant may not add interest charges to a bill (sent to a Jew), because it is past due. He is permitted to bill for the actual expenses accrued due to his having had to send an additional bill, as well as any other collection costs he incurs. However, the merchant may not add service charges because he was forced to borrow money off his credit line to cover the shortfall.

The prohibition against charging for delay of payment also applies to acquisitions. Thus, a store may not charge one price for cash and a different price for credit or delayed payment.

The borrower may pay a co-signer to guarantee a gemach loan. In a situation where the borrower defaults and the co-signer has to pay off the loan, the co-signer may collect what he paid from the borrower (Taz to Yoreh Deah 170:3).

**Neighborly Loans**

When neighbors borrow small items such as flour, sugar, or eggs, a loan has taken place. They may not intentionally return more than was borrowed, which would be considered ribbis. However, if they are uncertain exactly how much flour or sugar they borrowed, they are permitted to return enough to be certain that they have definitely returned as much as they borrowed (see Bava Metzia 75a). One may return an item that is similar, but not identical, to what was borrowed, if the buyer and seller are not concerned about the difference. Thus, one who borrowed a loaf of bread of one brand need not be concerned whether the loaf of bread that he returns is the same brand or the identical size (Rema, Yoreh Deah 162:1). Similarly, one need not be concerned that the price may have fluctuated in the interim (Shaar HaTziyun 450:4).

**Ribbis Without any Benefit to the Lender**

The Torah prohibits ribbis if the borrower pays more than he borrowed, even when no benefit is gained by the lender.

An actual case will show us how people can be guilty of this violation without realizing it. Reuvain is involved in many chesed projects, including raising money for tzedakah. Yankel had an excellent business opportunity and asked Reuvain to help him finance his new endeavor, of course in a permitted fashion. Reuvain decided that he would rather utilize this opportunity for a different mitzvah. He tells Yankel, "Instead of becoming a

partner in your business, I will lend you the money interest free, but I'd like to make a condition that some of the maaser from the profits goes to support a yeshiva."

Reuvain assumes that by making the arrangements this way, he fulfills the mitzvah of lending someone money, which, indeed, is a big mitzvah of chesed, and, in addition, he will be causing someone else to give tzedakah, which is also a tremendous mitzvah. Unfortunately for both Reuvain and Yaakov, since giving the tzedakah was a condition of the loan, this arrangement incurs a Biblical prohibition of ribbis. Although the lender, Reuvain, does not gain from the loan, since a condition of the loan was that Yankel pay more money than he borrowed, this is considered a Torah violation of ribbis (Rema, Yoreh Deah 160:14). (In this instance, there would be no violation of ribbis if he asked Yankel as a favor to donate to the tzedakah cause. Alternatively, they could arrange some form of heter iska, as will be explained later.)

#### Borrowing Credit or Credit Cards

Here is another instance that occurs frequently, in which people wish to do a tremendous chesed but in reality they are involved in a serious infraction of ribbis. Mrs. Friedman and Mrs. Goldstein meet at a closeout sale where top quality mattresses are available at an unbelievable price. Members of Mrs. Friedman's family need new mattresses, and she realizes that by purchasing them at the closeout prices she will be saving hundreds of dollars.

Unfortunately, Mrs. Friedman does not have the money to purchase the mattresses, nor does she have any credit cards at her disposal. As she is bemoaning the fact that she will have to forgo this opportunity to save so much money, Mrs. Goldstein, always eager to do a chesed, offers Mrs. Friedman to charge the mattresses on her credit card. A very grateful Mrs. Friedman gladly takes up the opportunity and purchases the mattresses. Her intention is to make the credit card payments accrued to Mrs. Goldstein's card until she can pay off the balance and interest for the mattresses. Without either lady realizing it, they have now created a major halachic problem. The credit card company did not lend the money to Mrs. Friedman, but to Mrs. Goldstein, whose name is on the card. For this reason, what has transpired here is that two loans have taken place, both with interest: one from the credit card company to Mrs. Goldstein, and a second from Mrs. Goldstein to Mrs. Friedman. If Mrs. Friedman makes payments directly to the credit card company, she will be repaying Mrs. Goldstein's loan to the credit company and her own loan to Mrs. Goldstein simultaneously. Thus, she is now paying her loan to Mrs. Goldstein with interest and both well-meaning ladies will have violated the laws against ribbis (Shulchan Aruch Yoreh Deah 168:17). The parties involved should immediately consult a halachic authority who understands the halachos of ribbis well, since there are several ways that the situation described above can be rectified. (The different ways to alleviate the problem might depend on the individual's circumstances, and are beyond the scope and length of this article.)

A similar problem often happens in a business partnership, in which one partner has access to a credit line and borrows money from the credit line for the benefit of the business. Since the credit line is in his name and not that of the business, without realizing it, he has borrowed money from the bank and then loaned it to the business, in which he is only one partner. Thus, he is now considered to be charging his partners for interest on a loan he has made to them. Again, this problem can be alleviated with a heter iska.

What is a heter iska?

A heter iska is a halachically approved way of restructuring a loan or debt so that it is some form of business deal that is not a loan. There are numerous ways of making a heter iska, and, indeed, different situations call for different types of heter iska. It is important for everyone who is involved in any type of business dealings to understand the fundamental principle of every heter iska: That a heter iska restructures the loan so that it is an investment or acquisition, rather than a loan.

#### Borrowing from Jewish-owned banks

Many people borrow money from banks, mortgage companies, credit card companies (including stores), brokerages, and credit unions, without verifying whether they are owned by a Jewish controlling interest. Without using a heter iska, it is forbidden to borrow money with interest from any Jewish-owned business, even if it is incorporated. Although there are some poskim who permit lending money to a corporation without a heter iska, as will be explained later in this article, this author is unaware of any posek who permits borrowing from a Jewish-owned corporation, without a heter iska.

#### Corporations

Rav Moshe Feinstein ruled that it is permitted to lend money to a Jewish-owned corporation, without incurring a problem of ribbis. In Rav Moshe's opinion, a loan must have an individual who is responsible to pay for it. When a corporation borrows, no individual is responsible to pay for the loan. Therefore, Rav Moshe contends that a loan to a corporation does not incur the prohibition of ribbis, provided that no individual personally guarantees the loan (Shu"t Igros Moshe, Yoreh Deah 2:63). It should be noted that many other poskim do not agree with this lenience of Rav Moshe, contending that there can be ribbis even when a corporation borrows money (see extensive discussion in Bris Yehudah pg. 138). One practical difference is that, according to Rav Moshe, it is permitted to have a savings account in a Jewish-owned bank without having a heter iska, whereas, according to the other opinions, it is forbidden. However, according to all opinions it is forbidden to borrow from a Jewish-owned bank, credit union or brokerage without a heter iska. Thus, one may not buy stocks on margin from a Jewish-owned brokerage without a heter iska.

#### Hashkafah of Ribbis

The mitzvah of Ribbis poses an interesting hashkafah question. Why does the Torah forbid making a profit from my money? The Torah encourages earning a livelihood, so what is wrong with earning a profit from lending out money?

Many answers are offered to this question. Kli Yakar presents the following approach: When a farmer plows and plants his field, he knows well that if it does not rain sufficiently or if a blight attacks his crop, he will have nothing to show for his efforts. Thus, even with all his hishtadlus, he knows that he must daven for Hashem to help his efforts. Similarly, a person who opens a business knows well that even with all his planning, his business may not be successful. Thus, he also knows that he must daven for Hashem to help his efforts. However, someone who makes his parnasah from lending out money seems to have his entire livelihood totally secure. He has no daily reminder forcing him to pray for his daily livelihood. For this reason, explains the Kli Yakar, Hashem did not want a person to make his livelihood this way. By banning this method of parnasah, the Torah forced a person to make parnasah in a way that he must be reminded daily of his need for Hashem's help.