

INTERNET PARSHA SHEET
ON PARSHAS MISHPATIM - 5757

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"RavFrاند" List - Rabbi Frاند on Parshas Mishpatim -

The Kotzker Sees Double in the Verse Warning of Mistreatment

This week's parsha is full of mitzvos -- both those between man and G-d and those between man and man. In Shmos 22:21 we find the pasuk [verse] "Do not mistreat a widow or an orphan." There is a general prohibition of doing anything that will harm the feelings of any Jew, but the Torah is particularly concerned about the feelings of the less fortunate. Therefore, there is a separate negative prohibition ('lav') warning against mistreatment of widows and orphans. The pasuk continues, "...because if you will be unkind to them and as a result of your mistreatment, they will cry out to Me, I will surely listen to their cry." This is the type of pasuk that we read and we do not think twice about. We ignore the theological implications of it; we don't even think about the grammar of the pasuk. If we look at the pasuk carefully, we will see a very strange thing about the Torah's language. "If 'anay t-anay' (you will surely oppress)...;" "For if 'tsa-ok yitzak' (they surely cry out)...;" "I will 'sha-moa eshma' (certainly listen to)..." Every verb in this pasuk is doubled! The simple approach is that every time the Torah uses a double expression, the Torah is emphasizing with strength

B'S'D' (certainly, indeed, surely, etc.). The Kotzker, zt"l, suggests that over here the Torah is using a double expression for a very specific purpose. The Torah wants us to know that whenever we mistreat a widow or an orphan, we are inflicting double pain. When an orphan or widow is mistreated, they feel that they are being taken advantage of because of their unfortunate situation. "I don't have a father to defend me; I don't have a husband to stand up for me." Every time a person mistreats these individuals, in addition to the suffering of the mistreatment itself, it brings up the memories of the loss of the husband and father. They feel again the pain of losing their loved one, their protector. Every time one mistreats an orphan or widow -- it is a double pain. The Torah therefore says "If 'anay t-anay'..." -- if you mistreat them, (a double mistreatment) then their cry will not just be a regular cry. It will be a double cry ('tsa-ok yitzak'). If so, G-d says, when I respond I will 'shamoa eshma' -- I will respond as if I hear of a double mistreatment. My response will also be double.

A Person Who Is Not A 'Mensch' Cannot Be a Judge We learn from Shmos 23:2, the famous principle of 'majority rules' ("...Acharei Rabim L'Hatos"). We follow this rule throughout the Talmud -- we follow the majority (azlinan basar rubah). This concept is a pasuk in the Torah; it is a halacha in Shulchan Aruch; it is basic to the Court System and is basic to halacha. There is a very famous Gemara in Bava Metziah [59b]. Rabbi Eliezer had a dispute with the Sages about the Oven of 'Achinai.' The dispute was concerning the laws of Purity and Impurity. Rabbi Eliezer said that the Oven was Tahor [pure] and the Sages said that it was Tameh [impure]. Rabbi Eliezer answered all the proofs of the Sages and considered himself to be correct. After concluding the logical arguments Rabbi Eliezer said, "If I am correct, let this Carob tree prove it." The Carob tree was miraculously uprooted and flew away a distance of 100 cubits. That did not convince the Sages. Rabbi Eliezer then said, "If the halacha is like me, let this spring of water prove it." The flow of the spring changed directions, but that did not convince the Sages. He said to them, "If I am right let the walls of the Beis Medrash prove it." The walls began to tilt, but that didn't convince them. Finally, he said, "If I am right, let Heaven prove it." A Bas Kol came forth and said "What business have you arguing with Rabbi Eliezer whom the Halacha follows in all places." The Sages did not even accept the Bas Kol. Rabbi Yehoshua stood up and proclaimed "It [The Torah] is not in Heaven" [Devorim 30:12]. In other words, we don't pay attention to Heavenly Voices. In this world, there exists a halachic principle of 'majority rules' (rov). We, the majority, hold that it is Tameh, and that is the halacha! The Talmud relates that subsequently, all the items which had been declared ritually pure by Rabbi Eliezer were brought forth and burnt in fire, in his presence. The Sages got together and put him in Cherem. The strange thing about this incident is the fact that, throughout, Rabbi Eliezer refused to back down. Did he not know Chumash? Is there not a halacha in the Torah that 'majority rules'? Rabbi Eliezer was in the minority. Why did he not submit to the majority opinion, as halacha requires? Rav Bergman says that this question is raised by the Jerusalem Talmud in Tractate Moed Katan. The Yerushalmi answers that Rabbi Eliezer only objected to the fact that the Sages went ahead and burnt that which he had proclaimed ritually pure in front of him. The Korban Edah explains the Yerushalmi: Since they burnt the 'taharos' in his presence, he suspected that they were acting 'not for the sake of Heaven, only to aggravate him.' Therefore he did not consider their greater number to be halachically significant. Rav Bergman elaborates: "You shall follow the majority" is a halacha concerning Judges. In order to be a Judge, one has to be a 'mensch'; if one is not a 'mensch', one is not a Judge; if one is not a Judge, the law of 'majority' is inapplicable. Rabbi Eliezer would have accepted a bona-fide vote from Judges on a 'for the Sake of Heaven' basis. But when he saw that they were trying 'to rub his face in it,' he realized that he was not dealing with such a situation. "You shall be a Holy People (anshei kodesh) to Me..." [22:30] The Kotzker says, "Fine, be Holy (kodesh), but remember to be (dignified) People (Anshei) first". First one has to be a decent human being (mensch), only then can he start thinking

about holiness.

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Parsha Q&A - Mishpatim In-Depth Questions on the Parsha and Rashi's
commentary. Parshas Mishpatim Ohr Somayach International
Parsha Questions

1. Did Rashi write "Shulchan Aruch"? (hint: a trick question) 2. What
mitzva in this parsha involves a mezuzah? (hint: another trick question) 3.
What special mitzva does the Torah give to the master of a Hebrew
maidservant? 4. What is the penalty for striking one's father or mother and
causing a wound? 5. 'A' intentionally hits 'B'. As a result, B is in critical
condition, dangerously close to death. Besides any possible monetary
payments, what happens to A? 6. What is the penalty for someone who
wants to murder a particular person, but accidentally kills another person
instead? 7. A slave goes free if his master knocks out one of the slave's teeth.

What type of teeth do not qualify for this rule? Why? 8. An ox gores
another ox. What is the maximum the owner of the damaging ox must pay,
even if his animal had gored twice previously? 9. From where in this week's
parsha can the importance of work be demonstrated? 10. What is meant by
the words "If the sun shone on him"? 11. A person is given an object for
safe-keeping. Later, he swears it was stolen. Witnesses come and say
that, in fact, he is the one who stole it. How much must he pay? 12. While
a person is borrowing his employee's car, the car is struck by lightning.
How much must he pay his employee for the damage to the car? 13. Why
is lending money at interest called 'biting'? 14. Non-kosher meat is
preferentially fed to dogs. Why? 15. Which verse forbids listening to
slander? 16. What constitutes a majority-ruling in a capital case? 17. How is
the festival of Shavuot referred to in this week's parsha? 18. How many
prohibitions are transgressed when cooking meat and milk together? 19.
What was written in the Sefer HaBris which Moshe wrote prior to the
giving of the Torah? 20. Who was 'Efras'? Who was her husband? Who was
her son?

Recommended Reading List

Ramban 21:1-2 Parallel with Ten Commandments 21:6 (first part) Divine
Role in Human Justice 21:15 The Severity of Cursing One's Parents
21:29-30 Death Penalty and Ransom 22:6 (first part) Two kinds of Shomrim
22:20-22 Prosecutor of the Helpless 22:30 Holiness of Kashrus 23:25
Blessings and Destruction 24:1 Matan Torah Chronology
Sefer Hachinuch 42 Human Kindness 43 Divine Kindness 47 Capital
Punishment 50 Penalty for Anger 52 Despising Destruction 62 The Danger
of Sorcery 66 Why Hashem Creates the Poor 70 Blasphemy 71 Respect for
Authority 73 Kashrus 78 Antidote to Anarchy 84 Shemita 93 Relations
with Heathens

Answers to this Week's Questions All references are
to the verses and Rashi's commentary, unless otherwise stated

1. 21:1 - Yes! Rashi writes that Moshe was commanded to present the Torah
clearly to the Jewish People, like a 'shulchan' (table) which is 'aruch'
(set) and ready for the meal. 2. 21:6 - If a Hebrew slave desires to remain
enslaved, it is a mitzva to pierce his ear next to a door post -- mezuzah. 3.
21:8,9 - The Torah mandates a special mitzva to marry her. 4. 21:15 - Death
by strangulation. 5. 21:19 - He is put in jail until 'B' recovers or dies. 6.
21:23 - One opinion: The murderer deserves the death penalty. Another
opinion: The murderer is exempt from capital punishment, but must
compensate the heirs of his victim. 7. 21:26 - Baby teeth, because they grow
back. 8. 21:35 - The full value of his own animal. 9. 21:37 - From the
'five-times' penalty for stealing an ox and then selling it or slaughtering it.
This heavy fine can be seen as a punishment for preventing the owner from

using his ox to plow his field. 10. 22:2 - If it's as clear as the sun that the
thief has no intent to kill. 11. 22:8 - Double value of the object denied. 12.
22:14 - Nothing. 13. 22:24 - Interest on a loan is like a poisonous snake bite.
Just as the poison is not noticeable at first, but soon overwhelms the
person, so too interest is barely noticeable until suddenly it accumulates to an
overwhelming sum. 14. 22:30 - As 'reward' for their silence during the
plague of the first born (Shmos 11:7). 15. 23:1 - Targum Onkelos
translates "Don't bear a false report" as "Don't receive a false report." 16.
23:2 - A simple majority is needed for an acquittal. A majority of two is
needed for a ruling of guilty. 17. 23:16 - Chag HaKatzir -- Festival of
Reaping. 18. 23:19 - One. There are three prohibitions involving the
combining of milk and meat. One is violated by cooking. 19. 24:4,7 - The
Torah starting from Bereshis until the giving of the Torah, and the
commandments given at Mara. 20. 24:14 - Miriam, wife of Calev, mother of
Chur.

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"ohr@jer1.co.il" weekly@jer1.co.il" Mishpatim TORAH WEEKLY *

...Insights... A Brick of Sapphire - A Plank of Wood "Moshe, Aaron,
Nadav and Avihu and seventy of the elders of Israel ascended. They saw the
G-d of Israel, and under His feet was the likeness of a brick of sapphire, and
its purity was like the essence of the heavens." (24:9,10)

Dear Journal, Something very strange happened to me yesterday. Yesterday
was Simchat Torah (the Festival of Rejoicing with the Torah). Somehow, I
found myself celebrating the Festival in Tikvat Zion, a remarkably
unremarkable Israeli town. Graying stucco, peeling from grayer concrete,
testify that this town isn't going to be another little New York, another Tel
Aviv. Anyway, yesterday I made my way to the town's municipal synagogue
for Simchat Torah. There weren't a lot of people there. It's not a religious
town. In fact the majority of those who were there were in their seventies
and eighties. Most of them had come to Israel after the war. Most of them
had been in the camps. The reason I'm writing all this is because something
very strange happened there. They were all dancing around with the Sifrei
Torah (Torah Scrolls), just like a normal Simchat Torah, singing and dancing
and making a lot of noise. People making 'Lechaims.' Then all of a sudden,
the singing and dancing stopped. A hush fell over the synagogue. One of the
old men went behind the holy Ark. He brought out a wooden plank about a
meter and a half long and put it on the floor in the middle of the synagogue.
Slowly, as though summoned to some atavistic ritual, all the older members
of the synagogue handed their Torah Scrolls to the youngsters, and silently
began to circle the plank on the floor. Round and round they went, round
and round. In total silence. It was all over in a couple of minutes. As
perfunctorily as it had started, so it ended. The synagogue returned to a
typical Simchat Torah scene just as though nothing had happened. Children
on the shoulders of their fathers waving flags, singing, dancing... As the man
who had brought out the plank emerged from the back of the holy Ark after
putting it away, I asked him about what I had just witnessed. This is what he
said to me: "During the war, we were all in the same camp together. By a
miracle, someone managed to smuggle in a Sefer Torah. It was just before
Simchat Torah. We were very frightened, maybe the Nazis, yemach
shemam, would find it. So we pulled up the wooden floor and hid it under
the floorboards. "When Simchat Torah came, the Nazis were everywhere;
they must have known something was up. There was no way we could risk
taking out the Torah from its hiding place, and we were afraid that the guard
would hear us if we made a noise. So we just walked around and around the
place on the floor under which the Torah was hidden. They came in once.
We just pretended we were going to our bunks or out the door -- until they
left, and then we carried on circling. "So now, every year, we celebrate that
Simchat Torah in the camps the way you just saw." At the end of this week's
Parsha, the Torah describes a brick of Sapphire. During the time when the
Jewish People were slaves, this brick was before Hashem. This brick was a

memorial to the suffering they endured when they built the treasure cities of Egypt with bricks of mortar. The `essence of heavens' refers to the light and joy before Hashem when the people were redeemed. Whenever the Torah describes the attributes of Hashem, it is so we may strive to emulate them. Even when `the essence of the heavens' was revealed -- even in the light and joy of redemption -- `the brick of sapphire' of suffering was still there too. By reminding ourselves of our suffering at the height of our joy, we experience an entirely new dimension to our rejoicing. Through this, we can understand on a deeper level the good that the Almighty bestows on us, and thank Him with a full heart. Rashi, Rabbi Yerucham Levovitz, Zale Newman, Moshe Averick ffffffff Written and Compiled by Rabbi Yaakov Asher Sinclair General Editor: Rabbi Moshe Newman (C) 1997 Ohr Somayach

"jgross@torah.org" weekly-halacha@torah.org" mishpatim-Basar V'chalav
SELECTED HALACHOS RELATING TO PARSHAS MISHPATIM
By Rabbi Doniel Neustadt A discussion of Halachic topics
related to the Parsha of the week. For final rulings, consult your Rav.

Do not cook a kid in its mother's milk (Exo. 23:19) A basar b'chalav problem faced in many households is the use of one oven for both meat and dairy. Ideally, a separate oven for meat and dairy dishes is preferable, and many homes today do enjoy that luxury. Practically speaking, however, many people cannot afford this arrangement and are forced to use the same oven for both meat and dairy dishes.

Can an oven be used for meat and dairy dishes at the same time?
There are three potential halachic problems when baking uncovered meat and dairy dishes in one oven at the same time: 1) The meat may come into actual contact with the dairy or vice versa, either through touching, or when particles from one dish splatter onto the other; 2) When two foods are baked or roasted simultaneously in one oven, they absorb each other's aroma (reicha); 3) When moist foods or liquid mixtures are baked in an oven, steam (zeiah) is emitted which carries the taste of the foods from one to another. For these reasons, it is prohibited to use the same oven for uncovered milk and meat dishes at the same time(1). If, b'dieved, one cooked meat and dairy dishes in the same oven simultaneously, he must consult a rav to determine whether the food may be eaten or not(2). Included in this prohibition is baking bread or challah together with uncovered meat or dairy dishes, since the bread then becomes either meat or dairy. Our Sages prohibited baking such bread even if the intention is to eat the "meaty" bread with meat only, or vice versa, since one can easily forget and eat the bread together with the wrong kind of food(3).

Can an oven be used for meat and dairy dishes consecutively?

The first two problems mentioned above, items touching or splattering each other and reicha, do not apply. We are still, however, faced with the zeiah issue. This is because whenever moist foods are cooked in an oven, steam is emitted. When, for instance, meat is cooked in an oven, the steam emitted carries the taste of the meat and "deposits" it into the walls and roof of the oven. When moist dairy foods or liquid mixtures are subsequently cooked in the same oven, their steam rises, absorbs the meat taste from the walls and roof of the oven, condenses, and falls back into the dairy dish. The dairy dish is now prohibited as basar b'chalav. To avoid this eventuality, one should adhere to the following procedure: First, determine the primary use of the oven - is it going to be mainly used for meat or for dairy dishes. For the sake of this discussion, let us assume that the primary use of the oven will be for meaty dishes. For halachic purposes, this oven now becomes a "meat oven", in which both uncovered and covered, liquid or solid meat dishes will be cooked and baked. In order to use this oven for a dairy dish, one must first make sure that the oven is completely clean from any meaty spills or residue. Once that is done, a dairy dish [or a parve food which will be eaten with dairy] may be inserted into the oven as long as one of the following two conditions is met: 1) The dairy dish must be thoroughly covered; 2) The dairy dish may not be moist. Since solid dishes do not produce steam(4), there will be no way for the meaty steam which found its

way onto the walls and roof of the oven to be released from the walls and roof and enter the dairy dish. [As an additional precaution, some poskim prefer that different racks be used for meat and dairy, or that the rack be covered with new aluminum foil before the dairy dish is placed in the oven].

What can be done so that an uncovered, moist dairy food or liquid mixture can be baked in a meat oven? Before dairy can be baked in a meat oven(5), the following steps must be taken(6): 1. The oven must be thoroughly cleaned with a caustic agent; 2. The racks must be covered with aluminum foil; 3. The oven may not be used for 24 hours before it is used for dairy. 4. The oven must be koshered. According to the view of many poskim(7), heating the oven to its highest temperature for one hour is sufficient. Other poskim hold that this type of koshering is not sufficient(8). They require the oven to undergo a self-cleaning cycle(9) or to be manually koshered with a blowtorch, etc. When the oven is koshered by self-cleaning or by blowtorching, etc., steps 1-3 are unnecessary(10). When one needs to use a meaty microwave oven for dairy or vice versa(11), the same procedure must be followed with one difference in the koshering process. After completing steps 1-3 listed above, a cup of water should be placed inside the oven and the microwave left on for 4-5 minutes(12). Many poskim hold that this is sufficient for koshering a microwave oven(13).

Some Practical Applications:

Challah may be baked immediately after roasting meat in an uncovered pot, even though the challah will be eaten with butter. Challah dough does not produce enough steam(14) to release the meaty steam deposited in the walls and roof of the oven. Of course, the oven must first be thoroughly cleaned with a caustic agent. Preferably, the racks should be changed or covered with foil.

Cheese cake may not be baked in a meaty oven unless the oven underwent the full koshering process described above.

Covered chicken may be baked in a dairy oven. The oven must be thoroughly cleaned. The racks should be changed or covered with foil.

Chocolate chip cookies may not be baked in a meaty oven which was not cleaned, but they may be baked in a dairy oven which was not cleaned. A final reminder: As mentioned earlier, the above discussion is for those who must - for whatever reason - use only one oven for all their needs. Anyone who can afford to do so should realize that the far better option is to have two separate ovens for meat and dairy, both in regular ovens and in microwave ovens.

FOOTNOTES: 1 Technically, if one of the foods is covered well, they can both bake in the oven at the same time, see YD 108:1. Practically speaking, however, this is not a good idea, since if the cover falls off or is lifted off inadvertently, or if one of the foods spills over, the food might very well be forbidden to eat, even b'dieved. (See Ksav Sofer 54 and Igros Moshe YD 3:10.) 2 Since, b'dieved, there are several factors that must be taken into account, such as the type of oven, the proximity of the foods to each other, the amounts of the foods in question, the type of foods ("sharp" or bland) and other factors. 3 Shach YD 108:11 based on YD 97; Chochmas Adam 50:1. Bread is the only food that must always be baked strictly parve because it is eaten with both meat and dairy meals on a regular basis. On the other hand, cakes and other foods not normally eaten together with meat (but only as desserts), may be baked in a dairy oven [or even with dairy ingredients], but they may not be baked in a meat oven [or with meat ingredients], since they are often eaten together with dairy beverages - Chochmas Adam 50:3 according to the explanation of Badei Hashulchan 97:2. 4 Igros Moshe YD 1:40 based on Pischei Teshuvah 92:6. This is a generality - normally, solid foods do not produce steam. If, in fact, steam was detected rising from a solid food, then we treat this "solid" food as "liquid". 5 The following procedure is for using the oven l'chatchillah. B'dieved, there are several possible heterim that allow dairy food that was baked in a meaty oven - or vice versa - to be eaten, see M'harsham 3:26; Igros Moshe YD 1:40; Yabia Omer YD 5:7. A rav should be consulted. 6 See Chelkas Yaakov 2:136 who holds that one should not resort to this process on a regular basis. See also Mishnah Berurah 551:19 that our custom is that we do not kosher knives from meat to dairy. 7

Harav Y.E. Henkin (written responsum published in Hadarom vol. 15); Harav A. Kotler (oral ruling quoted in Sefer Hilchos Pesach 1 pg. 180); Yesodei Yeshurun 6 pg. 157; Minchas Yitzchok 3:66 (see, however, 5:20, where he is hesitant); Chazon Ovadiah pg. 73:4; Harav Moshe Stern (Debreciner Rav - written responsum published in Pischei Halachah pg. 114). 8 Shaali Tzion 2:20; Sheorim Hametzuyanim B'halachah 116:2; Badei Hashulchan (Biurim to 92:8.) who does not even consider a self-cleaning cycle to be proper koshering. 9 Harav M. Feinstein (oral ruling quoted in Sefer Hilchos Pesach 1 pg. 181 and in Oholei Yeshurun 1 pg. 77). When koshering the oven from meat or dairy for parve, half of the self-cleaning cycle (about an hour and a half) is sufficient - Harav M. Stern, Pischei Halachah pg. 114). 10 Several authorities mention the fact that the door area of the oven does not get sufficiently hot during the self-cleaning cycle. Consequently, one must make sure that the door area is completely clean before the self-cleaning cycle is set. 11 Ideally, it is not a good idea to use one microwave oven for both meat and dairy, since many problems could arise. In fact, though, many people use one microwave for all their needs. They must be careful, however, not to put both meat and dairy on the same tray; separate utensils must be used. If possible, all foods heated in a microwave should be covered. 12 Harav M. Feinstein (quoted in Sefer Hilchos Pesach pg. 182); Harav S. Vozner (Mibayis Levi, Nissan 5753); Star K guidelines for microwave ovens. See, however, Pischei Halachah pg. 234 who questions this leniency. 13 This leniency does not apply to microwave ovens with a browning element or to convection microwave ovens. 14 Igros Moshe YD 1:40; 1:59.

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Congregation House of Jacob-Mikveh Israel Calgary, AB
Dvar Torah: Mishpatim, 5757 Rabbi Moshe Shulman
Back to Basics.

Verse after verse, law after law, Mitzvah after Mitzvah, Parshat Mishpatim is replete with details and instructions. But is there a link between them? Is there a structure to it all? Why here? Why now?

The simple answer is that these instructions were listed following the Ten Commandments lest we err and think that only the Decalogue is important, only those Commandments were given by G'd at Sinai, only they define the Torah. The Torah elaborates, in great detail, on every one of the Ten Commandments. In essence, the ten become chapter headings for all the Mitzvot in the Torah: Holidays - under Shabbat, lending with interest - under stealing, corruption of the court - under swearing falsely and bearing false testimony, and so on.

There is, perhaps, a more profound answer as well. Think of the enormity of the Revelation at Sinai, the spiritual attainments of the people, the heights to which they aspired and reached. All this creates a danger, for it offers us an "excuse" for denial. We might say: "We are human; we are mortal and frail, we don't have such a revelation, we don't have such a spiritual experience... How do WE reach Sanctity, Spirituality, and Relationship with G'd? How do WE sign our signature on that covenant, if we don't start with the Revelation at Sinai?"

Categorize all the Mitzvot in the Parsha in order, and you will find that in terms of the reaches of the human spirit they are structured in ascending order, from the most base instincts of man to the most spiritual attainments of

the spirituality. Take a look at a birds-eye view of the categories and summaries of all the Mitzvot in the Parsha: (Based on Eliyahu Ki Tov, Sefer Haparshiyot)

The Parsha starts with issues concerning our relationship to our fellow human beings, considering the most base of human instincts. The Torah well recognizes that not every person is a righteous individual. Crime exists, and people are capable of committing even hideous crimes. It is necessary to spell out the Torah's attitude towards slavery, so influenced by our experience in Egypt, along with basic elements of respect for human life and human dignity - the prohibitions against murder - intentional or otherwise, kidnaping and ransom, even bodily injury against another human being.

Next is the relationships towards property, and the responsibility that comes with ownership and possessions: "If an ox gores", "If one places a dangerous obstacle in a public place", responsibility for damages, care for someone else's property, and the laws governing custodianship.

Then the Torah moves on to transgressions committed in secrecy or in private, where no one can see save the oppressed and the All Knowing and All Seeing. "No widow or orphan shall you oppress - for I shall surely hear their cry, and pour out my wrath on he who shall afflict these." (22:22-23)

Finally, we move to a recognition that the whole world belongs to G'd. What we have is borrowed, and must be put to proper use. Hence the injunctions against lending money with interest, the requirements of giving charity and tithes, the importance of returning a lost object to its rightful owner and of helping a person in need, the laws of Shmittah - for the land belongs to G'd, and the laws of Shabbat - for the world belongs to G'd.

All this culminates in the final law: "Thou shalt not cook a kid in its mother's milk", the prohibition against mixing milk and meat, the quintessential "chok", a law which is followed because it is the decree of the King, whether we understand it or not, the ultimate expression of our love for G'd, for Judaism, and for Torah. Finally, the Parsha ends with the establishment of the Covenant with G'd, when the people called out: all that the Lord commands we will follow, and we will head: "na'aseh ve'nishmah".

How easy it sounds for us to use the excuse: "If G'd would reveal Himself to me, or to the whole world, things would be different, people would be better." But would they? G'd revealed Himself to the whole of the people of Israel - were they better? Did they not worship a golden calf? Did they not rebel against the Torah, and against Moses?

No, if you want to build a better world, a better people, a more spiritual existence you have to start from the bottom, and work your way up, step by step, Mitzvah by Mitzvah. The Torah understands that in any society, there will be people who will stoop the lowest most despicable of human behavior - and pervert even them. That doesn't mean there's no way back. That doesn't mean one cannot build one's way up the ladder rung by rung, today - by not hurting somebody, tomorrow - by not taking advantage of them, the next day by reaching out to help them, soon - by recognizing the spiritual gifts of creation, of man, of G'd, of Torah, and ultimately through a total commitment to Judaism, entering into a covenant with the Almighty. Oh, the journey may not be short, but it is a journey, and it has to begin somewhere!

That's what Parshat Mishpatim is saying: Start where you may, even if you move forwards one step at a time, at least you are moving towards the goal - "na'aseh ve'nishmah", the covenant, the commitment. Spiritual attainments do not come overnight; they have to be nurtured and cultivated!

But they start with US! They start with simple things like moral responsibility, like caring for each other, for all of each other. Yes, even for the "stranger" in our midst. The Torah is well aware of our ability for selfishness, for self-centeredness, for apathy. So that Torah begins the Covenant with simple commands: "Don't oppress the slave", "Don't murder", "don't steal", "don't hit", "don't curse". But the goal is for us to reach higher, much higher, to reach into the "Image of Godliness" in every human being, to love, care, and nurture each other, and finally to bring us all to love G'd as well. Oh yes, we must not leave Him out of the picture either! It is His Torah, His Will, His Blueprint for the world which we value so dearly.

The goal was stated last week. "And shall be for me a Kingdom of Priests and a Holy Nation." The blueprint for this goal is spelled out before us this

week. It's not that difficult. We just have to keep reminding ourselves of the basics.

Shabbat Shalom.

YESHIVAT HAR ETZION ISRAEL KOSCHITZKY VIRTUAL BEIT
MIDRASH (VBM) PARASHAT HASHAVUA

This shiur is dedicated in honor of the birth of Batya Miryam, born to Marla and Michael Americus. Mazel Tov!

This shiur is in memory of Dr. Joel Spiegler (Yosef Binyamin ben Chaim Mordechai) Z"L, whose shloshim concludes this week. - Dedicated by his family in Memphis, Baltimore, New York, Pensacola, and Detroit.

PARASHAT MISHPATIM by Rav Avi Walfish

1 Much comment has been elicited by a single letter, appearing at the beginning of our parasha - the opening "vav" of "VE-eileh ha-mishpatim" (AND these are the statutes). This "vav" connects our parasha with the end of last week's parasha, as noted by the midrash (Mekhilta) and Rashi. At first glance it would seem hard to find a greater contrast than the overwhelming mysterium tremendum of last week's Sinaitic revelation - "you have seen that from the heavens I have spoken with you" (20:18) - and this week's minute attention to mundane detail: laws pertaining to the family life of a slave, to assorted forms of homicide, torts and bailments, to judicial proceedings, agriculture, lost items, and more. The conjunctive "vav," connecting these two portrayals of Jewish religious experience, highlights the contrast between them, while binding them together as consecutive points on a spiritual continuum. The statutes of this week's parasha are not an independent unit, but a continuation of the Sinaitic revelation. Indeed the awesome experiential peak of witnessing the divine Presence and hearing His voice is not the goal or the acme of Israelite religion: "for in order to accustom you [to faith in God - see Ramban] has God come and in order that His fear shall be upon you that you shall not sin" (20:16). Judaism is not a religion of "peak experiences" (Abraham Maslow), but of living in accordance with the divine will. Hence the syntax of our parasha's opening: the mundane statutes of Mishpatim are not an independent unit, but the direct continuation of the Sinaitic revelation. "And these are the statutes which YOU shall place before THEM." Who is addressing these words, to whom, and regarding whom? Ibn Ezra (introduction to lengthy commentary to our parasha) hints that the answer resides in 20:18: "Hashem said to Moshe: thus shall you say to the children of Israel: You have seen that from the heavens I have spoken with you." The opening pasuk of parashat Mishpatim continues the list of laws that commence with 20:18. The closing laws of parashat Yitro extrapolate from the revelatory experience instructions concerning the way to worship the ongoing divine Presence, echoing the first five statements of the Decalogue. The introductory formula which opens Mishpatim indicates that, while continuing to spell out real-life instruction stemming from the Revelation, the focus has now shifted to statutes, governing the structure of and interactions within Israelite society, rooted in the last five statements of the Decalogue (see Ramban and Abravanel to beginning of Mishpatim).

The connection between the statutes of Mishpatim and the Sinaitic revelation is further underscored by the end of this week's parasha. Chapter 24 records the enactment of a covenant between Hashem and His people: a "covenant scroll" is read before the people (24:7) and "covenant blood" is sprinkled upon the two parties to the covenant - the people (24:8) and the altar, representing Hashem. The people, both before and during the covenant ceremony (24:3, 7), declare their acceptance of all that Hashem has spoken. The ceremony culminates in a revelatory experience (24:10), followed by a call to Moshe to ascend into the divine cloud covering Sinai, in order to receive the tablets of the covenant. The midrash (Mekhilta, Bachodesh 3), followed by French commentators (see Abravanel, Ch. 24), sees the covenant of Chapter 24 as a prelude to the revelation of Chapter 19, in accordance with the principle that "ein mukdam u-me'uchar ba-Torah" (the Torah does not follow strict chronological order). These commentators find support for this position from the unusual syntax of 24:1: "And to Moshe He

said: ascend to Hashem..." - presentation of the predicate in the "pa'al" form ("amar" = He said) rather than in the usual "vayif'al" form ("vayomer"), as well as moving the predicate from its usual position at the beginning of the sentence to the second position (after the direct object), can be taken as indications that the verb is to be understood as a past perfect construction: "and to Moshe He had already said..." (see Rashi to Bereishit 4:1).

According to this approach, the laws of parashat Mishpatim are sandwiched in between two parallel descriptions of the same revelation at Sinai which preceded them. This order may perhaps be explained as a literary device designed to underscore the organic connection between the revelatory experience and the laws issuing from this experience. The laws of Mishpatim are embedded within the revelation of Sinai (textual structure) even though they were given later (temporal order).

Ibn Ezra, Ramban and Spanish scholars (see Abravanel) maintain the chronological order of the text. They explain the unusual sentence construction of 24:1 as designed to highlight the contrast between what Hashem wants Moshe to transmit to the people ("which you shall set before them" - 21:1) and what Hashem addresses specifically to Moshe himself: "And TO MOSHE He said: ascend..." (24:1). In their view the laws of Mishpatim are preceded by the Decalogue revelation and are followed by the covenant/second revelation. Why did Hashem command these laws in between these two events? An answer to this question is indicated by the language of 24:3: "And Moshe came and told the people all the words (divrei) of Hashem and all the statutes (mishpatim) and all the people answered with one voice and said: all the things which Hashem has spoken we will do." The covenant between Hashem and the people relates to a comprehensive set of laws, entitled mishpatim. Before entering into the covenant the people must know what these laws are, must be aware of the content of the covenant. This is why Moses is commanded, at the beginning of our parasha to "place [the statutes] before" the people ("tasim lifneiheim"): "These legal decisions are placed before the people and recommended for their acceptance, as their selection by God had been left to their assent.... Moses was to make them attractive and appealing to the people by placing them in a suitable light when he explained them and pointed out their underlying principles" (Benno Jacob). The presentation of the mishpatim in the context of the covenant narrative (chapters 19-24) highlights one of the most basic, as well as most unique, features of the Torah's conception of law: law is not unilaterally legislated by a king, either divine or human, but is rooted in an act of free human choice, the decision to enter a covenant. The moral force of the divine law stems, not only from its divine origin, but also - even primarily - from the decision, freely taken by our Israelite ancestors, to subject themselves to a covenant with their divine Redeemer.

2 Now that we have noted the central role played by the statutes of our parasha in the Sinaitic revelation and covenant, the question arises whether we may detect "their underlying principles" in the selection and arrangement of the laws. Why did the covenant focus specifically on mishpatim, why these specific mishpatim, and are they presented in any special order? Some commentators have doubted whether these questions are answerable with any degree of certainty or authority. Ibn Ezra, for example, remarks (21:2, lengthy commentary): "Before commencing my commentary I will tell you a rule - every statute or commandment stands by itself, and if we are able to find a reason why one statute is attached to another or one commandment to another, we will cleave [to it] with all our might. And if we are unable [to do so], we will assume that the lack is rooted in our limited understanding." Other commentators, such as Ramban and Hirsch, consistently attempt to understand the location and order of mitzvot in the Torah. In the view of Nahum Sarna this is one of the unique hallmarks of Torah law (Exploring Exodus, p. 174): "Another fundamental and distinguishing characteristic of the Torah is that its legislation is embedded in a narrative matrix of which it is an inseparable component and from which it draws its meaning and significance. Separate the laws from their accompanying narrative, and their sum and substance are seriously impaired. As a result, the law is seen to be an indispensable ingredient of the divine-human relationship." Regarding our parasha, a broad spectrum of commentators, ranging - interestingly -

from Ibn Ezra himself (see short commentary to 21:1) down to Sarna, have sought to explain the underlying principles governing the selection and arrangement of these specific laws. In the brief space available to me in this shiur, I would like to focus on the opening two sections, which deal with the laws regarding a Hebrew slave and maidservant.

The selection of the laws which open our parasha is explained by Ibn Ezra as follows (lengthy commentary): "There is nothing in the world more difficult for a person than to be in the possession of a person like him, hence he began with the laws regarding a slave." The Ibn Ezra's underlying assumption, that the statutes of our parasha are arranged according to the yardstick of greater and lesser moral severity, has been amplified by many modern commentators. Moshe Greenberg ("Some Postulates of Biblical Criminal Law," in: J. Goldin [ed.], *The Jewish Expression*) has pointed out the rigorous distinction made in the Torah - as opposed to many other legal systems, ancient as well as modern - between human life ("dinei nefashot") and property ("dinei mamot"). In this light we may note the progression, in our parasha, from offenses by a human against the life or person of another human, to similar offenses between humans and animals, and finally offenses against property (note the division between offenses against animal life in 21:33 and property offenses commencing with 21:37).

According to this analysis, the laws governing slavery may be seen as a highly appropriate opening to our parasha, inasmuch as the institution of slavery represents a blurring of the line dividing human personhood from property. This blurring is reflected clearly in some of the laws recorded in the parasha (Note that I am treating the institution of slavery in toto, without reference to the important distinction between Hebrew slaves and Canaanite slaves, as in *Vayikra* 25:39-46):

- (a) When a master strikes his slave and the slave subsequently dies (after 24-48 hours), the master is exempt from punishment "because he is his property" (21:21-22. Rashbam: "and the law allows him to strike him in order to chastise him.")
- (b) An ox that gores and kills a slave subjects its owner only to a 30-shekel fine and not to "ransom money" designed to redeem the master from a death penalty (21:29-32).
- (c) The master may (sometimes) compel his slave to cohabit with a slave-girl and the children will belong to the master (21:4).

Perhaps this is the reason why kidnapping for the sake of selling (into slavery) is treated as a capital offense (21:16): selling into slavery deprives a person of his personhood, treating him as though he were property, hence it is the moral equivalent of murder.

Although the blurring of the lines between humanity and property may be detected in our parasha, the basic thrust of the Torah's legislation regarding slaves and slavery is to preserve, even within the institution of slavery, the basic distinction between the two. The Hebrew slave is not to be enslaved permanently, but is entitled to be freed at the end of six years - effectively abolishing slavery (at least with respect to Jews), properly so-called. Moreover, even as slave his human dignity is to be respected. His basic family ties may not be tampered with (21:3), yet he may choose to preserve his ties with the family unit he created while enslaved (21:6). Similarly a maidservant must either come to be treated as wife or must be freed (21:7-11). While a slave may be beaten - by his master alone (see Rashi to 21:21) - his murder is treated as a capital offense (21:20, 21:32 "the ox shall be stoned") and serious physical injury is grounds for being freed (21:26-27). The Torah's discussion of statutes appropriately opens with laws which, while not abolishing slavery, nonetheless safeguard even within this problematic institution the vital distinction between humanity and property.

Benno Jacob suggests an additional reason for opening our parasha with the laws of slavery, based on the historical context. The covenant described in our parasha is to be enacted with a nation only recently redeemed from a lengthy period of slavery. The first social message that needs to be comprehended by the Israelites is that God's gift of freedom to them is absolute and is not to be compromised. This idea is implicit in the opening of the Decalogue (20:2): "I am Hashem your God Who has taken you out of Egypt, out of the HOUSE OF BONDAGE." Two points seem to be

indicated, both in the opening to the Decalogue and in the opening of parashat Mishpatim: (1) Only a free people may enter into a covenant with Hashem and carry out His commandments; (2) Egypt, as a house of bondage, represents a model of society which we are to eschew.

In support of this idea we may note the reference, in the first passage of our parasha, to doorposts ("mezuzot" - 21:6), highly reminiscent of the paschal blood on the doorposts at the crucial moment of the redemption from Egypt. Rashi comments: "The Holy One, be He blessed, said: the door and the doorpost, which were witnesses in Egypt when I passed over the threshold and the two doorposts, and I said: 'for to Me are the children of Israel slaves (*Vayikra* 25:55)' - they are My slaves and not slaves of slaves, and here this fellow goes and acquires a master for himself!? Let him have his ear pierced before them!" Moreover, the characterization of an Israelite sold into slavery as a HEBREW slave reminds us "that freedom from Egyptian slavery had been demanded in the name of the God of the Hebrews" (B. Jacob).

The centrality of combating the Egyptian concept of slavery in the laws promulgated among the recently-redeemed Israelites may be further detected in the limitation of slavery to a six-year period. The allusion to the mitzvot of Shabbat (4th Commandment, 23:12) and of Shemitta (23:10-11) is readily apparent. These mitzvot promote the idea of social equality: the slave is to rest on Shabbat (20:10, 23:12) and Shemitta opens the field to the poor (23:11) as well as to the slave (*Vayikra* 25:6). The memory of Egypt is meant to serve as a reminder not to oppress the weak and unprotected members of our society: "Do not oppress the stranger, as you know the mentality of the stranger, for you were strangers in the land of Egypt" (23:9, compare 22:20).

The laws concerning slavery thus serve, for a recently redeemed nation, as keynote to two dominant themes of our parasha: (1) freedom as the foundation for entering into the divine covenant, (2) social egalitarianism as a central spiritual goal.

We may suggest a third reason for focusing upon the laws regarding slavery as keynote to the covenant. Ramban, in his introduction to the book of Shemot, characterizes Shemot as the book of redemption. Well-aware that over half the book takes place after the redemption from Egypt has been completed, the Ramban comments: "The exile is not concluded until they return to their place and to the spiritual level of their fathers, and when they left Egypt, even though they departed from the house of bondage, they were still considered exiled, because they were in a foreign land wandering in the desert. When they came to Mt. Sinai and built a sanctuary and the Holy One, be He blessed, returned His Presence to dwell among them, then they returned to the level of their fathers... and then they were considered redeemed, and this is why the book closes with the construction of the sanctuary filled continuously with the glory of Hashem." I would suggest that the construction of the sanctuary may be regarded as the conclusion of the redemption of Egypt for a different reason: the construction of the sanctuary is the first communal project undertaken by the Israelites as a free nation. The book of Shemot is the book in which the slaves of Pharaoh are transformed into slaves of Hashem (compare *Vayikra* 25:55), hence the centrality of the root a-b-d (to serve, a slave) throughout the book. This was noted by Franz Rosenzweig (*Scripture and Translation*, p. 68): "Take for example the verbal equivalence of the two sorts of 'service', the slave service done in Egypt and the devout service of labor to be performed in the Tent. This equivalence frames and unites the whole book. In the middle of the book, in the Ten Commandments, it is further woven into the book's texture through the reminder of the house of bondage ('servitude') and the command to 'serve' only one God; and it lies still deeper, beneath the historical surface, in the command to rest on the seventh day, through the use of one and the same word for the servant ("eved") and the six days' 'service' ("avoda"; i.e. work, see 20:9) of the servant's master."

A further point may be advanced. While the root a-b-d is employed, as correctly noted by Rosenzweig, to denote the labor involved in constructing the sanctuary ('avoda' - 35:24, 36:5, 39:32, 42), the word most frequently used to describe the work is 'melakha'. The word 'melakha' (from the same root as 'mal'akh', messenger), unlike 'avoda', has the connotation of work

done freely, realization of a freely-chosen project. The book of Shemot opens with forced servitude, back-breaking and Sisyphean "avodat perekh" (1:13-14), and closes with the blessing bestowed by Moshe upon the successfully-concluded 'avoda' (39:42) which is also 'melakha' (39:43). The laws of slavery in our parasha open the statutes designed to transform the 'servants of Pharaoh', who are slaves into the 'servants of Hashem', who enjoy the highest form of freedom. By freeing the Hebrews/Israelites as individuals from servitude to man, they are enabled to create a society devoted to the service of God, a society whose first national project is the construction of a sanctuary.

Questions for Further Study and Reflection:...

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Mishpatim listserv@lubavitch.chabad.org (W-2) The Chassidic Dimension

Adaptation of Likutei Sichos by Rabbi Sholom Ber Wineberg

Based on the teachings and talks of the Lubavitcher Rebbe

Rabbi Menachem M. Schneerson on the weekly Torah Portion

...

A Partial Admission

The Gemara, basing itself on the verse: "He who has a grievance should approach you," teaches that we are to listen first to the words of a plaintiff, and only then to the words of a defendant. The Sifsei Cohen [Shach] explains that whose side of an argument is heard first makes a difference when there is a partial admission, a modeh b'miktzas, regarding the application of a Torah oath. For example, if the plaintiff states that he is owed \$100 and the defendant admits to \$50, then the defendant must take a Torah oath concerning the \$50 that he denies. If the defendant first admits to owing \$50, and only then does the plaintiff demand \$100, the defendant is not considered a modeh b'miktzas, and need not take an oath to back up his statement. Thus, a plaintiff who states his case first is assured of the defendant's having to take a Torah oath. The source of this oath is the verse: "In every case of dishonesty... anything that was lost ... which he says 'this is it,' i.e., the defendant offers a partial admission. Every aspect of the revealed portion of Torah has a spiritual counterpart in the esoteric portion, and in terms of man's spiritual service. In fact, since Torah descended from the spiritual realms to the physical, its esoteric inner dimension is the source of the revealed portion. Moreover, there are many things in the revealed portion of Torah that can be fully understood only with an explanation on a more esoteric level. This principle applies here, for, on a simple level, the explanation of the Shach does not appear entirely cogent. The statement of our Sages that "We are to listen first to the words of the plaintiff" seems to address itself to all situations involving plaintiffs and defendants; according to the Shach, however, the ruling would only make a difference in a situation where the defendant offers a partial admission. In a spiritual context, however, the overwhelming majority of lawsuits involve modeh b'miktzas. The yetzer hora, the evil inclination, acts as a Jew's plaintiff, first leading him to sin, or at least to "sin" in the sense of faultiness and a loss of spirituality, and then acting as claimant, demanding that the person be given over to its clutches. The response of the Jew -- the defendant -- is to offer a "partial admission." The Jew responds by saying that, while it is true that he succumbed to sin, the sin was only "partial;" it involved only an external aspect of his being, and not his soul's essence, for the quintessential aspect of his soul transcends sin and cannot possibly be tainted by it. Moreover, even on a revealed level, every Jew possesses an abundance of good, so that "Even the sinners in Israel are as filled with mitzvos as a pomegranate [is filled with seeds]." It is therefore impossible for a Jew to be, G-d forbid, entirely evil. The fact that every Jew, whether an actual sinner or a righteous individual who merely lost some degree of spirituality, falls into the category of modeh b'miktzas is alluded to in the verse "In every case of dishonesty... anything that was lost... which he says 'this is it'" In spiritual terms, the plaintiff's complaint extends both to "cases of dishonesty" (i.e., actual sin) and to "anything that was lost"

(referring to a person who lost some measure of spirituality by not fulfilling his soul's mission to the best of his ability.) In answer to both of these complaints, the Jew says "this is it," i.e., that in which he sinned or in which he is lacking, is minor and partial compared to both his greater whole -- the essence of his soul that is always at one with G-d -- and the revealed aspect of his being, which is as full of mitzvos as a pomegranate is filled with seeds.

Based on Likkutei Sichos, Vol. XVI, pp. 269-271

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YESHIVAT HAR ETZION ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM) YHE-ABOUT: UPDATES AND SPECIAL MAILINGS
Torah and Humility based on a lecture by Rav Yosef Dov Soloveitchik zt"l

[This lecture was originally delivered in 1971, on the fourth Yahrzeit of Rebbetzin Tonya Soloveitchik zt"l. It has been adapted by Rav Ezra Bick. A shorter adaptation of this lecture appeared in Shiurei Harav, 1974, by Rav Yosef Adler.]

A

We, the harbingers of Torah Judaism to the non-Torah Jewish community, are under strict scrutiny from a moral point of view. Precisely because we place the study of Torah at the center of our existence, the topic of humility is very relevant, as the explosion of knowledge in the modern world can and does result in human arrogance.

The WORD plays a unique role in the world-outlook of the Torah. Through the word, the boundless cosmos was created. Through the word, God revealed Himself to man in His role as a spiritual being and charged him with a singular task and assignment. God spoke to Avraham and then to Moshe, and urged them to establish a covenantal community, and later addressed himself to that community and exhorted it to achieve the exalted heights of a "kingdom of priests and a holy people." First, order was imposed on the cosmos - this word is the source of truth, inalterability, identical with natural law. This was the order of Bereishit. When directed to man, the word imposes another order, not that of necessity and causality, but that of freedom and human dignity. When addressed to covenantal man, the word is the fountainhead of kedusha, sanctity. In short, the word creates three orders: necessity, the cosmic order; freedom, the human order; and kedusha, the covenantal order.

That the fountainhead of kedusha is the word of God is expressed in Halakha through the distinction between objects that are "gufan kadosh" (intrinsic, inherent and substantive holiness) and "tashmishei kedusha" (peripheral, incidental holiness, defined by the relationship with a sacred object). [A Torah scroll is gufan kadosh; the Torah covering is tashmishei kedusha.] The holiness of something which is gufan kadosh is an integral part of the object, whereas for tashmishei kedusha it is an external part of its relation, not part and parcel of its existence. The gemara states that the tefillin straps, no matter how indispensable they are, are only tashmishei kedusha; however the battim, the boxes in which the sacred texts are placed, are gufan kadosh. The reason is because "Shin shel tefillin halakha leMoshe miSinai" (the letter "shin" embossed on the box is a law given to Moshe at Sinai). We see that the criterion of gufan kadosh is the presence of the word. The geometric configuration is somehow the source of kedusha. What this means is that the source of all kedusha is the Torah, the word of God. Wherever a letter appears, the Torah appears, and we find inherent sanctity. Where there is no letter, there is no intrinsic sanctity.

We have a written Torah and an oral Torah. The written Torah has its kedusha crystallized in the tangible, physical written word. What about the oral Torah? There the word is not objectified in a scryptical form. God, in His infinite wisdom, wanted the word to be interwoven in an abstract thought system, and not in a sign system alone, as in the written Torah. Can Torah she-be'al peh, the oral Torah, pass on kedusha? How does the unwritten word hallow, in the sense that Torah she-bikhtav sanctifies tefillin, mezuzah, the Torah parchment, etc.? It would be folly to conclude that Torah

she-be'al peh is inferior in this respect. The answer is that the oral Torah operates in a more subtle manner, transmitting sanctity through study and its relation to the mind of the student. Apparently, Torah study, aside from being an intellectual, educational endeavor, enlightening the student and providing him with the information needed to observe the law, is a redemptive cathartic process - it sanctifies the personality. It purges the mind of unworthy desires and irreverent thoughts, uncouth emotions and vulgar drives. The parchment of talmud Torah is the human mind, the human heart and personality. Indeed, a new dimension is added to human experience through the study of Torah: sanctity.

We have now discovered a new understanding of the term "writing" - it means not only the physical performance of drawing letters, but also the process of soul-arousal and heart-sensitizing. A scribe writes the Torah on parchment; the rebbe, the great teacher, writes the Torah she-be'al peh on the living mind, on the sensitive human heart. The old halakic equation that every Jew is a sefer Torah is, in this light, fully understandable. The living Jew is a sefer Torah of the Torah she-be'al peh. The gemara in Sota (13b) states: "R. Eliezer HaGadol said: Over twelve square miles, the area of the camp of Israel (in the desert), a heavenly voice proclaimed: Moshe, the great scribe of Israel, has died." Although Moshe did indeed write a sefer Torah, the word "scribe" here does not refer to the mechanical art of writing. If it did, what would be the meaning of the adjective "great?" How would this phrase, "the great scribe of Israel," do justice to the greatness of Moshe Rabbeinu? Did Moshe have a beautiful handwriting? R. Eliezer the Great was referring to a different kind of script, to the art of writing God's living word on the passionate vibrant human heart, and impressing God's image on the receptive and questing human personality. Moshe was a scribe in the same way that Sefer Yetzira calls God a scribe: "The world was created through three things: sofer, sefer, sippur (scribe, book, and a story)." We have arrived at the equation: writing = creation = education. The teacher is God's collaborator in ma'aseh bereishit, in the creation of the world.

Kedusha is generated only by closeness to God. Who is holy? Whoever is touched by the Holy One, by God's hand. But, the question arises, how can man exist in the proximity of God? The gemara (Ketubot 111b) asks, "Is it possible for Man to cleave to the Holy Presence? Is it not a 'fire devouring fire?'" The gemara answers that we should associate with talmidei chachamim, with Torah scholars. How can one feel the hand of God resting on one's shoulder, feel the breath of eternity on his face? - through the Torah! Halakha does not favor mystical union, in which one's identity is negated. How can one get close to God and yet preserve the full sense of personality, of encounter? The answer is through knowledge, the study of Torah.

How does the study of Torah unite man with God, the human being with his Maker? How can it bring together finitude and infinity, temporal transience and eternity? The Rambam develops the idea of "achdut hamaskil ve-hamuskal" (the unity of knower and known, the subject and the object of knowledge). This is not only found in the Moreh Nevuchim, but in the Yad Hachazaka as well (Hilkhos Yesodei Hatorah, and, by implication, in Hilkhos Teshuva). The Sefer HaTanya writes about this doctrine of the Rambam that "all the sages of the Kabbala have agreed with him." I will not go into the philosophical explanation of this principle now, but we may immediately draw one conclusion. If the knower and the object known are merged into one, then two knowers whose minds are concentrated on the same object are also united. If $a=c$, and $b=c$, then $a=b$. People with common thoughts cannot long remain strangers, indifferent to each other. Wherever there is unity of thought, purpose and commitment, there is also personalistic unity. The Rambam (Commentary to Avot) concludes that the highest form of friendship is the unity of knowledge - "chaver ledi'a." In a like manner, when man becomes completely absorbed in God's thought, in His revealed WORD, then he is indeed united with God, there is friendship between man and God. The Tanya writes, "When a man understands with his intellect, and comprehends and digests the infinite and inscrutable will of the Almighty, there is the most marvelous union between God and man." The link between man and God is thought. God is the originator of thought, man embraces it.

This is the great bond uniting man and God, finitude with infinity.

But now there is a dilemma. Knowledge, all knowledge, is essentially esoteric; it is not equally available to all. What about the dull people, the sluggish people, the intellectually slow; are they to be denied the companionship of God? Religion cannot be esoteric. The experience of God, to hear His whisper, is a basic elementary right of every human being. Without religion there is no salvation, without faith there is no redemption, and everyone is entitled to salvation. But if the link between God and man is the intellectual Torah gesture, how can the experience of God's companionship be achieved by all?

There is another doctrine of unity - achdut ha-ohev ve- ha-ahuv (the unity of the lover and the beloved). To love means to share an identity, one common destiny. Now if the lover and the beloved are united, then two persons who are in love with a third thing are also united. The love between a husband and wife is strengthened and deepened with the birth of a child. In fact, love in common is a stronger bond than thought in common; the link of hearts is stronger than that of minds. On the verse, "He shall cleave to his wife and they shall be one flesh" (Bereishit 2,24), Rashi explains that the "one flesh", the unity, is realized by the creation of a child. The love of the couple, originally an erotic, selfish drive, changes into a more spiritual, exalted love through a shared creation, a common goal. Unqualified love of a child unites the parents, brings them closer to each other. Their love becomes more truthful, more intimate and sincere. Two people, father and mother, are welded together into one, all their concerns and aspirations concentrated on a new center, which becomes the emotional bond linking both of them; indeed, it becomes the existential focus of their lives, about which everything revolves. Depressed by the absence of love from her husband, Leah responds to the birth of her first child by saying, "Now, my husband will love me." She hopes that a missing element in her relationship will be filled by the little baby.

God loves His word, crystallized in the Torah, as though it were His daughter. In Mishlei (the Book of Proverbs), the Torah is called the darling child with which God plays daily. "I shall be for Him a disciple, and I shall be an amusement every day, playing before Him all the time" (Mishlei 8,30). Man too can embrace Torah. Mishlei (2,3) calls Torah the mother of man - "Call understanding your mother" (Mishlei 2,3). We find the expression "baneha shel Torah" (children of Torah) which does not refer only to scholars. The relationship between us and Torah is that between a child and his mother. We identify with Torah, we cherish her, we are committed to her, like a little child who identifies with his mother and cannot distinguish between his own identity and hers. In this way, a bond is created between God and man, not only man who studies, but all those who love Torah and feel awed by her.

The Bach explains that the berakha we recite in the morning, "la'asok be-divrei Torah" (to engage in the words of the Torah), is more embracing than "lilmod Torah" (to learn Torah). The berakha, recited by all, including the great scholar, is not for the esoteric intellectual experience of Torah, but rather for the exoteric love of Torah and for the kedusha that results. The entire Jewish community is a Torah community, and hence a holy one, including both the aristocrat of mind and spirit, and the simple anonymous individual. "Torah tziva lanu Moshe, morasha kehillat Yaakov." The Torah is the inheritance of the entire community of Israel.

B

Knowledge does not naturally contribute to humility. Normally, the greater the intellectual achievement, the greater the sense of arrogance. But Chazal demand that the acquisition of Torah be associated with humility - pride and Torah are mutually exclusive. The transition from Torah to humility is effected by the idea of kedusha. Kedusha logically should be associated with pride; it is rooted in human greatness, the potential for man to come close to the Almighty. How does the experience of being close to God lead to the experience of humility and human abnegation, which is man's remoteness from God? What is the bridge between these two contradictory states of mind? The bridge is defeat, which inevitably must accompany kedusha.

Kedusha is ceaseless in its motion, in its spreading, searching over the

vastness, yearning for the infinite. There can be no final fulfillment in the quest for kedusha, because perfect union is not possible; it can never be realized. Man wants to be more, not for the sake of his own honor, but in order to reach out further, to understand more. The unique character of the "masmid" is based on this ideal - the incessant pursuit of an unattainable goal, of a fugitive vision, which springs not from intellectual curiosity but from the kedusha imbedded in the human personality. The yearning for God can never be satisfied. Tehillim (24,3) asks, "Who shall climb on the mountain of God?" (not "who shall climb to the top of the mountain" - "mi ya'aleh le-har HaShem"; but "mi ya'aleh BE-har HaShem") - man is engaged in climbing the mountain but never reaches the peak. This interminable quest for kedusha is portrayed in Shir HaShirim (Song of Songs), a never-ending search for "that which my soul loves," searching and not finding. Kedusha is a hierarchy, a pyramid, which many can enter at the base, but whose apex no one can reach.

The drive is never terminated until man is finally defeated. Every man, no matter how great and powerful, must experience frustration, even - no, especially - in the battle he most wants to win. Even Moshe had his most ardent desire denied him. The Sages explain that had Moshe entered the Land of Israel, it would never have fallen to its enemies, the Temple would never have been destroyed. In other words, Moshe's crossing of the Jordan would have ushered in the messianic era, and Moshe would have been the mashiah. He would have succeeded in climbing to the apex of kedusha, combining the crowns of Torah, kingship, and priesthood (keter Torah, malkhut, kehuna) in their fullest expression, with nothing left to achieve. But that can never be. Moshe had to be defeated. God told him, No. You must stop. You will remain the greatest leader of Israel, the standard of Torah scholarship, but you will not be crowned with the crown of the messiah. You are human, you must lose. You must be defeated.

Now we understand how kedusha and humility merge into one. In the very movement where kedusha exults, "I am near God, I am a great being," it decrees its defeat. Being close to God awakens in me the desire to be closer yet, and that itself informs me that complete fulfillment of my desire is impossible, because I am but a small being. I am near God because I am great; I am not as near as I would want to be, because I am small.

C

The awareness of defeat, the path to humility, has five steps. The first is the feeling of dependence. A ben-Torah must realize he is dependent on the advice, guidance, and instruction of someone who has come a few inches closer to the summit of the mountain. The more one knows, the greater the perplexity; the closer one is to one's Creator, the clearer the awareness of one's inadequacy and failure. Someone else will know more than I. Sometimes it will be a great scholar, sometimes even a small child or a pupil. If you ask me, "Who may lay claim to kedusha?", I will answer, "One who feels the need for a teacher, one who says, Make for yourself a teacher and acquire a companion" - and a teacher can be even a little child. When Korach said, "For the entire people is holy, and God is in their midst" (Bemidbar 16:3), he was correct. But when he continued, "So why do you (Moshe and Aharon) elevate yourselves above the people of God", he committed a fatal error. He thought that since everyone was sanctified, endowed with kedusha, there was no need for Moshe, for a teacher. Actually, the precise opposite is true. Because they are endowed with kedusha, that is why there is need for a teacher, for a master guide.

The awareness of dependence is expressed through gratitude and loyalty. Judaism believes that man is never self-sufficient; he always needs help, not only from God, but from his fellow man. Tanakh gives us the figure of Naval HaCarmeli (Shmuel I, 23). When Naval denied David's request, he said, "Shall I give MY bread, and MY water, MY slaughter that I have slaughtered from MY flocks, and give to men whom I know not?" He is expressing the mentality of a man who thinks everything is his by virtue of his own unaided efforts, the self-made man. He felt he owes nothing to anyone. The Torah begins the story of Avraham, in contrast, when he is seventy-five. We want to know more about Avraham, how he discovered the eternal truths, why he was chosen. Instead, the Torah tells us about his

kinsman Lot. Why is the story of Lot narrated in such detail? It is not because he was a history-making or destiny-shaping individual. The story of Lot tells us that Avraham's main virtue was loyalty and gratitude. When Avraham told the Egyptians that Sarah was his sister, the Sages point out that Lot did not betray him. Avraham is committed to Lot, going to save him even after Lot turned his back on Avraham, because Avraham's central virtues were loyalty and gratitude. The humble man is indebted to his fellow. To whom should we give loyalty? To many - firstly to parents. Secondly, to teachers. My students owe me loyalty, though I can get along without it. A student should not close the door after the final exam and walk out. Loyalty to teachers, gratitude, is an essential part of Torah, because it is the basis of humility. Thirdly, we owe loyalty to the countless generations of Torah scholars, to the chain of thinkers and dreamers who formulated the methodology, analyzed the ideas, interpreted the difficult tracts, and communicated all this in a living personal way to us. You owe loyalty to Jewish history, to those who sacrificed temporal things to the eternal masora (tradition).

The second step is intellectual circumspection and caution. A talmid chacham is careful in the rendering of halakha. Only ignorant and arrogant people think that all questions are answerable. The humble talmid chacham does not proclaim high-sounding theories, sweeping statements about ethics and philosophy. The humble person will not boast that Judaism is commodious enough to embrace any theory, any trend in modern culture. A new idea, a new problem, must be treated with circumspection, carefully, and with trepidation.

The third step is ethical modesty. There is not only intellectual dependence, but moral inadequacy as well. Moral complacency, so repugnant in a proper framework of kedusha, is all too prevalent in the Orthodox community, both in the diaspora and in Israel. A talmid chacham is very wary of such "pious" people, who condemn and judge mortal man from a position of assumed moral supremacy. Here too, the endowment with kedusha must be accompanied by a sense of inadequacy and modesty, a readiness to admit errors and understand the view of others, rather than one of self-satisfaction.

The fourth step is called "tzimtzum." The humble man must know how to recoil, to retreat; he must know the art of self-contraction, even when not required by the letter of the law. This is true first of all in the physiological sphere - the Rambam describes in Hilkhos De'ot (ch. 5) the necessity for a wise man to control his appetite, to forego many common pleasures, even though they are not strictly forbidden. Indulgence in luxury manifests pride and vanity. This continues in the social arena as well; he does not attract attention to himself. The attribute of Tzimtzum belongs, according to the Kabbala, to God Himself. Here too, we are commanded to imitate God, about whom it is written, "Truly You are a God who hides" (Yeshayahu 45,15). This is expressed in dress and public behavior. It applies to his emotions as well - when he succeeds, the talmid chacham praises God, but does not boast or brag to others. The more one succeeds in the realm of kedusha, the less the outside world will know of it. If he is in distress, he will pray to God, but not cry out loud hysterically. The greater the wise man, the more he controls, limits, his emotions. Torah, thought, must be spread to others; emotions are not meant for others. Here, retreat is called for. My father, Rav Moshe zt"l, referring to the verse, "The covering shall separate the Holy from the Holy of Holies", explained that man's intellect is his Holy, but the emotional life, his love, pity, compassion, anguish, exultation, joy and sadness, is his Holy of Holies, and no one is allowed in to the inner sanctum. Emotional life should remain the secret of the Torah personality.

The fifth and final step is "chesed", generosity. We are interdependent. The same way I expect and depend on others to help me, I must extend help to others. I must open myself up to embrace the other. When man steps out of his egocentric solitude, chesed is realized. Kedusha cannot be expressed only by acquisition. To give to others is the necessary counterpoint to the receiving of love. Chesed is an overflow of kindness, love, enthusiasm, which cannot be contained within, like a river which overflows its banks and inundates the environs.

A father's desire for a child is usually based on his fear of death; it is a desire for continuation, for immortality. A mother wishes to have a child out of a desire to love, to give love. Chana, childless, goes to pray to God. The verse says she was "middaberet al liba" (lit., speaking ON her heart). Chazal explain the phrase to mean, "about matters of the heart." She wanted someone on whom she could center and focus her love, her capacity to care and give. Prophecy too, is described as bursting forth to others, incapable of remaining in the mind of the prophet. Yirmiyahu says, "The word of God was a fire within my bones." The wise man must not only turn to those who are above him, but to those who are below who require his teaching. He has no choice; he is overflowing. It is a condition of learning that we give a hand to those below even as we climb higher ourselves. It is just as dignified to teach aleph-bet as to teach Talmud. Chazal says that children who die before they have begun to receive an education are taught by God. Here too, we must imitate God.

Kedushat HaTorah is based on the certainty that all the congregation of God is holy, that all can achieve sanctity. The Rambam writes that the Torah guarantees that the Jews will repent and come closer to God. The humble, generous ben-Torah must have confidence and faith in klal Yisrael, the Jewish community as a whole. He cannot belong to a sect, concerned only with itself. Every Jew has the capacity for kedusha and a desire for sanctity, even if he is unaware of it, and none shall be expelled. We shall never give up on a single Jew, we have faith in "the lost in the land of Edom and the oppressed in the land of Egypt," the assimilated and the downtrodden, even as we believe in the words of the prophet, "Peace, peace, says God, to the far and the near, and I shall heal them."

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mj-ravtorah@shamash.org>; Thu, 15 Feb 1996 [Last year]

Mishpatim Shiur HaRav on Parshas Mishpatim

"You shall not oppress any widow or orphan." "If you shall oppress them and he shall cry out to me I will listen to his plea". "And I shall be angry and I will kill you through the sword and your wives will become widows and your children orphans". (Shemos 22:21-23)

The Torah enjoins the Jew from oppressing any widow or orphan. One who commits this action is to be punished by HKB'H (V'Haragti Eschem B'Cherev). The Gemara (Sanhedrin 17b) enumerates the transgressions for which one receives Misah Biyday Shamayim. Why does the Gemara omit the case of oppressing the widow?

The Ramban offers an answer to this question: all other instances of Misah Biyday Shamayim have a natural appearance however the penalty for this sin will be an unnatural death, through the sword. The Ramban and Rashi add that in addition, the death will be unwitnessed and unknown to others leaving the wives of such individuals as permanent widows as well (V'Hayu N'shayhem Almanos Lolam).

The Ibn Ezra notes the transition from the plural (Lo Ta'anun) to the singular (Im Aneh Te'aneh) followed by the plural (V'haragti Eschem). According to the Ibn Ezra, this indicates that if someone observes someone else treating a widow or orphan in this manner and does not intercede on their behalf, the silent observer is considered to have transgressed as well. He too will receive the identical punishment as the one who committed the act. The Torah uses the plural form to indicate that both the transgressor and the observer will be considered guilty (Teanun) and are both punishable by death (V'haragti ESCHEM). In fact, this is the only place we ascribe guilt to both the transgressor and silent observer and both receive the same punishment. For example, one who observes a Jew who desecrates the Shabbos may transgress on the obligation to rebuke his fellow Jew. However he is not considered to have violated the Shabbos on his own. This unique situation of associating the the observer and the transgressor with guilt is to teach us that there is no room for tolerance of any degree of wickedness. One who is tolerant of such behavior is as wicked as the perpetrator. Aneh Taaneh is an application of Lo

Taamod Al Dam Rayecha, standing by while a fellow Jew is killed. Even though you personally did not murder the individual, in the eyes of heaven you are still considered a murderer.

The Rav added the following explanation: Mechilta (22) quotes the following: When Rabbi Shimon Ben Gamliel (the Nasi) and Rabbi Yishmael Kohen Gadol were taken out to be murdered (they were 2 of the 10 Rabbinic Martyrs), Rabbi Yishmael asked Rabbi Shimon why he was crying when he was about to fulfill the mitzvah of giving one's life for Kiddush Hashem and will soon enter the world to come. Rabbi Shimon answered that he is crying because of the type of death they were to endure. They were to be executed through the sword (Misas Sayif) which is the punishment reserved for murderers and those who have desecrated the Shabbos. He was concerned lest any passers-by misconstrue them as such unsavory characters. Rabbi Yishmael responded by asking him if he could recall a situation where a woman came to ask him a question and his sexton made her wait until Rabbi Shimon put on his shoes or finished his meal. When Rabbi Shimon said that this did indeed happen, Rabbi Yishmael said that their punishment is fitting as the Torah admonishes anyone that oppresses a widow or orphan punishable by death through the sword (V'haragti Eschem B'cherev). The magnitude of the Inuy does not matter (Echad Inuy Merubah V'echad Inuy Muat). (Note: the Rav quoted from a combination of the Mechilta and the Masechet Shachos, chapter 8. There are different versions as to whether Rabbi Shimon or Rabbi Yishmael was the one crying).

The above Mechilta is telling us that the punishment for intolerance towards the widow or orphan does not necessarily derive from an actual transgression. Even if the act of intolerance appears justifiable and insignificant, it is still a punishable offense if the affected party is offended psychologically. As far as the letter of the law was concerned, there was no obligation of Rabbi Shimon to have come out barefoot to answer the question of the poor woman. (Rabbi Shimon should have realized that the woman might be offended by deferring her question. Rabbi Shimon should have been attuned to the needs of the woman and that she be made to feel welcome and comfortable). Because he unknowingly delayed the woman till he was ready, apparently Rabbi Shimon was guilty in the view of HKB'H of Inuy Muat.

The above points to a powerful message: that one can transgress Aneh Taaneh even when there is technically no transgression (Maaseh Aveirah). An individual in a position of importance must be vigilant to be attuned to the psychological needs of his fellow man. Failing to show the utmost compassion and attentiveness can result in offending the unfortunate and carry with it grave consequences.

The Torah uses the double syntax, e.g. Aneh Taaneh, throughout these verses. Sometimes a person shows obvious intolerance and persecution of a less fortunate individual. This constitutes an identifiable transgression. It is called Inuy Merubah. There are other times when the intolerance is more subtle and requires an ability to feel the psychological pain of the less fortunate who are offended by direct or indirect actions. This is considered Inuy Muat. In either case, the Torah says Tzaok Yitzak, both types of offended individuals will call out to HKB'H. Hashem will listen to both types, Shamoah Eshma, to the one who cries out from Inuy Merubah as well as the one who cries out from Inuy Muat. (The Rav added that Inuy Merubah causes Inuy Muat. Taking advantage of a widow causes her direct anguish. This is Inuy Merubah. It also triggers the subtle internal feeling of helplessness: that she is being persecuted because her husband is no longer alive to protect her (Inuy Muat). One who does this receives Misah Biyday Shamayim (V'haragti Eschem) and his family is placed in a similar situation (V'hayu Nshaychem Almanos).

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mishpatim.97

Shiur HaRav Soloveichik ZT"L on Parshas Mishpatim

(shiur date: 2/22/77)

In Parshas Mishpatim, Hashem tells Moshe that He will send a Malach to accompany Bnay Yisrael and warns him that Bnay Yisrael should not sin Ki Shemi Bkirbo. In Parshas Ki Tisa after the sin of the golden calf, Hashem again tells Moshe that He will send an angel to lead them through the desert. This time Moshe asks that Hashem not send an angel but instead Hashem Himself should lead them to Eretz Yisrael (see Rashi). Rashi says that in Parshas Mishpatim, Moshe was told that eventually Bnay Yisrael will sin and that will lead to Hashem sending a Malach to lead them instead of Hashem Himself. Why didn't Moshe protest in Parshas Mishpatim and request that Hashem lead them Himself and not send a Malach, similar to the way he requested in Parshas Ki Tisa?

The Ramban says that the word Malach has 2 meanings. Sometimes it refers to an angel or a messenger of Hashem. Other times it refers to Hashem Himself. For instance, when Yaakov blessed Efrayim and Menashe he

(the Vilna Gaon among others) one may not pray to a Malach and according to the Rambam (Peirush Hamishnayos Sanhedrin) one may not ask that a Malach act as an intermediary to bring a person's prayer before Hashem. (According to these opinions, one should not recite the paragraphs at the end of Selichos of Machnisei Rachamim, as it requests a Malach to intercede on our behalf. A fundamental of Judaism is that man prays directly to Hashem with no intermediary.) How did Yaakov ask that a Malach bless the children. After all, this is a prayer and how did Yaakov pray to a Malach? According to the Ramban Malach here refers to Hashem Himself. Yaakov

describes Hashem as a Malach because that is the way He appeared to Yaakov. Another example is the conversation between Yaakov and the Malach where he is told to return to Eretz Yisrael. Clearly this is referring to Hashem. Also we find that Avraham prayed that Eliezer be successful journey in his journey to find a suitable wife for Yitzchak. Avraham prayed that Hashem should send His Malach to guide him on the successful path where Malach means Hashem Himself. Also when Hashem appeared to Moshe through the burning bush, Hashem saw that Moshe strayed to see the miraculous event and called to Moshe. The Torah refers to Hashem as Malach. All these cases refer to Hashem Himself in terms of Malach.

We see from other sources as well that Hashem appears to people in different forms in different situations. The Midrash says that Hashem appeared as a mighty warrior prior to the splitting of the Red Sea. Yet He appeared as an elderly, kind teacher of children at Mount Sinai when He gave Bnay Yisrael the Torah. We find in the Shir Hakavod that people view Hashem in many different ways yet he can not be grasped nor comprehended by our limited minds. In Parshas Mishpatim the Torah refers to Hashem Himself as leading Bnay Yisrael through the appearance of a Malach.

In Parshas Mishpatim, Hashem tells Moshe that Bnay Yisrael must listen to the Malach because Shemi Bkirbo. One must listen to Hashem, one may not listen to a Malach. Just as Yaakov told Yosef that in his dream Hashem appeared to him as HaMalach Hagoel, the Malach in Parshas Mishpatim refers to Hashem as well. In Parshas Mishpatim before the sin of the golden calf, Hashem was to accompany Bnay Yisrael to Eretz Yisrael, as it says Ki Shemi Bkirbo, clearly referring to Hashem Himself. Moshe had no reason to protest. However, in Parshas Ki Tisa after the sin of the golden calf, Hashem tells Moshe that now He will send a real Malach to lead them. Now Moshe protests and asks Hashem to reconsider, because Moshe is afraid to lose the Giluy Shechina that distinguishes Bnay Yisrael from all other nations. (also, according to some, after Kabbalas Hatorah, Moshe was at the same level as the Malachim and felt that he could play the role of a Malach, so he really wanted Hashem to lead them Himself.) Hashem reconsiders and also grants Moshe the 13 Attributes of Mercy.

The Rav added the following: in Parshas Mishpatim and Parshas Ki Tisa the Torah is referring to a real Malach, an angel. A Malach implies Midas Hadin, the strict adherence to an uncompromising system of justice and punishment. The Torah says Ki Shemi Bkirbo. Rashi quotes the Gemara that Shemi, My Name, refers to the name Metatron, symbolic of strict Midas

Hadin. Midas Hachessed and Midas Harachamim are not associated with this specific name of Hashem. Only Hashem has the attributes of Chesed and Rachamim. As we recite on the Yamim Noraim, there is no statute of limitations on Teshuva before Hashem. He waits for the sinner to repent till his last breath. A Malach represents the name of Hashem that is only Midas Hadin, the name that symbolizes Midas Harachamim can only apply to Hashem Himself.

In Parshas Mishpatim, Moshe thought that Bnay Yisrael had reached the highest level of spirituality. It was inconceivable at that time that Bnay Yisrael might sin. A people that is incapable of sin can tolerate the strict judgement of uncompromising Midas Hadin. Moshe did not protest because he thought that Bnay Yisrael could easily manage with a Malach, strict Midas Hadin in their midst. However in Parshas Ki Tisa, after the sin of the golden calf, Moshe realized that Bnay Yisrael were indeed capable of sin. When Hashem tells him again that a Malach will accompany them, Moshe now realizes that Bnay Yisrael will not survive if they will be judged by a Malach who knows no Chesed or Rachamim, but operates strictly through Midas Hadin. In Parshas Ki Tisa Moshe protests and Hashem agrees to accompany them Himself. He also gives Moshe the 13 Attributes of Teshuva which are in reality Attributes of mercy that come from Hashem and are accepted only by Hashem, not by a Malach.

This summary is Copyright 1997 by Dr. Israel Rivkin and Josh Rapps, Edison, N.J. These summaries are based on notes taken by Dr. Rivkin at the weekly Moriah Shiur given by Moraynu V'Rabbeinu Harav Yosef Dov Halevi Soloveichik ZT"L over many years.

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SHABBAT ROSH CHODESH - HAFTARA (Yeshayahu 66:1-24)
This week's Haftara - the concluding chapter of Sefer Yeshayahu, heralding God's future redemption of Am Yisrael and the return of His SHCHINA - stands in contrast with last week's Haftara (chapter 6), in which Yeshayahu foresaw Israel's impending destruction while witnessing the SHCHINA leaving the Temple. Both Haftarot begin with a description of God's throne in heaven ["ha'shamayim kisi..." / "Hashem yoshev al kisay"] and His 'feet' on earth ["ha'aretz hadom ragli" / "v'shulav..."]. Last week, we saw how God decides to leave His Temple, for His people had become haughty and defiled His Name. This week, Yeshayahu comforts Am Yisrael that for 'the sake of His Name', Yerushalayim will be rebuilt (see 66:5-10).

PROPHETIC BACKGROUND This contrast reflects the basic structure of Sefer Yeshayahu, in which the first half of the sefer explains the forthcoming DESTRUCTION (chapters 1-39), while the second half of the sefer (chapters 40-66/ the "n'vuot n'chama") foresees Israel's future redemption. [This explains why on the shabbat BEFORE Tisha b'Av we read the FIRST chapter of Yeshayahu, while on the seven weeks AFTER Tisha b'Av, we read from these FINAL chapters (better known as "shiva d'n'chamta").]

The following table summarizes the overall structure of Sefer Yeshayahu. Obviously, it is a bit oversimplified, but it should give you a basic overview:

CHAPTERS	TOPIC
1	: General introduction of Yeshayahu's time period
2	: The high hopes for the time period of Uziyahu
2-5	: God's disappointment with that generation
6	: Yeshayahu's appointment as NAVI of destruction
7-12	: The rise of Ashur, to punish Am Yisrael for its sins
13-23	: The other nations to be punished by Ashur
24-35	: Misc. prophecies of rebuke/ time of Chizkiyahu
36-39	: Story of God's saving Yerushalayim/ 14 Chizkiyahu
40-66	: Prophecies of Redemption - N'VUOT N'CHAMA

As you read through this week's Haftara, note its many parallels to the ideal time period, as described by Yeshayahu in 2:1-4, in which

Yerushalayim and the Bet ha'Mikdash serve a center for ALL mankind to worship God. [Note 2:1,5,14,18,19 - 23.] Note also the thematic parallel to chapter two. Recall God's anger with Am Yisrael's haughtiness (2:5-22). In contrast, at the time of redemption: "...Yet to such a one I LOOK FOR, To the POOR and BROKEN HEARTED. One who is concerned about MY WORD..." (66:2)

Yeshayahu repeats the reason for God's destruction and His displeasure with their insincere "korbanot" (66:3-4), then he continues to describe God's return to Yerushalayim (66:5- 14), and His punishment of His enemies (66:15-17). Yeshayahu concludes with his vision that Yerushalayim will return to become a recognized international center for the worship of God, and Am Yisrael will return to fulfill its destiny (66:18- 23).

In light of the difficult events of this week, I'd like to conclude this brief shiur with an appropriate pasuk of "n'chama" from the Haftara: "As a mother comforts her son, So I will comfort you; - u'v'YERUSHALAYIM t'NUCHAMU - and You shall find comfort in Jerusalem." (66:13)

shabbat shalom, menachem

FOR FURTHER IYUN A. In the closing pasuk (66:23) - "v'haya midei choesh b'chodsha umidei shabbat b'shabbato..." In your opinion, does shabbat in this pasuk refer to 'shabbos' or 'yom-tov'. Relate to the order of the this pasuk; the mitzva of this pasuk; Vayikra chapter 23, and it's use of the word "shabbat" in the description of the chagim; Shmot 23:14-17 - mitzvat aliyah l'regel; and Mlachim II 4:23.
