

Weekly Internet Parsha Sheet

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Rabbi Wein's Weekly Blog

Law and order are the hallmarks of a functioning democratic society. The concept that one can receive fair redress for damages and hurts through an equitable system of established justice is central to the concept of a free society that provides individual rights to its citizens. However, dictatorships also provide law and order for those who live under their rule - a little too much law and order. And therein is the eternal contest, between an ordered and properly functioning society and an individual's inherent freedoms and rights.

There is a great deal of space and latitude between anarchy and dictatorial rule. The Torah speaks to this issue but allows for a great deal of human and national choice in the matter. The general tenor of Jewish tradition is to be wary of big and powerful government. Avot teaches us not to be known to government and that the nature of government is to demand, albeit apparently lovingly, much from the individual when it is for its own benefit but to be unavailable to help the individual when one is hard pressed and in need of outside help. Yet Avot also stresses the necessity for government and the requirement to pray for its success and welfare, for otherwise society would be unlivable. As in all matters of human existence, the Torah here demands from us a good sense of proportion, wisdom and sophistication in dealing with government and society. The Torah does not deal with us in absolute specific terms but rather establishes general parameters of righteous judicial systems and equitable standards of law enforcement.

The Torah is clear in its condemnation of corruption and bias, especially in judicial and legal matters. The poor and the wealthy, the scholar and the unlettered, the well-connected and the unknown, all are to be equal before the eyes of judges and the law. The Torah defines true justice as being the pursuit of righteousness and fairness by just means. No unjust means can be condoned even in the pursuit of apparently righteous causes.

The Torah abhors corruption in all forms and methods. The premise of the Torah is that corruption is a natural state of being for humans. We are all somehow corrupted by our past experiences and our preset worldviews. It is interesting to note that, for example, the results of many cases brought before the United States Supreme Court are almost always predictable because of the previous strongly held views of the individual justices. They are certainly not corrupt in the criminal sense of the word, but in the world of the Torah they are certainly not freed from the taint of corruption. The Torah demands an open mind, a listening ear, flexibility of thought and an understanding of human nature and of the ways of the world from those who would

serve as judges of other humans. These qualities are not found in abundance, but they are to be searched for and respected in Jewish life and law. True and absolute justice may be unattainable in this world. But the concept of true justice must always be present in all matters of Jewish law and society.

Shabbat shalom

Rabbi Berel Wein

Power from the Outside or Self-Restraint from Within Shoftim

Rabbi Jonathan Sacks

This summer, we've seen riots on the streets of London and Manchester on the one hand, Tripoli on the other. On the face of it there was nothing in common between them. In London the rioters were holding rocks. In Tripoli they were holding machine guns. In Libya they were rioting to remove a tyrant. In London they were rioting for clothes and flatscreen televisions. There was only one thing in common, namely that there were riots. They reminded us, as John Maynard Keynes once said, that civilisation is a thin and precarious crust. It can crumble easily and quickly. The riots in both places, in their different ways, should make us think in a new way about the unique political project Moses was engaged in the parsha of Shoftim, and in the book of Deuteronomy as a whole.

Why do crowds riot? The short answer is, because they can. This year we have seen the extraordinary impact of smartphones, messaging systems and social network software: the last things, one might have thought, to bring about political change, but they have done so in one country after another in the Middle East – first Tunisia, then Egypt, then Libya, then Syria, and the reverberations will be with us for years to come. Similarly in Britain, though for quite different reasons, they have led to the worst, and strangest, riots in a generation.

What the technology has made possible is instant crowds. Crowd behaviour is notoriously volatile and sweeps up many kinds of people in its vortex. The result has been that for a while, chaos has prevailed, because the police or the army has been caught unawares. The Torah describes a similar situation after the sin of the Golden Calf:

“Moses saw that the people were running wild and that Aaron had let them get out of control . . .”

Ex. 32:25

Crowds create chaos. How then do you deal with crowds? In England, the reaction is a call for more police, zero tolerance, and tougher sentencing. In the Middle East, we do not yet know whether we are seeing the birth of free societies or a replacement of the tyranny of a minority by the tyranny of the majority. However, it seems to be a

shared assumption that the only way you stop people robbing one another or killing one another is by the use of force. That has been the nature of politics since the birth of civilisation.

The argument was stated most clearly by Thomas Hobbes in the 17th century, in his political classic, *Leviathan*. Without the use of force, Hobbes said, we would be in a state of nature, a war of all against all in which life would be “nasty, brutish and short.” What we have witnessed in both Britain and the Middle East has been a vivid tutorial in Hobbesian politics. We have seen what a state of nature looks like.

What Moses was proposing in *Devarim* was fundamentally different. He assembled the people and told them, in so many words, that there would be social order in the new land they were about to inherit. But who would achieve it? Not Moses. Not Joshua. Not a government. Not a tyrant. Not a charismatic leader. Not the army. Not the police. Who would do it. “You,” said Moses. The maintenance of order in *Deuteronomy* is the responsibility of the entire people. That is what the covenant was about. That is what the Sages meant when they said *kol yisrael arevin zeh bazeh*, “All Israel are responsible for one another.” Responsibility in Judaism belongs to all of us and it cannot be delegated away.

We see this most clearly in this week’s parsha, in the law of the king.

When you enter the land the Lord your God is giving you and have taken possession of it and settled in it, and you say, “Let us set a king over us like all the nations around us,” be sure to appoint over you a king the Lord your God chooses . . . The king must not acquire great numbers of horses for himself . . . He must not take many wives . . . He must not accumulate large amounts of silver and gold.

Deut. 17:14-17

Note the strange way the command is phrased. “When you say . . .” Is this an obligation or a permission? The people may call to have a king, “Like all the nations around us” – but the entire thrust of the Torah is that the Israelites were not to be like the other nations. To be holy means to be different, set apart. “The king must not . . . must not . . . must not.” The accumulation of prohibitions is a clear signal that the Torah sees the institution as fraught with danger. And so it was. The wisest of men, Solomon, fell into all three traps and broke all three laws. But that is not the end of the Torah’s warning. Even stronger words are to follow:

When he takes the throne of his kingdom, he is to write for himself on a scroll a copy of this Law . . . It is to be with him, and he is to read it all the days of his life so that he may learn to fear the Lord his God and follow carefully all the words of this law and these decrees and not consider himself better than his fellow Israelites.

Deut. 17:18-20

Only one man is commanded in the Torah to be humble: the king.

This is not the place to go into the famous disagreement among the commentators as to whether appointing a king is a command or not. [1] Maimonides says it is an obligation. [2] Ibn Ezra says it is a permission. [3] Abarbanel says it is a concession. [4] Rabbeinu Bahya says it is a punishment. The Israelites, a nation under the sovereignty of God, should never have sought a human leader. In the words of Avinu Malkeinu, “Ein lanu melech ela atah,” “We have no other king but You.”

The point is, however, that the Torah is as far removed as possible from the world of Hobbes, in which it is *Leviathan* – his name for absolute monarchy, the central power – who is responsible for keeping order. In a Hobbesian world, without strong government there is chaos. Kings or their equivalent are absolutely necessary.

Moses is articulating a quite different view of politics. Virtually every other thinker has defined politics as the use of power. Moses defines politics as the use of self-restraint. Politics, for Moses, is about the voice of God within the human heart. It is about the ability to hear the words, “Thou shalt not.” Politics in the Torah is not about the fear of the government. It is about the fear of God.

So radical is this political programme that it gave rise to a phenomenon unique in history. Not only did Jews keep Jewish law when they were in Israel, a sovereign state with government and power. They also kept Jewish law in exile for 2000 years, when they had no land, no power, no government, no army, and no police.

Rabbi Levi Yitzhak of Berdichev once said: “Master of the universe, in Russia there is a Czar, an army and a police force, but still in Russian houses you can find contraband goods. The Jewish people has no Czar, no army and no police force, but try finding bread in a Jewish home on Pesach!”

What Moses understood in a way that has no parallel elsewhere is that there are only two ways of creating order: by power from the outside or self-restraint from within; either by the use of external force or by internalised knowledge of and commitment to the law.

How do you create such knowledge? By strong families and strong communities and schools that teach children the law, and by parents teaching their children that “when you sit in your house or when you walk by the way, when you lie down and when you rise up.”

The result was that by the first century Josephus could write, “Should any one of our nation be asked about our laws, he will repeat them as readily as his own name. The result of our thorough education in our laws from the very dawn of intelligence is that they are, as it were, engraved on our souls.”

This is a view of politics we are in danger of losing, at least in Europe, as it loses its Judeo-Christian heritage. I have argued, in many of these essays and several of my books,

that the only country today that retains a covenantal view of politics is the United States. It was there, in one of the great speeches of the nineteenth century, that Abraham Lincoln articulated the fundamental idea of covenant, that when there is “government of the people, by the people, for the people,” there is a new birth of freedom. When only police or armies stand between order and riots, freedom itself is at risk.

Can Money Tithes Be Used for Political or Ideological Purposes?

Revivim Rabbi Eliezer Melamed

Ideally, one should prefer to give tithes to the poor, or to Torah scholars * It is also possible to give the tithe for other mitzvah purposes, such as building a synagogue or settling the Land of Israel * One should not give money tithes to media outlets or organizations that strengthen conservatism * On an individual basis, it is permissible to donate only to an organization that, based on thorough familiarity, is certain to operate in a just and beneficial manner for settling the Land, and Israel’s security * Although the law of the “condemned city” is severe and cruel, our Sages learned from the Torah that there is actually mercy in it

Q: In light of the national state of emergency, there is financial distress among right-wing organizations trying to maintain the sovereignty of the Jewish people in their land. 1) Is it permissible to donate from ma’aser kesafim (money tithes) to organizations interested in fighting progressive culture, and strengthening family values in the general public? 2) Is it permissible to donate from money tithes to an organization that uses secular military language and concepts, but aims to strengthen the security of the state and the Jewish people’s hold on their Land? 3) Is it permissible to donate from money tithes to an organization interested in explaining and clarifying the conservative approach to democracy, in order to return power to the people from the progressive elites? 4) If indeed this is possible – in all these cases, is it permissible to donate specifically to organizations that carry out activities on the subject, or can one also donate to commercial media outlets (that sell advertising space) such as newsletters, newspapers, podcasts and other explainers, seeking donations to cover their expenses?

A: It is worth mentioning first that some poskim (Jewish law arbiters) say that tithe money is intended for Torah scholars or the poor, and it is forbidden to give it for other mitzvah purposes, such as building a synagogue (Maharil as brought in Rema Yoreh Deah 249:1). Others say that it is permissible to use tithe money for other mitzvah purposes as well (Maharam as brought in Maharshah and Shach 249:3). In practice, it is customary to rule that the tithe can also be given for other mitzvah purposes such as building a synagogue or settling the Land of Israel, but

ideally it should preferably be given to the poor, or Torah scholars.

However, when the donation is to right-wing organizations, two additional problems arise. First, even when the purpose is virtuous, to strengthen Israel’s security, since these are issues that are subject to political debates, there is a reasonable concern that the donation will assist a specific candidate. For example, if the organization or media outlet supports the Prime Minister and fights right-wing candidates who do not support him; or vice versa, supports right-wing candidates who invest most of their efforts in replacing him, it is difficult to say that these are mitzvah purposes. And if they also condemn opponents unfairly, there is even a transgression in their actions. All the more so when it comes to a media outlet that takes a political line, which in the opinion of many people is harmful in its views, or in its tendency to provoke disputes.

Second, even when distancing from political debates about individuals and movements and dealing only with ideas, often it is impossible to know whether it is a good principled opinion. For example, some will argue that security consciousness should be strengthened in detachment from the idea of faith, and others say that this approach will not help, and to some extent, will even cause harm. And the opposite, as well. Also, sometimes those who support conservative positions abandon Torah values that are perceived as liberal or leftist (welfare policies, permissible abortions, respect for those with opposite inclinations, brotherhood with non-observant, or Reform Jews), and in doing so, provoke disputes against important Torah positions.

On the other hand, when strengthening general education in Torah and love for the People and the Land in institutions that do not encourage dispute, it is clear that the donation goes to a positive purpose, as it strengthens the foundation of all good things.

Therefore, in general, it seems that money tithes should not be given to media outlets or organizations that strengthen conservatism. Only for someone who, based on thorough familiarity, is certain that the body to which he wants to direct his donation operates in a just and beneficial manner for settling the Land and Israel’s security, on an individual basis, it is permissible to donate to it.

The Condemned City (Ir Ha-Nidachat)

This Shabbat in the Torah portion ‘Re’eh’, we will read about the commandment of the “condemned city”, according to which, when the majority of the residents of a city in Israel were led to sin in idolatry – it is a commandment to execute all the sinners by the sword, and to burn all its houses and property, and leave it desolate forever (Deuteronomy 13:13-18). When a person sins in idolatry, not in the context of a condemned city, he is liable to skila (stoning), which is the most severe death penalty, but only he is punished, and bequeaths his property to his heirs. In contrast, the sinners in the context of a

“condemned city” are punished with a less severe death, death by sword, but all their property is burned, and consequently, they do not bequeath it to their relatives.

It can be said that the law of the “condemned city” is like the law of rebels, for just as rebels in all kingdoms were liable to death by sword, because they undermined the existence of society and exposed it to terrible dangers, so too, the sinners of the “condemned city” rebelled against the foundations of Israeli existence, which became a people at Mount Sinai.

Procedures of the Condemned City

Before carrying out this severe law, the Torah instructed to inquire and investigate the matter thoroughly. If it was found that this had happened, the Beit Din Ha-Gadol (Sanhedrin) of seventy-one elders would send Torah scholars to the people of the city, to warn them, and bring them to repentance. If they did not repent, the Beit Din Ha-Gadol would instruct the Jews to send an army against them, and take all the inhabitants of the city captive, in order to judge them before a small Sanhedrin of twenty-three judges. Anyone who was testified by two witnesses that after being warned, he intentionally worshiped idolatry, is liable to death.

If it was found that the sinners were a minority of the city’s inhabitants, the law of the sinners is like the law of individual sinners whose punishment is stoning, and their property goes to their heirs. If it was found that the majority of the city’s inhabitants are liable to death, the Beit Din Ha-Gadol would determine that their law is like the law of a ‘condemned city’, and all the sinners are killed by the sword, and their property and houses are burned. And those who did not sin are not killed, but their property is burned along with the property of the rest of the city’s inhabitants. And even if those who did not sin were righteous, their property is burned, because their property caused them to remain living with the wicked, despite the danger that they, or their children, would be negatively influenced by them (Sanhedrin 112a; Rambam Avodah Zarah 4:6-7).

According to the majority of Tannaim (rabbinic Sages whose views are recorded in the Mishnah, from approximately 10–220 CE.), the children of a condemned city are not killed, because sons shall not be put to death for the sins of the fathers (Sages, and Rabbi Akiva, and so wrote Yad Ramah and Parashat HaKesef). However, according to Rambam (Avodah Zarah 4:6), the law is according to Rabbi Eliezer, that even the children are killed with their parents. Some explain that this refers to children who have understanding (Pri Chadash), and some explain that according to Rambam, even children who do not have understanding are killed (Abarbanel). And all this is when their mother also sinned, but if she did not sin, they are not killed (Yad Peshutah).

Death Penalties in the Torah

In practice, although the Torah mandated death for thirty-six offenses, in reality, execution was very rare in Israel, incomparably less than what was customary in all the surrounding nations. To the extent that our Sages said that a Sanhedrin that executed a person in seven years is called “destructive”, and some say, once in seventy years (Mishnah Makkot 1:10). And even those rare executions were mainly of murderers, so that for idolatry, they almost never executed.

And yet when we learn about the thirty-six offenses punishable by death, those who commit them are called “chayav mita” (“liable to death”). There are three reasons for this: 1) to express the severity of the sins, that in principle, this is the appropriate punishment for them. 2) In very rare cases, this was indeed their punishment. 3) Those who sin in the severe sins are liable to death by Heaven, in “karet”.

Can there be a Condemned City?

Our Sages disagreed on the question of whether the law of the ‘condemned city’ was intended to teach practical law, or to teach a principle. Some say that there was a case where they judged a condemned city, as Rabbi Yonatan said: “I saw it, and I sat on its ruins.” However, according to many Sages: “A condemned city never was, and never will be, and why was it written? Expound, and receive reward” (Sanhedrin 71a; 113a). In other words, that by learning the law of the ‘condemned city’, we will understand the severity of idolatry, and we will distance ourselves from any hint of it, and this will be our reward.

The reason it is impossible for there to be one, is because it is difficult to assume that kosher witnesses will be found who will testify about the majority of the city’s inhabitants that they worshiped idolatry despite being warned. And furthermore, Rabbi Eliezer said that even if there was one mezuzah in the city, it is not made a ‘condemned city’, and it is difficult to assume that a city will be found that will rebel to such an extent in all matters of Judaism, until there is not one mezuzah in it.

The Mercy in Punishment

Although the law of the ‘condemned city’ is severe and cruel, our Sages learned from the Torah that there is actually mercy in it, as it prevents society from deteriorating to idolatry that leads to cruel acts many times over. This is what our Sages said in the Mishnah: “The Holy One, Blessed be He, said, If you carry out judgment on a condemned city – I consider it as if you offer a burnt offering before Me”, as it is said: ‘A whole offering to the Lord your God’. For as long as the wicked are in the world, there is wrath in the world; when the wicked perish from the world, wrath is removed from the world” (Sanhedrin 111b). Even according to the opinion that in practice there was no ‘condemned city’, there is mercy in this law, because the internal agreement that it is appropriate to carry out severe judgment on a group that unites to worship idolatry, prevents calamity and arouses mercy.

From the Laws of the Condemned City

The law of the ‘condemned city’ applies to regular cities, “one of your cities”, therefore, Jerusalem and the cities of refuge are not made a ‘condemned city’.

Also, a ‘condemned city’ is not made on the border, that is, on the border of Israel, so that Gentiles will not enter the Land of Israel through the desolate place (Sanhedrin 16b; Rambam *ibid.* 4:4). The property of the city’s inhabitants must be burned and it is forbidden to benefit from it. The property that needs to be burned is the property of the city’s inhabitants that is found in the city, but property of people from outside the city that was deposited with the inhabitants of the condemned city, is not burned. Also, property of the city’s inhabitants that was outside the city is not burned. If it belongs to people who did not sin, it remains in their possession; and if it belongs to wicked people who were killed, the property is given to their heirs (*ibid.* 4:7; 10). It is forbidden to build houses on the ruins of a ‘condemned city’, but fruit trees are allowed to be grown (*ibid.* 4:8).

In loving memory of our beloved friend and partner, Cherna Moskowitz, who consistently supported the community and Hesder Yeshiva of Har Bracha for years. May her memory be for a blessing.

Parshat Shoftim: A Judge Must Do What is Right, Not What is Safe

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“Judges and Executors of Justice shall you establish for yourselves in all of your gates.... Justice, justice shall you pursue in order that you may live and inherit the land which the Lord your God is giving to you.” (Deuteronomy 16:18–20)

In this opening passage of our weekly portion, the Bible conditions our ability to remain as inhabitants of the Land of Israel upon the appointment of righteous judges, who will not prevent justice, or show favoritism before the law or take bribes of any kind (Deut. 16:19).

The Bible also reiterates, “Justice, justice shall you pursue,” a commandment with a number of important interpretations. First of all, seek or appoint another judicial court if the local court is not deemed adequate for the needs of the litigants (Rashi, *ad loc.*). Secondly, in the words of Rabbi Menachem Mendel of Kotzk, make certain that you pursue justice by means of justice; that your goals as well as your means are just. I would add to this the stipulation that the “administration” aspect of court-room management be just: begin on time without keeping the litigants waiting, conclude each case with as much dispatch as possible, and listen sympathetically to the claims of each party, so that everyone feels that he/she has received a fair hearing.

Further on in our portion, the Bible adds another critical criterion for true justice: “When there will arise a matter

for judgment, which is hidden from you [a case which is not cut-and-dry, which requires extra consideration on the part of the judges]... you shall come to... the judge who shall be in those days” (Deut. 17:8–9). Rashi makes it clear, basing himself on the words of our Talmudic sages, that we must rely on the sages of the particular era for the judgment at hand, that “Yiftach in his generation is as good as Samuel in his generation.” This notion is further elucidated by Rabbi Levi Yitzhak of Berdichev in his masterful *Kedushat Levi*, under the rubric “teiku,” a Talmudic term, which appears after an un-adjudicated dispute and means that the contested object is returned to its original owner. The term is commonly explained, however, to be a mnemonic: t-y-k-u – Tishbi Yetaretz Kushyot Veba’abayot, or “Elijah the Prophet will answer questions and ponderings” in the Messianic Age.

“Why Elijah?” asks Rabbi Levi Yitzhak. After all, there will be a resurrection of the dead in the Messianic Age, wherein Moses will be resurrected; since Moses was a greater halakhic authority than Elijah, since Moses studied directly with God Himself, why not have him answer the questions rather than Elijah?

Rabbi Levi Yitzhak answers his seemingly naïve question with a most sophisticated response. Moses died close to four thousand years ago; Elijah, according to the biblical account, was “transferred” live into heaven, and regularly returns to earth, appearing at every circumcision and at every Passover Seder. Since Elijah understands the travail and the angst, the hopes and the complexities, of the generation of the redemption, only he can answer the questions for that generation; a judge must be sensitive to the specific needs and cries of his particular generation.

Then what are the most important criteria for a righteous judge? We have seen that he must clearly be a scholar in Jewish legal literature and must be an aware, intelligent, and sensitive observer of the times and places in which he lives, a judge of and for the period and place of adjudication.

But there is more. In the book of Exodus, when Yitro, the Midianite priest, first suggests to his son-in-law Moses that he set up a judicial court system of district judges, we find more qualifications for our judges: “You shall choose from the entire nation men of valor (chayil), God fearers, men of probity who hate dishonest profit” (Ex. 18:21).

Our great twelfth-century legalist-theologian, Maimonides, defines men of valor (chayil), a Hebrew word which connotes the courage of a soldier in battle as follows:

“Men of valor” refers to those who are valiantly mighty with regard to the commandments, punctilious in their own observance.... And under the rubric of “men and valor” is the stipulation that they have a courageous heart to rescue the oppressed from the hands of the oppressor, as in the matter of which it is scripturally written, “And Moses rose up, and saved [the shepherdesses] from the hands of the more powerful shepherds...” And just as Moses was

humble, so must every judge be humble. (Mishneh Torah, Laws of Sanhedrin 2:7)

Rabbi Shlomo Daichovsky, one of the most learned and incisive judges who ever occupied a seat on the Religious High Court in Jerusalem queries (in an “Epistle to my Fellow Judges,” dated 25 Shevat 5768, and published in Techumin, Winter 5768) how it is possible for a judge to be a valiant fighter on behalf of the oppressed, which requires the recognition of one’s power to exercise one’s strength against the guilty party, and at the same time for him to be humble, which requires self-abnegation and nullification before every person? These seem to be two conflicting and contrasting characteristics!

Rabbi Daichovsky concludes that humility is an important characteristic only when the judge is not sitting in judgment; when the judge is seated on the throne of judgment, he must be a valiant and self-conscious fighter, fearlessly struggling against injustice as though “a sword is resting against his neck and hell is opened up under his feet” (Sanhedrin 7). “The Judge must be ready to enter Gehenna and to face a murderous sword in defense of his legal decision.... He must take responsibility and take risks, just like a soldier at war, who dare not worry about saving his own skin” (Maimonides, Mishneh Torah, Laws of Sanhedrin 23:8). The chief concern of a judge must be for the justice and well-being of the litigants before him and not for his own security and reputation in walking on the “safe” (and more stringent) halakhic ground.

This is reminiscent of the Talmudic story of R. Zechariah b. Avkulis (Gittin 53a), who refused to sanction the sacrificial blemished lamb of the Roman Emperor sent to the Temple because those on the right would accuse him of acting too leniently regarding Temple sacrifices, and who refused to sanction the death penalty for the spy who had blemished the sacrifice, because of those on the left, who would accuse him of acting too harshly in his punitive measures. The Talmud concludes, “The humility of R. Zechariah b. Avkulis destroyed our Temple, burnt our Sanctuary, and exiled us from our homeland.” R. Zechariah wanted to be “safe”; he did not want those on the right to say he was too lenient, or those on the left to say he was too stringent. As a result of his lack of courage, the Holy Temple was destroyed.

Finally, Rabbi Daichovsky exhorts his fellow judges not to fear any human being when they render a decision, not even great halakhic authorities, because these illustrious scholars did not hear the case, did not look into the eyes of the woman refused a divorce, and therefore are not vouchsafed the same heavenly aid as the judges who were involved with the litigants eye-to-eye and heart-to-heart (see Maimonides, Mishneh Torah, Laws of Sanhedrin 23:9).

Tragically, the majority of the judges of the Religious High Court in Israel today are not heeding the wise counsel of Rabbi Daichovsky. They are not hearing the cries of the

oppressed women, refused divorces by recalcitrant and greedy husbands. They are not being sensitive to the crying national need to find appropriate ways to convert the close to 400,000 gentiles today living as Israeli citizens, often risking and losing their lives in the wars being fought for our national survival, and then being refused burial in a Jewish cemetery.

There are manifold solutions within the Talmud and its commentaries to free “chained” women, and to bring the gentiles living as Israeli Jews among us under the wings of the Divine Presence. Instead, our judges choose to take the safe way out, to rule in accordance with every stringency, to deafen their ears to the cries of the aguna in favor of the ultra-orthodox anti-Talmudic insistence on “purity of Israel,” to refuse to nullify sham and shameful marriages but hasten to nullify conversions performed by respected religious authorities, nullifications of conversions clearly forbidden by Maimonides, nullifications which wreak havoc on numerous Jewish families. I am confident that by the time this volume is published, there will be a significant change in the personnel of the Religious High Court of the Chief Rabbinate of Israel.

Shabbat Shalom

Historical Background to Use of Halacha to Enforce Copyright

By Rabbi Yirmiyohu Kaganoff

date: Sep 3, 2024

Does a publisher have rights protecting him so that he has the opportunity to recoup his investment? Assuming that such rights exist, do they apply in all cases, or only if it is a new publication? For how long are his rights protected?

Does the Torah have a concept of intellectual property rights, meaning that someone who creates or invents an item is the owner of his invention?

WHAT RIGHTS DOES THE PUBLISHER HAVE?

One of the earliest published responsa on this subject deals with a very interesting sixteenth-century case. One of the gedolei Yisrael of the time, the Maharam of Padua, Italy, entered a partnership with a non-Jewish publisher in Venice to produce a new edition of Rambam. Maharam invested a huge amount of time checking and correcting the text for this edition, included notes of his own, and apparently also invested significant amounts of his own money in the undertaking. A competing publisher, also a non-Jew, produced an edition of Rambam (without Maharam’s corrections and notes) at a greatly reduced price, apparently out of spite that Maharam had engaged his competitor. It appears that the second publisher might have been selling the set of Rambam at a loss, with the intent to ruin the Maharam financially. The halachic question was whether an individual may purchase the less expensive edition of the second publisher.

The shaylah was referred to the Rama, who ruled that the second publisher's actions constitute unfair trade practices. Rama prohibited purchasing or selling the competing edition until the Maharam's edition was sold out. Realizing that the non-Jewish publisher would not obey his ruling, Rama reinforced his ruling by placing a cherem (decree of excommunication) on anyone selling, buying or abetting the sale of the competing edition (Shu"t Rama #10). This was an effective way of guaranteeing that Jews did not purchase the less expensive (but inferior) edition.

The Rama's ruling established a precedent. Subsequent to Rama's ruling, it became common practice for publishers to include in their works a cherem (plural: charamim) from a well-known posek banning the publishing of the same sefer, usually for a period of six to twenty-five years. As a matter of fact, these charamim were the main reason why publishers sought haskamos when they published seforim. The purpose of the haskamah was that they included charamim, which made it financially worthwhile for the publisher to invest the resources necessary to produce the sefer. Thus, these charamim encouraged publishing more seforim and the spread of Torah learning.

Generally, charamim that protected the publisher's rights were accepted and obeyed. However in the early nineteenth century, an interesting dispute arose between the Chasam Sofer, the Rav of Pressburg, and Rav Mordechai Benet, the Rav of Nikolsburg, germane to the production of the famous Roedelheim machzorim. Two competing editions of these machzorim were produced, the first by Wolf Heidenheim, who had invested much time and money gathering and comparing the texts in old editions and manuscripts. A Jewish publishing house located in a different city subsequently published a competing edition. Prior to Heidenheim's issuing the machzorim, several prominent rabbonim had issued a cherem banning other publishers from competing.

The Chasam Sofer prohibited the second publisher from selling his machzorim and similarly banned people from purchasing them (Shu"t Chasam Sofer, Choshen Mishpat #41, #79). In his opinion, this case was halachically comparable to the edition of Rambam produced by the Maharam Padua.

Rav Benet disagreed, contending that there were several key differences between the cases. In his opinion, it is unnecessary to guarantee publication of machzorim by issuing charamim. Machzorim are a common item, and publishers know that they will profit from producing them. Thus, the entire purpose for which these charamim were created, to guarantee the production of seforim, does not apply. Furthermore, since non-Jewish publishers will certainly produce machzorim, issuing a cherem against competition will benefit the non-Jewish publishers, who will be faced with less competition, more than it will benefit a Jewish publisher such as Wolf Heidenheim. In addition, Heidenheim's first edition had already sold out,

and charamim traditionally ended when the edition was sold out, assuming that one edition was sufficient to guarantee a publisher sufficient profit to make it worth his while. In addition, Rav Benet questioned whether the system of charamim was still appropriate once the government had established its own rules and laws of copyright infringement (Shu"t Parashas Mordechai, Choshen Mishpat #7, 8).

The Chasam Sofer countered that since Heidenheim had invested time and money in checking and correcting texts, his business interest should be protected to a greater degree, and that Heidenheim should qualify under a special halachic dispensation allowed for those guaranteeing that Torah texts are accurate (see Kesubos 106a). As a result, the Chasam Sofer contended that Heidenheim's monopoly should be allowed for the entire twenty-five years decreed in the original cherem, even after the first edition was sold out.

DOES HALACHA RECOGNIZE INTELLECTUAL PROPERTY AS OWNERSHIP?

This shaylah came to the forefront in the middle of the nineteenth century, also as a result of a din torah. Around 1850, a printer named Yosef Hirsch Balaban published a large-size edition of Shulchan Aruch with major commentaries, accompanied for the first time by the anthologized commentary, Pischei Teshuvah. Balaban was sued in beis din by a printer named Avraham Yosef Madfis, who claimed to have purchased exclusive rights to Pischei Teshuvah from its author. (I am uncertain whether "Madfis" was indeed his family name, or whether this referred to his profession.) At the time, Pischei Teshuvah had been printed only once, in a small-size edition that included only the Shulchan Aruch and one other commentary, the Be'er Heiteiv. Madfis claimed that Balaban had violated his (Madfis's) exclusive ownership rights to the Pischei Teshuvah.

The Rav who presided over the din torah, Rav Shemuel Valdberg of Zalkava, ruled in favor of Balaban for the following reason. The original edition of Pischei Teshuvah did not include any statement placing a cherem against someone printing a competing edition. Rav Valdberg contended that this voided any copyright on Pischei Teshuvah. Furthermore, Rav Valdberg included two more reasons to sustain his ruling. One, the original edition of Pischei Teshuvah was no longer available. Thus, even had a cherem banned a competing edition, it would have already expired once the first edition had sold out. Second, even if the first edition was still available for sale, Balaban's reproducing Pischei Teshuvah as part of a multi-volume set of Shulchan Aruch was not competition for the original edition, where Pischei Teshuvah had been published as a small, presumably inexpensive sefer. Rav Valdberg reasoned that no one interested in purchasing Pischei Teshuvah would likely purchase Balaban's edition of Shulchan Aruch just for that purpose; instead he would

buy the small edition (assuming it was available). Thus, he did not consider Balaban's edition to be unfair competition for those looking to purchase Pischei Teshuvah.

According to Rav Valdberg's analysis, the author of Pischei Teshuvah has no greater ownership to his work than someone publishing a different person's work. His latter two arguments, that the first edition was already sold out and therefore the cherem expired, and that the multi-volume set does not compete with the one volume edition, would both be preempted if we assume that the author retains ownership over his work. Thus, Rav Valdberg did not believe that halacha recognizes intellectual property rights.

The Sho'eil uMeishiv (1:44) took issue with this point. In a letter addressed to Rav Valdberg, which he subsequently published in his own responsa, he contended that the author of a work is its owner. Thus, Pischei Teshuvah retains his rights as author/owner whether or not a cherem was declared against competition. A cherem is to guarantee a publisher enough time to recoup his investment. An author is an owner, not an investor, and maintains ownership over the item produced which he is entitled to sell, regulate, or contract. This is called intellectual property rights.

Upon reading the Sho'eil uMeishiv's ruling, Rav Yitzchok Shmelkes, wrote him that he disagreed with his reasoning (Shu"t Beis Yitzchok, Yoreh Deah 2:75). The Beis Yitzchok contends that halacha does not recognize intellectual property rights as inherent ownership. In the Beis Yitzchok's opinion, the author has a right of ownership but only because it is accepted by government regulation, what is called *dina dimalchusa dina*, literally, the law of the government is binding. Although halacha does not usually accept non-Jewish legal regulations, a civil law established for the well-being of society is sometimes accepted. Since intellectual property rights encourage initiative and invention that are in society's best interests, halacha accepts these ownership rights to the extent that they are recognized by civil law.

There are several key differences between the position of the Sho'eil uMeishiv and that of the Beis Yitzchok. According to the Sho'eil uMeishiv, the ownership of an author exists forever just as any other property that he owns. Upon his passing, they are inherited by his heirs, just like his other property. However, in the Beis Yitzchok's opinion, the ownership rights extend only according to what is established by government regulation, which expire after a number of years. Moreover, in most countries a copyright is valid only if registered, and it must also be indicated in the published work. Presumably this was not true in the Beis Yitzchok's place and time, since he applied civil copyright law to Pischei Teshuvah even though the author had not indicated any copyright in the sefer.

Thus, whether halacha recognizes intellectual property ownership is disputed.

Some authorities rally evidence that the Chofetz Chayim agreed with the Sho'eil uMeishiv's position. The Chofetz Chayim left specific instructions detailing who owns the publishing rights to his seforim after his passing. He instructed that his seforim on *loshon hora* could be freely republished, and that *Mishnah Berurah* may be published by anyone, provided that 4% of its volumes printed are donated to *shullen* and *batei medrash*. However, he stipulated that most of his seforim could not be republished without permission of his family members and that the proceeds from such publication should succor his widow for the rest of her life. The Chofetz Chayim's instructions imply that he considered his ownership to be in perpetuity. Furthermore, the Chofetz Chayim did not publish any words of cherem or copyright in his seforim. Thus, he seems to have presumed ownership over future editions of seforim on the basis of intellectual property (Shu"t Minchas Yitzchok 9:153), although it is possible that he based it on *dina dimalchusa dina*, following the opinion of the Beis Yitzchok.

If one reads the *haskamos* on sefarim published from the time of the Rama until the close of the nineteenth century, one notices that this dispute between the Sho'eil uMeishiv and the Beis Yitzchok seems to have been fairly widespread. For example, when the *Chavos Yair* published his own responsa, all the *haskamos* gave him protection against someone else publishing his responsa for a limited period of time. According to the Sho'eil uMeishiv's opinion, the *Chavos Yair* should have owned these rights forever!

On the other hand, when a new edition of *Shu"t Rivash* was published in the 1870's, it included a very extensive index that included also all the places that the *Rivash* is quoted by the Beis Yosef and other halachic authorities. The edition contained three *haskamos*: from the *Netziv*, from Rav Yitzchak Elchanan Spector, and from the *Malbim*. All three include a cherem against anyone publishing *Shu"t Rivash* for six years, but explicitly mention that the ownership of the newly created index is the property of the publisher forever and may not be reproduced without his permission. They clearly are recognizing intellectual property rights in halacha.

Thus, we see interesting historical precedent both in favor and opposed to whether halacha recognizes intellectual property. Some of these factors are included when debating the role of copyright violation in halacha today.

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date: Sep 5, 2024, 6:27 PM

If Judaism Is Immutable, How Can It Be Relevant?

A Tale of Two Torahs: The Timeless and the Timely.

[Dedicated by Chanie and Yisroel Yitzchak HaKohen Kaplan in memory of Rabbi Binyamin Hammer who passed away unexpectedly on Av 4. He was a true man of chessed who went out of his way every day to help another Yid.]

By: Rabbi YY Jacobson

The King's Torah's

In this week's Torah portion, Shoftim, the Torah teaches us a fascinating mitzvah concerning every Jewish King:

Deut. 17:18 And it will be, when he sits upon his royal throne, that he shall write for himself a copy of this Torah on a scroll from [that Torah which is] before the Levitic kohanim.

שופטים יז, יח והיה כשבתו על פסא ממלכתו וכתב לו את משנה התורה הזאת על ספר מלפני הכהנים הלויים:

19 And it shall be with him, and he shall read it all the days of his life, so that he may learn to fear the Lord, his G-d, to keep all the words of this Torah and these statutes, to perform them.

יט והיתה עמו וקרא בו כל ימי חייו למען ילמד ליראה את יהוה אלהיו לשמר את כל דברי התורה הזאת ואת החקים האלה לעשותם:

Asks the Talmud:[1]

סנהדרין כא, ב: מלך אין, הדיוט לא? לא צריכא לשתי תורות וכדתניא וכתב לו את משנה וגו' כותב לשמו שתי תורות, אחת שהיא יוצאה ונכנסת עמו ואחת שמונחת לו בבית גנוזי.

Every Jew is obligated to write a Torah Scroll (Sefer Torah), as the Torah states explicitly[2] ("And now, write for yourselves this song, and teach it to the Children of Israel. Place it into their mouths, in order that this song will be for Me as a witness for the children of Israel." The Talmud[3] understands it as an obligation to write the entire Torah).[4] If so, why does the Torah give a separate mitzvah for the king to do this?

The Talmud explains that the Torah is instructing the Jewish leader to write not one, but two Torah Scrolls. One travels with him wherever he goes, and one remains permanently at home, in his private treasury.

But why? What's the point of the king having two Sifrei Torah?[5]

Timeless and Timely

There is, perhaps, a profound message here.[6] The Leader must hold on to two Torahs, as it were. One remains in his treasure chest; the other travels with him wherever he goes, in the words of the Mishnah:[7] "He goes to battle, and it goes with him; he enters the palace and it enters with him; he sits in judgment, and it sits with him. He sits down to eat, and the Torah is there with him."

There are two elements to Torah: On one hand, Torah represents the unwavering truth that remains unchangeable, unbendable, and un-phased by the flux of time, space, and history. Shabbos never changes. Tefilin, matzah, shofar, sukkah, mikvah, mezuzah, the text of Torah, the bris milah—these are eternal, unchangeable, Divine laws and truths. The same delicious or horrible "stale" matzah we ate 3300 years ago in the desert we still eat in the 21st century

in New York, Miami, and Los Angeles. The same ram's horn we blew two millennia ago is still blown today the world over. The same tzitzis, the same Shabbos, the same Yom Kippur, the same kosher laws, the same conversion laws, the same Torah.

But there is another element to Torah—its ability to give perspective and guidance to each generation according to its unique needs, challenges, struggles and experiences. Each generation is different. The issues that plagued us a half-century ago are not the issues we confront today, and conversely: today we have dilemmas never experienced before in history. Our bodies, psyches, souls, sensitivities, and environments are different. Our world has changed in significant ways. Torah must also be a blueprint and luminary to the unique journeys of each milieu, to the climate of each generation, to the ambiance of every era, to the sensitivities of each age, to the yearnings of every epoch.

The prophet Isaiah says:

...ישעיה ג, ד: אֶלְנִי יְהוָה, נָתַן לִי לְשׁוֹן לְמוֹדִים, לְדַעַת לְעוֹת אֶת-יַעֲרֵף דָּבָר

My Lord has granted me a tongue for teaching, to understand the need of the times, to give knowledge to those who thirst for knowledge.

A Jewish leader—and every one of us is a leader in our way—must have two Torahs. One Torah remains immune to change. One pristine Torah Scroll never leaves the ivory tower of the king's treasury house. It speaks of truths of life and of G-d that are timeless. It transcends borders of time, geography, and people.

The Kilogram

There was a recent report concerning 'The Kilogram' in Paris. 'The Kilogram' is a calibrated weight by which all other kilograms in the entire world are measured. It is kept in triple layered glass casing, to ensure that it is in no way influenced by the elements. Unfortunately, scientists are afraid that this standard kilogram has been losing some mass over the years. This, at least theoretically, -has ramifications for all types of commerce throughout the world. The pure kilogram standard must never become corrupted!

The famous Maggid of Dubno once told the story of a country boy whose fame as an archer had spread far and wide. A delegation of the finest archers traveled to his farm estate to see for themselves if the rumors were true. As they approached the estate, they observed hundreds upon hundreds of trees, each one painted with a target, and in the center of each bullseye, there was a single arrow. Amazed at the sight, they asked the lad how it was that he had become such a fine shooter. He replied plainly that he would shoot the arrow first, and then paint the target around it.

This is the error some make with Torah. You can't just keep on adjusting Torah to your predefined positions and desires. If Torah is truth, it is true in all times and in all places. If it is not true, who needs it all together?

But it is not enough to just teach a timeless Torah. A leader must also find in Torah the language of G-d to this particular generation, to this individual person, to this unique situation, to this singular struggle, to this mindset and weltanschauung. Torah has the capacity to speak to the timely as much as to the timeless, to the modern as much as to the ancient, to the future as much as to the past, to the things that are always in flux as much as to those that remain unchangeable.

To Find Your Bio in Torah

This is also the deeper meaning of the Torah's words: "And it shall be with him and he should read it all the days of his life in order that he learn to fear G-d, to observe all the words of this Torah..."

The Torah is telling us more than just the fact that the king has to read the Torah throughout the days of his life. The actual literal translation reads: "He should read in it all the days of his life." This means that the Jewish leader must be able to see in Torah a perspective for "all the days of his life," for everything that transpires in his life and in the life of his people. He has to read in it (v'kara bo) his entire biography (kol yemei chayav), all the events of his life. Every new situation has a perspective from Torah, guidance from G-d's blueprint for life.[8]

The Balance

It is not always an easy balance. How can the same Torah address both the timeless and the timely? If it was relevant 3000 years ago how can it still be relevant today?

The answer is: Since the Torah comes from the Creator of the world, He embedded into the Torah all the changes, developments and fluctuations of history. The Torah is the Divine blueprint not only for timeless truths, but also for timely issues and questions—it speaks to each generation addressing its dilemmas and concerns.

The late Israel Shenker, a New York Times reporter, interviewed the Lubavitcher Rebbe for his 70th birthday. Here are his words published in April 1972, in The Times:

"To the suggestion that his orthodoxy marks him as a conservative he [the Rebbe] objected, saying: 'I don't believe that Reform Judaism is liberal and Orthodox is conservative. My explanation of conservative is someone who is so petrified, he cannot accept something new. For me, Judaism, or halacha [Jewish religious law], or Torah, encompasses all the universe, and it encompasses every new invention, every new theory, every new piece of knowledge or thought or action.

"Everything that happens in 1972 has a place in the Torah, and it must be interpreted, it must be explained, it must be evaluated from the point of view of Torah even if it happened for the first time in March of 1972."

These are the "Two Torah's" a Jewish king—and by extension every Jewish teacher and leader—must possess.

NOTES [1] Sanhedrin 21b [2] Deuteronomy 31:19 [3] Nedarim 38a [4] The Rosh (Rabbi Asher ben Yechiel, c.1250-1328) writes (Laws of Sefer Torah 7:1) that in

previous eras, the Torah scroll was the only text that Jews could use for study, since it was forbidden to write down the Oral Law. Nowadays, however, when it is permissible to write down the Oral Law, and the Torah scroll is stored in the synagogue for public readings rather than used as a study text, the obligation to write a Torah scroll encompasses the obligation to purchase other holy books (seforim) which can be used for study. Some halachic authorities understand this to mean that there is no longer an obligation to own or write a Torah scroll and that the obligation is fulfilled in its entirety by owning other holy books, e.g., a Chumash, Mishnah, Talmud, Code of Jewish Law, etc. Other authorities say that the Rosh meant that the obligation to write a Torah scroll still exists, but that in addition to this, one must also purchase other holy books.

The Lubavitcher Rebbe once explained a fascinating insight. We don't find any record that upon receiving this mitzvah the Jews en masse wrote hundreds of thousands of Torah scrolls! Nor do we find historically that many people commissioned the writing of their own scrolls. Why not? The Rebbe concluded, that since the main purpose of the Torah Scroll is to read from it, one can fulfill one's obligation through the Torah scroll that is owned by the community.

In addition to the fact that as a member of the community, he owns a part of the Torah scroll, the Rebbe proved from various sources that he can also be considered a full owner during the time that he actually reads from it – that is, when he receives an Aliya. It is an unspoken agreement that whenever anybody is called to the Torah, all of the community members temporarily give that person full ownership of the Torah for the duration of that aliyah. When the Aliya is over, he then "returns" the ownership to the entire community.

Although ownership of a Torah scroll is not enough to fulfill the mitzvah, but rather the person must commission a scribe to write it for him or write it himself, in the case of scrolls written for the community, we consider the scribe an agent of the entire community. In addition, if the Torah needs to be corrected – something which is a frequent occurrence – the scribe who does the corrections is seen as an agent of the entire community. Thus, even those who were not yet born when the Torah was written have a part in the writing.

This answers the above questions and also explains how we can all fulfill this mitzvah today—even according to the opinions that one must actually write one's own Torah scroll and not simply be a partner. (For all the sources, see Likkutei Sichos vol. 23, p. 24, and all references noted there.)

In addition, the Lubavitcher Rebbe initiated campaigns to unite all of Jewry in this mitzvah by having as many Jews as possible purchase letters in Torah scrolls. Separate scrolls are written specifically to unite Jewish children.

[5] Rabbi Shlomo Kluger (1785-1869), the famed chief Rabbi of Brody, Galicia, and other Rabbis, offer the following insight into these two Sefer Torahs. The Torah describing the appointment of the King uses the double language of "Som Ta'sim," You shall surely place upon yourselves. The Rabbis infer from here that the fear of the King must be upon the people.

On the other hand, at the end of the section dealing with the monarchy, the Torah emphasizes concern "That his heart not become haughty over his brethren and that he does not turn from the commandment right or left" (Deut. 17:20). This almost seems to contradict the earlier language. Should the king be humble or powerful?

Power corrupts and absolute power corrupts absolutely. The Jewish Monarch must act like a king when he is in front of the people, but he is not allowed to let his heart get carried away. He must remember who he is and remember who the Only real King is.

Rabbi Shlomo Kluger says that this is what is meant by the fact that the King writes two Torah scrolls for himself - one with which he goes out and one which remains at home. When he goes out, he must wear the Torah of "You shall surely place upon yourselves a King," he must act like a King and instill awe like a King. But when he returns home and settles down into the privacy of his own abode, he must be aware of the Torah that is hidden away at home. That is the Torah of "Lest his heart be lifted above that of his brethren."

[6] The following explanation is based on the Lubavitcher Rebbe's explanation on the difference between the Torah of Moshe and the Torah of Aaron, between "Emes" and "Chesed," Sichas 13 Nissan, Parshas Shmini, 5748 (1988), published in Sefer Hasichos 5748 vol. 2, and in Likkutei Sichos Parshiyos Shmini.

[7] Sanhedrin 21b

[8] This is the interpretation of the Chasam Sofer Parshas Shoftim.

<https://www.israelnationalnews.com/news/395549>

In memory of Cherna z"l

Cherna Moskowitz z"l was laid to rest today, next to her late husband, Irving, on the Mount of Olives, a few meters from the grave of Rav Avraham HaCohen Kook. A tribute to a woman of valor and builder of Israel.

Tzvi Fishman

Dr. Irving Moskowitz and his wife, Cherna, were married for 66 years. He once told me that although he ran many businesses, worked with many people, and supported many projects, he only had one partner – Cherna. She was his devoted wife, lifelong friend, and helpmate in everything he did. Over the years, I wrote two private memoirs for the Moskowitz Family.

Mrs. Moskowitz recounted:

“When I met Irv, I was barely twenty. All he talked about was Israel. He was obsessed with Israel. I never knew anyone like him. Hardly anyone spoke about Israel in those days. Certainly not non-stop the way Irv did. I was fascinated by it. For example, if we went to a party and someone said, ‘This is good orange juice,’ Irv would start talking about the oranges in Israel. I would joke with him about it, saying, ‘Irving, sometimes people want to talk about things other than Israel,’ but he simply couldn’t control himself.

"I was seventeen when we met, and nineteen when we married. Irv was 22. He would say, ‘I am going to be wealthy, and I am going to make a difference in Israel.’ That was his thing. It may seem strange, but we never spoke about making Aliyah on a permanent basis. We visited, we stayed for some extended periods, we bought a place in Netanya and took the kids every summer. We bought our own place in Jerusalem too. But Irv’s passion was creating and developing businesses so that he could help Israel. For him, this was the right thing to do. Irv didn’t see how he could use his skills to make money in Israel, so he concentrated all of his business endeavors in the United States.”

As the expression goes, “Behind every great man there is a great woman. That was certainly true with Irving Moskowitz. While his wife Cherna had a quiet, low-key, smiling demeanor, she was as sharp as her husband when it came time for her to take over his business enterprises and the Moskowitz Charity Foundations.

I knew Cherna for over 40 years. On several occasions I stayed at the Moskowitz home in Florida while writing two private memoirs which they wanted exclusively for their children and grandchildren, so they would know the true story of their projects, rather than the misinformation and slander that was often printed in the media and on a poisonous “Stop Moskowitz” website.

While the memoirs relate the love story between the Moskowitzes and the Land of Israel, there is also the compelling love story between Irving and Cherna themselves. Just as their staggering philanthropic endeavors on behalf of the rebuilding of Am Yisrael in Eretz Yisrael is a source of inspiration and example, so too, their respect, caring, and devotion for each other is an inspiration and example for all couples to follow.

Cherna told me:

“Irv was one of 13 children, three of whom died in infancy. He was in the middle. He grew up in a kosher home. The family wasn’t wealthy by any means. Irv was closer to Menachem, his oldest brother, than to any of his other siblings. When Menachem joined a Shomer HaTzair camp in America, Irv tagged along with him. Their father was strictly religious and very pro-Israel, but in those days Israel was a dream, before the Medina (establishment of the state, ed.), a place to be buried, not to live.

"Menachem fell in love with a non-religious girl. Both of them were very Zionistic. They left America to live in Israel. Menachem's passion for Israel is the thing which influenced Irv the most in his youth, especially Menachem's tales about the country and its pioneer spirit.

"My family, the Wassermans, was less religious than Irv's, but we kept kosher. There were no kosher stores in our town, so we had to drive to Milwaukee for kosher meat. My parents raised chickens in the basement and they would take them to Milwaukee to slaughter."

In those days, like today, religious Jews would arrange shiduchim to find a marriage partner for their children. But Cherna's parents weren't so religious. They left their daughter to look around for herself. So where did a nice Jewish girl like Cherna meet a nice Jewish boy like Irving? At a Jewish Center dance, of course.

Cherna was visiting her aunt and uncle, Ida and Max Wasserman, who lived in Milwaukee. She was seventeen years old, the age when girls of her day started to think about boys. One of her girlfriends in the city invited her to a slumber party, but her uncle said that if she really wanted to have a good time, she should go to the dance that a friend of his organized every Saturday night at the Jewish Center. Uncle Max even offered to take her there himself and introduce her around so she wouldn't feel like a stranger.

"I was extremely shy," Cherna recalls. "I never did anything like that in my life. Going to a dance with boys was for other girls, not me. I never went to any strange place by myself, let alone a dance. But obviously, it was bashert."

Cherna called up her friend and told her she couldn't sleep over. True to his word, Uncle Max drove her to the Jewish Community Center and introduced her to his friend, who was in charge of the dance.

"The hall was filled with young people, but since I was a newcomer, I attracted a lot of attention. A lot of guys flocked around, and then I remember very clearly that somebody said, 'Oh, here's Irving. He always gets the best grades.' So I was interested in him the most."

"Even that very first night, he talked about Israel. All around, there was music and people dancing, and here he is carrying on about Israel. Obviously, he was not a regular guy. After the dance, he insisted on taking me back to my uncle's place, and all the way home, he didn't stop talking about Zionism. He spoke a lot about his brother, the kibbutznik, and the way that Ben Gurion was running the State.

"I had never thought about Israel that way, as a real, down-to-earth country. For me, Israel was some remote place, something mystical, like a dream – not a real place with a government where people lived and worked. For one thing, it was so far away – not like today when jets make travel so easy. Listening to him, I was fascinated. He seemed to know so much about what was going on in the country.

"On that very first evening, he said he wanted to make money so he could help Israel. For all the decades we've been together, this has been his first and foremost goal. With everything he's done, whether it be his medical practice or getting involved with the casino in Hawaiian Gardens, Israel is always in the back of his mind. This has giving an extra special importance to everything we've done."

"Irv would go around with the blue pushka charity boxes, collecting money for the Jewish National Fund. As years passed, he became more and more enthused about Israel. He certainly succeeded in influencing me. I was very young when we married. I always saw my future as a housewife with six children in a little home in the small town where I was raised. That was my vision for my life.

"Irv turned that all around. He totally converted me to his way of looking at things and educated me in worldly matters. I always supported him in doing whatever he wanted. Sometimes he would tell me an investment he wanted to make was pretty risky and that he was putting a mortgage on the house, which we could lose if things didn't work out. It wasn't always easy. We went into debt so he could buy the first hospital in America. He borrowed money from people we knew, and when that wasn't enough, he convinced his brother Al to lend him his nest egg of \$50,000, his life savings, which he needed for his family. Irv promised to double the sum for him.

"Al came to me and said, 'Cherna, I love my brother, but if something happens to Irv, will you also double the investment?' I thought to myself, 'Oh, my gosh.' How could I make a promise like that? I didn't have a job. I was taking care of my eight children. It was a difficult decision. I didn't even want my husband to buy the hospital in the first place, because he was working so hard in his family medical practice. But I told Al that I would honor Irv's promise. Fortunately, things worked out, due to Irving's extremely hard work. Thank G-d, Al eventually received double his money."

At the beginning of the first chapter of the Mishna "Pirkei Avot" Shimon HaTzaddik states that one of the foundations of the world is "gemilut hasidim" meaning acts of kindness or charity. This teaching is exemplified by the Moskowitz Foundation which has donated over the years several hundred millions of dollars to charitable organizations and institutions in Israel with the goal of furthering the re-building of the Jewish Nation in the Jewish Homeland.

As Cherna Moskowitz started to take a more active part in the philanthropic activities of the family, the private Cherna Moskowitz Foundation was established to handle the constant stream of new and diversified projects which the Moskowitz Family supported. Fittingly, one of the Moskowitz projects in Israel was the purchase of an abandoned lot and building in the Shimon HaTzaddik neighborhood (Sheik Jarrah) in East Jerusalem, and the

restoration of the house, so that Jews could move in to what had become an Arab neighborhood. Just as the High Priest of old, Shimon HaTzaddik, taught that charity is one of the pillars of the world, the philanthropic activities of the Moskowitzes in Jerusalem and Eretz Yisrael are pillars of the rebirth of and resettlement of Zion in our time.

Cherna related that while the focus of their philanthropic efforts was to help mega-projects in Israel and hundreds of Israeli children, teenagers, families, and terror victims in distress, their Foundations also supported a wide range of charities in the United States. For example, they gave a great deal of money to Hawaiian Gardens, the small California community where their lucrative casino facilities are located, above and beyond their annual contractual commitment which they made with the city when they received the license to run the bingo and casino operations. They built a library, sports center, parks, a food distribution center, a medical complex, established a college scholarship program, and supplied computers for kids in school.

The Moskowitzes literally transformed a poverty-stricken town into a showplace community, one of most financially stable towns in the entire State of California.

One of Cherna's pet projects was to help Hesder yeshivot in Judea and Samaria and East Jerusalem, seeing it as another way of strengthening the Land of Israel. In a candid confession, she explained the reason for her focus on Religious Zionist education in Israel: "Generally, I don't give to yeshivot in America. I pay for my children's religious education, but I don't donate to their schools because those institutions will find other people to help them. Jews in America love Israel, but, on the whole, they give their money to the local shul where they daven or to the schools of their children. Not enough people give to the special, off-the-beaten-track projects in Israel that we are involved with, so that's why our contributions go there."

When Dr. Irving Moskowitz became ill in the early stages of Alzheimer's, his wife was forced to take command of their multi-faceted businesses and charitable projects. Cherna related:

"Around 1999, Irv got a license to operate a casino from the State of California. It was very, very rare – you can't get one today. But the license was only good until the end of 1999. If the casino wasn't operating by then, we would lose the license. So we had this deadline looming over our heads right from the beginning. Irving had two plans – for a temporary building and a permanent one. He had a contractor ready, but he couldn't decide which option was best. His advisors were divided on the issue as well.

"Uncharacteristically, Irving couldn't make up his mind. This was so untypical of him that I started to worry that something was happening with him. I urged him to decide, reminding him that we had to start operating the casino before the start of the year. Otherwise we could lose the opportunity. So he said that he would fly to California and

sit everyone around a big table, listen to all the opinions, and then decide what to do. I was greatly relieved.

"So he flew to the Coast and got all of his attorneys and advisors together for a pow-wow. When he returned to Florida, I asked him about his decision – what had he decided to do? He replied that he still didn't know. At that point I realized that we were in big trouble. There wasn't time to put up a permanent structure, so we started with something like 15 gambling tables in a caravan. From that point on till 2003, Irving lost his way – that's the only way I can describe it. From the beginning of our marriage, he was the path breaker. He made the decisions. He led the way. He would discuss things with me, but when it came to purchasing properties and developing them, he was the boss. I was perfectly happy with that. I had my hands full with the children.

"But as his medical condition grew worse, he had trouble making decisions about everything. At the time, I was running a very small business, an art gallery near the beach that I enjoyed very much. But under the circumstances, I had no choice but to travel to Hawaiian Gardens to see what was happening. Our attorney in California said that in light of Irving's condition, he was going to set up a board and appoint himself as its head, in order to run the casino. I told him, no, 'I am going to run the casino.' Believe me, I had no idea how to run a casino, but I realized that it was not a wise idea to let him and some board be in charge of the operation.

"He looked like he was going to fall off his chair when I told him. But he had no choice. I owned the casino. My name was on all the papers. From that point on, he started giving me a lot of problems, so I found another attorney. Then, when it became clear that Irving had Alzheimer's, and that his situation wasn't going to get better, I had to take over everything. There was no other choice. I can't describe the personal hardship, both for Irv and myself, but our mission was bigger than both of us, much greater than our own private lives, so I continued running everything when my husband was no longer able to, not only because I knew that Irv would want me to continue, but because I knew it was the right thing to do. It was obvious to me that our work had to go on, both in California and in Israel."

Fortunately for thousands of people, even tens of thousands and more, from Jerusalem to almost every community in Yesha, in building schools, yeshiva dormitories and study halls, synagogues, hospital wings, youth centers, and much much more throughout all of the country, Cherna Moskowitz remained faithful to her husband's mission, his lifelong helper, during their marriage and long afterwards, a true woman of valor and builder of Am Yisrael, Eretz Yisrael, and the Torah. May her memory be for a blessing.

Drasha

By Rabbi Mordechai Kamenetzky

Parshas Shoftim

Branches Of The Judiciary

Juxtapositions. The Talmud analyzes them and expounds upon them. After all, every word of the Torah is as important as the next, and the positioning of each law in the Heavenly ordained book bears a great symbolism if not halachic (legal) implication.

Perhaps that is the reason that our sages expounded upon a very interesting juxtaposition in this week's portion.

This week's parsha is named Shoftim – Judges. That is exactly what it begins dealing with. It commands us to appoint judges. They should be honest, upright and unwavering. It prohibits taking any form of bribery as it attests that even the most brilliant and pious of souls will be blinded and perverted by bribes. Conspicuously placed next to those laws is the prohibition of the planting of the asheira tree. The asheira tree appeared as any other tree, but it had another purpose. It was worshipped as an idol.

Those two sections adjoin. The sages comment that there is a stark comparison. "Anyone who appoints an unworthy justice is as if he planted the asheirah tree in his midst."

The obvious question is: though both acts are terribly wrong, there must be a greater reason other than the fact that they both are wrong and immoral. What is the connection?

There was a period in the 1970's when a group of rogues were smuggling valuables in Tefillin (phylacteries) and other religious articles that would usually evade inspection; thus the thieves assumed their scheme would be successful. Often they would send these religious articles with unsuspecting pious Jews and asked to deliver them to certain locations near their final destinations.

When United States customs officials got wind of this scheme they asked a few observant agents to help crack the ring. In addition to preserving the sanctity of the religious items, the customs authority felt that Jewish religious agents would best be able to mete out knowing accomplices from unsuspecting participants who had been duped into thinking they were actually performing a mitzvah.

The Jewish custom agent in charge of the operation decided to confer with my grandfather, Rabbi Yaakov Kamenetzky on this matter. Though his advice on how to break the ring remains confidential, he told me how he explained how the severity of the crime was compounded by its use of religious items.

"Smuggling diamonds in Tefillin," he explained, "is equivalent to raising a white flag, approaching the enemy lines as if to surrender and then lobbing a grenade. That soldier has not only perpetrated a fraud on his battalion and the enemy; he has betrayed a symbol of civilization.

With one devious act, he has destroyed a trusted symbol for eternity – forever endangering the lives of countless soldiers for years to come.

"These thieves, by taking a sacrosanct symbol and using it as a vehicle for a crime have destroyed the eternal sanctity and symbolism of a sacred object. Their evil actions may cause irreparable damage to countless honest religious people. Those rogues must be stopped, by any means possible," he exclaimed.

Rabbi Chaim Soveitchik explained the comparison of the asheirah tree to the corrupt judge. An asheirah tree is a very deceiving object. It is as beautiful as any other tree in the world. However, man has turned its aesthetic beauty into a vehicle for blasphemy. "A judge," Rabbi Chaim Soveitchik explains, "has all those attributes. He may have an honest appearance, even a regal demeanor. In fact, he could have a long kapote and a flowing beard. His very image exudes traits that personify honesty, integrity, and morality. However if he is inherently dishonest he no better than a lovely tree whose sole purpose is to promote a heretical ritual of idolatry."

They both may look pretty and could be used as a vehicle to promote G-d's glory but in this case, they are not. In fact, quite the opposite. Those formerly beautiful objects now bring disgrace to the Creator.

And so, the Torah tells us this week that trees may have outer beauty, but cannot be classified unequivocally as being an ever-sounding testimony to Hashem's glory. Likewise a judge whose demeanor may be noble, may be a source of deception who will bring disgrace on an entire nation. After all, as the saying almost goes, "you cannot book a judge by his cover!"

Dedicated in Memory of Jesse Chatzinoff by Peter and Donna Chatzinoff

Good Shabbos!

Third of Elul: Stay in the Land!

RAV KOOK TORAH

One of the last people to speak with Rav Kook before his death was Prof. Hermann Zondek. Director of Jerusalem's Bikur Cholim hospital, Dr. Zondek treated the rabbi in a guest house in the Kiryat Moshe neighborhood of Jerusalem during his final illness. The doctor was struck by the rabbi's concern and empathy toward everyone he encountered, even during his last hours, when suffering intense pain.

Professor Zondek was an early victim of the rise of Nazism in Germany. In 1933, while treating patients in his Berlin hospital, he was summoned to his office. There, an SS officer informed Zondek that he was dismissed from his position as director of the Berlin City Hospital, effective immediately. His service during World War I as a military physician, his highly respected medical research, and his well-placed patients, which included German chancellors — all these counted for naught.

That very night, Zondek fled Germany. He later commented, "It was only after I left Germany that I

realized that, until 1933, we Jews of Germany had been living in a fool's paradise."

Two years later, the doctor was working in Jerusalem, treating the elderly Chief Rabbi in his final days. "A person's true nature is revealed during times of illness," he noted. "The rabbi bore his terrible suffering with great wisdom."

In his final hour, Rav Kook was in severe pain. The room was full of people, and his colleague-disciple Rabbi Yaakov Moshe Charlap sat by his bed.

"About half an hour before his death," Zondek recalled, "the rabbi took my hand in his. His voice thick with emotion, he said to me, 'I hope that the prominent sons of our people will not leave our land, but will remain here to help build it up.'

"And then he pleaded, 'Please, stay here in the Land of Israel!'"

"The truth is that this incident took place not long after my arrival in the country. I had many difficulties adjusting. Much of what I found was not to my liking, and I was seriously considering leaving. But the rabbi's heartfelt appeal, at that critical juncture, played a decisive role in my decision to stay in our land. As a result, I put down roots here."

Missing Apologies to the Hostages

By Rabbi Efreim Goldberg

"Ok, sweet boy, go now on your journey, I hope it's as good as the trips you dreamed about, because finally, my sweet sweet boy, finally, finally, finally, finally you are free. I will love you and I will miss you every single day for the rest of my life."

It was hard to not be brought to tears listening to these piercing words, uttered by Rachel Goldberg-Polin as she bid farewell to her beloved son Hersh. After his arm was blown off on October 7, Hersh survived 11 months in captivity, held hostage by barbaric and brutal terrorists, but before he could be rescued or released, Hersh and five other hostages were executed in cold blood, their bodies discovered soon after by heroic IDF soldiers.

Rachel shared a message of love and of gratitude but also included an apology. "At this time, I ask your forgiveness. If ever I was impatient or insensitive to you during your life, or neglected you in some way, I deeply and sincerely request your forgiveness, Hersh. If there was something we could have done to save you, and we didn't think of it, I beg your forgiveness. We tried so very hard, so deeply and desperately. I'm sorry."

She wasn't the only one to react to this horrific outcome with an apology. At Hersh's funeral, President Isaac Herzog also expressed a request for forgiveness from Hersh and his family and from all of the hostages: "Beloved Hersh, with a torn and broken heart, I stand here today as the president of the State of Israel, bidding you

farewell and asking for your forgiveness, from you, and from Carmel, from Eden, from Almog, from Alex, and Ori, and from all your loved ones. I apologize on behalf of the State of Israel, that we failed to protect you in the terrible disaster of October 7, that we failed to bring you home safely. I apologize that the country you immigrated to at the age of 7, wrapped in the Israeli flag, could not keep you safe. Rachel, Jon, dear Leebie and Orly, grandparents, and the whole family – I ask for your forgiveness, forgiveness that we could not bring Hersh back home alive. Your special light, Hersh, captivated all of us from the first glance, even through the posters crying out for his return."

In a press conference later that day, in the context of pressure on him to reach an agreement, Prime Minister Bibi Netanyahu also joined the chorus of apologies. "To the families of the six hostages, I ask for your forgiveness that we did not succeed in bringing them home alive. We were close, but we did not make it."

Certainly cynics and critics will challenge the sincerity of politicians' apologies, why and when they are offered and if they should be accepted if there was, in fact, more that they could have done.

On that day of apologies what struck me was not who offered them, but who did not. Make no mistake – the biggest apologies should be issued by the evil perpetrators who committed and continue to commit these atrocities, their associates, supporters, and backers. Of course, we are not holding our breath for these apologies. Yet there are plenty more that also are notable in their absence.

Hersh was an American citizen and was also failed by the country of his birth. In all the statements released by members of the US Administration there was no apology, not even a lip-service request for forgiveness for a failure to bring him home. Were they really "working day and night" non-stop? Could overwhelming pressure not have been applied with increased sanctions on Iran, pressure on Qatar with the threat of withdrawing our bases there, withholding aid to Lebanon and Egypt, pressure on Turkey and more? Where is the apology for pressuring Israel not to go into Rafah, a decision that may well have contributed to this horrific result? Where is the apology for withholding arms to support Israel's effort against Hamas? Where is the apology from the Red Cross, who failed to visit or protect Hersh or any of the hostages even once?

Where is the apology from humanitarian organizations who are outspoken about innocent civilians in Gaza but failed to protect and secure the release of Israeli hostages?

Where is the apology from the UK who, while five British citizens are still being held hostage in Gaza, and days after Hamas executed six hostages, suspended thirty arms licenses to Israel?

Where is the apology from Canada who took over 24 hours to condemn the murder of the hostages by Hamas in Gaza and then proceeded in the same statement to call for an immediate ceasefire?

Where is the apology from the members of the media who referred to the hostages as “having died” rather than accurately reporting their murder, who refer to civilians in captivity as “prisoners” rather than “hostages,” who write about other hostages being “freed” when the reality is they were rescued?

Where is the apology from the world who, less than a century removed from after the most heinous genocide in history, yet again failed to protect the Jewish people and, in the time that has followed, still fail to truly support our full right and ability to protect ourselves?

While everyone seems to have fairly strong opinions on the matter, the question of whether the leaders of Israel could have or should have made more compromises to reach a deal that would have brought these hostages home is incredibly complicated and difficult with grave consequences in both directions. Though they certainly aren't directly guilty for the murder of innocent Israelis, ultimately leaders are responsible for the safety and security of their people. President Herzog and Prime Minister Netanyahu were right to take ask for forgiveness for having failed in that role.

What I'm thinking about most, though, is that while some have apologized, and we are waiting for others to ask forgiveness, there is one more group who needs to reflect and should be expressing responsibility.

Our Parsha, Shoftim, tells the story of a corpse found in the field with no indications or evidence as to who the murderer is. The Sanhedrin justices are charged with the task of measuring to determine which is the closest city to the scene of the crime. An eglah, a calf in its first year that has not worked and is not blemished, is executed in the valley. The leaders of the city and the Kohanim are present and a declaration ensues.

The elders of the city proclaim:

נְדִינוּ לֹא (שִׁפְכוּ) [אֶת-הַדָּם הַזֶּה וְעֵינֵינוּ לֹא רָאוּ: כִּפְרוּ לַעֲמֹד יִשְׂרָאֵל אֲשֶׁר-פָּדִיתָ: הַזֶּה וְאֶל-תַּמּוֹל גַּם נָלִי בְּקִרְבֵּי עַמְּךָ יִשְׂרָאֵל וְנִכְפַּר לָהֶם הַדָּם:

“Our hands did not shed this blood, nor did our eyes see it done. Absolve, Your people Israel whom You redeemed, and do not let guilt for the blood of the innocent remain among Your people Israel.” And they will be absolved of bloodguilt.

The Ibn Ezra explains this seemingly unusual process, the Eglah Arufa, as a procedure designed to achieve atonement not so much for the murder, as for the sins of the townspeople which, metaphysically, allowed a murder to take place in their vicinity. If a tragedy unfolds in a community, it is cause for introspection to examine what did they do wrong and how could this have happened there. The Jewish people collectively owe an apology to the victims of October 7, to the heroic soldiers who have been at war since then, to the hostages, and to all of those suffering during this difficult time. We aren't the perpetrators and would never directly harm a fellow Jew,

but if these monumental events are happening under our watch and in our backyard, we are responsible both metaphysically and spiritually. We could and should be bigger and better to one another and to Hashem.

If only we were worthy, if only we truly woke up, if only we changed how we treat one another, how we represent Hashem in this world, following His word and repairing the world in His image, this Galus and this suffering would end.

To Hersh, Carmel, Eden, Almog, Alex, and Ori, to the 1,611 who have died and the 101 still being held hostage, from the bottom of our hearts and from the depths of our beings, we apologize. We are sorry we haven't learned the lessons of our history. We are sorry we didn't do all we could and should to create a different destiny. We ask for your forgiveness and we promise to be better and to do more until we live in a way that is worthy of finally changing our condition forever with the coming of Moshiach.

Chief Rabbi Mirvis

Shoftim The Peace of Our Homes D'VAR TORAH

Every time we walk into our homes, we're reminded of the fact that the peace of our homes is built on compromise.

Now why do I say this? In Parshat Shoftim, there is a famous commandment: 'Tzedek, Tzedek tirdof' – 'justice, justice, you must pursue'. Many commentators throughout the millennia have asked the same question, why is there the repetition of the word 'tzedek', of justice?

The Gemara Imasechet Sanhedrin Daf Lamud Bet Amud Bet tells us 'echad ledin v'echad lifshara' – the first tzedek comes to tell us about a courtroom scenario, where justice must be dispensed. The second Tzedek comes to teach us about 'peshara', about compromise.

We should strive to smooth over differences, to reach an understanding, to build cooperation and to achieve peace without having to go to third parties... without having to bring the issue to a court of law.

One of the finest methods to achieve this is 'peshara', it is compromise. The Hebrew word for compromise, 'peshara', actually describes what a compromise is beautifully, because it comes from the term 'mayim poshrim', which means warm water.

You see, the hot water can claim, 'this water is actually hot, but it's just cooled down a bit', and the cold water can say, 'actually it's cold water, but it has warmed up somewhat'. Therefore it is a win-win for all sides. In Ashkenazi circles, a 'mezuzah' is at an angle.

That's because some say it should be vertical whilst some say it should be horizontal, and that is why we put it at an angle, so that we subscribe to all views. It's a compromise and that is how through just walking into our homes and looking at the mezuzah, we are reminded that it's through compromise that we can achieve Shalom Bayit, that we can

have happy and healthy domestic environments, that ultimately, we as a people can thrive.
Shabbat Shalom

Parshas Shoftim

Rabbi Yochanan Zweig

This week's Insights is dedicated in loving memory of Tova Necha bas Moshe Yaakov HaCohen, Norma Hollander.

Self-Definition

The officers will speak to the people saying; who is a man that has built a house but not inaugurated it? Let him go and return to his house lest he die in war and another man will inaugurate it. Who is the man that has planted a vineyard and has not yet redeemed the fruits? Let him return to his house lest another man [...] Who is the man that has betrothed a woman but not yet married her? Let him return [...] (20:5-7).

The Torah lists three categories of soldiers who are exempt from going into battle: 1) those who have built a house, but have not yet taken residence, 2) those who have planted a vineyard, but have not yet enjoyed the fruits of his labor, 3) those who are engaged to a woman, but have not yet married. Many commentators have struggled to explain why these three categories excuse one from military service. Maharal in the Gur Aryeh (ad loc) explains that a soldier who contemplates someone else living in the house that he built but never moved into would become depressed and thus his ability as a soldier would be adversely affected.

But this approach doesn't fully explain why specifically these three categories are the exemptions for military service. There are many other situations that are very depressing (e.g. a terminally ill relative with very little time left), yet we don't find that they qualify for exemptions from battle. What is unique about these three situations?

The Gemara (Sotah 2a) tells us that forty days prior to the formation of an embryo a heavenly voice goes forth and proclaims the daughter of this person will marry this person, the house of this person will go to this person, and the field of this person will go to this person. In other words, as part of the very creation of a child, three things are predetermined: one's spouse, one's home, and one's property (livelihood).

From this Gemara we see that these items are the very definition of who we are. A spouse completes the man; before he marries he is only a half being, but once married he is finished (or rather complete). Likewise, a person's home defines him; the modern expression of a member of the community is called a Bal Habayis. Lastly, most people define themselves by their profession or livelihood. In fact, many of our surnames come from the professions of our ancestors.

The Torah is telling us that someone who is right in the middle of any one of these self-defining events is in a state of flux and not fit for military service. In fact, Rashi (ad loc) calls these situations (i.e. contemplating that someone else might supplant you in one of the situations that are the very definition of who you are) a torment of the soul. This kind of existential torment is not fair to ask of someone, so these individuals are released from military service.

An Eternal Nation

If a corpse will be found on the land that Hashem, your God, gives you to inherit, fallen in the field; and the killer is unknown, the elders and the judges shall go out and they shall measure to the cities that are around the corpse [...] (21:1-2).

The end of this week's parsha relates the details of the mitzvah of eglah arufa: When a person traveling between two cities is found murdered, the city closest to the corpse must bring a calf to atone for the host city for the sin of not properly accompanying this traveler. This mitzvah is known as levoya – escorting guests. Maimonides, in the Yad Hachazaka (Hilchos Aveilus 13:1), enumerates the mitzvos that fall under the category of gemilus chassadim and says that the reward for properly escorting guests is greater than any of the others (ibid 13:2).

Maimonides goes on to say that this was established by Avraham Avinu (Chazal establish this from the verse that says that Avraham planted an "aishel," which is an acronym for eating, drinking, and escorting). Maimonides concludes that escorting is the most important aspect of having guests, and if one does not properly escort it is as if he committed murder (ibid 13:3).

Maimonides seems to be basing this principle on the Gemara (Sotah 46a) that wonders why do the sages and judges of the city have to deny responsibility for the death of the victim? Clearly they had no part in his death! The Talmud answers that they have to proclaim that they didn't know that he was leaving the city without provisions and that they were likewise unaware that he left unaccompanied. The implication being that if one allows a person to depart without an escort he is liable for his death. Maharal on this Gemara points out that the law of escorting a visitor is fulfilled by accompanying him a few steps; one doesn't have to escort a visitor to the next city. If so, asks Maharal, how does not giving someone a proper escort have anything to do with the murder?

Furthermore, the Talmud (Horayos 6a) points out that the atonement here is not only for the inhabitants of the city closest to the corpse but also "for Your nation of Israel that You have redeemed Hashem;" this refers to those who left Egypt. In other words, those who left Egypt also have some culpability in this murder, and part of the atonement of the calf is for them. What possible reason could there be that those who left Egypt have any culpability in this unfortunate incident?

In the mid 1980's there was a rash of attacks on tourists in South Florida. Groups of thugs would target tourists who were staring at maps (this was many decades before GPS systems and smart phones) and were obviously disoriented as to where they were and where they had to go. These unfortunate tourists were clearly in a state of vulnerability and the predators seized on the opportunity. Escorting someone from your home or city gives a guest the confidence that someone cares about them and values them. Not only that, but very often while escorting someone who is new to the city, you can put them on the proper path and orient them as to where they should be going.

The visitor who is accompanied and given the feeling that someone cares about them and is also properly oriented

walks with a different level of confidence. They don't stick out as a potential target for predators. In other words, not escorting someone is very likely making him vulnerable to attack, one that could have very possibly been prevented; which is why an atonement is needed.

This is why those who left Egypt are also held responsible. When the Jews left Egypt they became established as a nation. The Torah is teaching us that a nation is an entity made up of individuals; and every single individual is precious. When we don't show proper care for every individual it is a failure of the corporate entity of our nation. Because a nation is an eternal entity, everyone has a degree of culpability, even those who left Egypt.

לע"נ

שרה משא בת ר' יעקב אליעזר ע"ה
ביילא בת (אריה) לייב ע"ה
אנא מלכה בת ישראל