

INTERNET PARSHA SHEET
ON MISHPATIM - 5761

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http://www.torahweb.org/torah/2000/parsha/rneu_mishpatim.html [From last year]

RABBI YAAKOV NEUBURGER

Matan Torah: Take Two

The final parsha of Mishpatim returns to the narrative of Matan Torah, describing the preparation of an altar for numerous korbonos, the sprinkling of their blood upon the people and Moshe's ascent to the top of Sinai. Whereas according to Ramban all of these events follow the revelation of the sixth of Sivan and Moshe's subsequent descent, Rashi interprets that they take place on the very same days which are so vividly and differently portrayed in parshas Yisro.

How intriguing it is to have two parshiyos focus separately on the selfsame episode, each one choosing details so different from each other that they convey vastly different impressions and overtones. The Matan Torah of Yisro welcomes the shechinah with supernatural thunder and lightning, and shofar sounds that increase in volume. The trembling mountain marks Hashem's presence as it sends up smoke like the smoke of a furnace. The people are prepared through abstinence and are severely cautioned to keep their distance. They are overwhelmed and left shaking, somewhat traumatized and ready to run. Not so the Matan Torah of Mishpatim. Here the people stand presumably quietly to be crowned by the light sprinkling of blood that marks the new covenant. They have been engaged through Moshe's Torah instruction, busy building altars and carrying the blood of the korbonos, and organized around twelve tribal monuments. The depiction of a fiery quaking mountain lifted off its core surrounded by bolts of light, sound, and visible thunder is absent.

Why two different stories instead of one complete story line? Why are so many details suppressed seemingly in an effort to paint such distinct pictures?

Perhaps the event that would model the experience of Torah study for all time has to include both the excitement associated with the high drama that Sinai was as well as the care and concern that assures that one will tend to the particular requirements sacrifices. There are times that study must be charged by an exciting program and fuelled with a flamboyant teacher or charismatic colleagues. However as any matter worthy of one's energies it will more often require the careful and even painstaking efforts allowing oneself to find one's way in the labyrinth of Torah and slowly amass knowledge even as one attempts to deepen one's understanding of all of Hashem's wisdom. Certainly, we who have in these times come to appreciate the results of laborious and thorough research can well understand the humbling message of parshas Mishpatim.

Thus we return to the story of Sinai after learning in great detail about courts and torts, and concern for the poor and disadvantaged, covering the breath taking scope of Torah and with renewed appreciation of the care extended to those who are struggling. More importantly, the experience of study modeled in Mishpatim and the one closer to the ongoing efforts we extend to be kove'a itim la'torah does not end with a shocked people on the run, rather it culminates with a people riveted on

their vision of Hashem as a consuming fire which is visible to all.

From: Rabbi Yissocher Frand[SMTP:ryfrand@torah.org]
"RavFrand" List - RABBI FRAND on Parshas Mishpatim
Dedicated This Year Le'eluy Nishmas Chaya Bracha Bas R.
Yissocher Dov - In memory of Mrs. Adele Frand

The Honor Due a Thief

Parshas Mishpatim discusses a large portion of the mitzvos that are categorized as "Bein Adam L'Chaveiro" [between man and his fellow man]. We are taught the obligations of Shomrim [paid or unpaid watchmen] and the halachos [laws] of Nezikin [various types of damage]. We are taught the laws of lending and borrowing, of honesty in business transactions, and of how to treat widows and orphans. All of these halachos are taught in this week's parsha.

We might ask ourselves: if we were to write the Torah, and we wanted to set the tone for the body of laws presented in Parshas Mishpatim -- which law would we introduce first? Obviously 100 different people will have 100 opinions on this matter. But I dare say that few people, if any, would choose the law of the Eved Ivri [Hebrew slave, or indentured servant] as the first law, as the introduction to this section.

Nevertheless, the Torah does begin with that Eved Ivri. The greeting, so to speak, of the laws governing interpersonal business dealings and relationships is the law that if someone steals and can not afford to pay back, he is sold into slavery. Parshas Mishpatim begins with the laws governing treatment of such an individual. This seems to be a strange choice of where to begin.

Rav Samson Raphael Hirsch (1808-1888) explains why this choice is most appropriate indeed. All of the laws that will be introduced in this week's parsha - how we must be careful with our fellow man's money and his property - are all based on the concept of Kavod HaBriyos [respect for humanity]. They are all based on implanting within us the idea that my friend is, in fact, created in the Image of G-d. He is a G-dly person. Once that idea is implanted in my consciousness, I have the philosophical underpinning upon which everything else is based.

The Torah is telling us how one must treat another human being. Which human being does the Torah choose to illustrate this point? The thief! The mere word conjures up the image of a despicable character. This person, who in other societies is thrown into jail to rot away, is not to be so treated in a Jewish society. He, too, is a human being whose respect we must maintain. Our Sages tell us that when one acquires an indentured servant, it is like he has acquired a master for himself (based on the restrictions and obligations imposed on the owner).

The Talmud [Kiddushin 20a] says that if a person only has one pillow, he must give the pillow to his servant rather than take it for himself. If the Torah goes so far in the treatment of a thief to preserve his dignity and self-image, then how must we treat someone who is not a thief but rather is our peer, our equal, our next door neighbor?

The tone for the very infrastructure of the laws governing our inter-societal behavior is set with the laws of the indentured servant. If we can learn to appreciate that even the thief was created in the Image of G-d, then we can quickly understand why we must not cheat or insult or cause pain to or take advantage of anyone in society.

Do Not Be Taken In By The Briberies of Life's Experience

"You should not take a bribe, because the bribe will blind those who can see and will pervert the words of the righteous" [Shmos 23:8]. Once a person accepts a bribe, his perspective becomes tainted to the extent that he can no longer judge a situation fairly.

Immediately following the warning against bribes, the Torah commands: "And the convert you should not oppress; for you know what it means to be a stranger, for you were strangers in the land of Egypt" [Shmos 23:9].

What is the connection between the earlier law directed at judges and the later law dealing with how to treat converts? The Shemen HaTov explains the connection by introducing the concept of "the briberies of the trials of life". Sometimes a person can be bribed - his perspective can be affected - not by a payoff, but by what he has experienced in life.

It is not uncommon that someone loses a father. This image of an orphan automatically will conjure up emotions of compassion. But there may be a person who reacts to this situation with absolutely no compassion. Why? When this person was a child, he also lost his father. He made it through life. It was tough, but he made it. Such a person may have difficulty showing compassion for the orphan. Such a person may be thinking, "Why is everyone getting all excited about this kid?" Sometimes it is the very people who themselves have suffered a similar tragedy who have the least compassion for someone in the same circumstances. It hardens rather than softens their reaction.

Such a concept exists in life. Common experience can harden a person rather than allow him to empathize. The Torah is telling us not to take bribes. The warning is not merely against taking monetary bribes. The Shemen HaTov explains that the Torah is telling us not to let our life experience - including that of having ourselves been foreigners in a foreign society - harden our attitude towards converts to Judaism.

Just because someone has "made it" does not give him a license to say "I made it on my own -- He can also make it on his own!" Do not let the briberies of life turn you away from that which should be your natural reaction -- to show compassion to someone less fortunate than yourself.

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These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: Tape # 271, Experimental Medical Treatment. Tapes or a complete catalogue can be ordered from the Yad Yechiel Institute, PO Box 511, Owings Mills MD 21117-0511. Call (410) 358-0416 or e-mail tapes@yadyechiel.org or visit <http://www.yadyechiel.org> for further information. RavFrand, Copyright © 2001 by Rabbi Yissocher Frand and Torah.org. Torah.org: The Judaism Site <http://www.torah.org/> 17 Warren Road, Suite 2B learn@torah.org Baltimore, MD 21208 (410) 602-1350

From: RABBI YISROEL CINER ciner@torah.org
Parsha-Insights - Parshas Mishpatim

This week we read Parshas Mishpatim, Judgments, which contains fifty-three different laws. The Ramban explains that these laws came now, after the Ten Commandments, to give the parameters for the Tenth Commandment: Do not covet the belongings of your neighbor. Only a clear system of judgments allows for clearly defined ownership and rights. Without knowing what actually is your neighbor's, the last commandment cannot be properly fulfilled.

Amongst these guidelines for interpersonal relationships, the passuk {verse} teaches: "A widow or orphan you shall not afflict. If you will afflict them, if they will cry out to me I will hear their cries. [22:21-22]" Rashi explains that this injunction actually applies to causing anguish to any individual. The passuk only mentioned widows and orphans, as they are unfortunately common and easy targets.

Beware, the passuk teaches. When people cry out to Hashem, He hears their cries. This is the case no matter what causes them to cry out. Every t'filah {prayer} has its power and makes an effectB

I recently came across a story involving Rav Kanievsky, zt"l, author of the Kehilos Yaakov, known to the world as 'the Steipler.' One of his grandchildren remarked to him that he was planning to travel to the Kotel {the Western Wall} in order to pray.

"When you are standing there, please mention me in your prayers," the Steipler asked of him.

His grandchild was a bit shocked. "Do I need to mention my

grandfather before Hashem? Your connection to Hashem is so, so strong! Do you think that the heavens don't know about the Kehilos Yaakov that there=s a need for me to mention you?"

The Steipler's response was immediate and sharp. "Know that no prayer is sent back empty. That is the nature of Hashem in this world. Every word of prayer causes a reaction. If not today then tomorrow, if not tomorrow then the next day, it might even take a hundred years but every word of prayer has its effect. Any prayer that you'll say on my behalf," he told his grandson, "will have a tremendous effect."

The biggest problem is that we don't really believe in the power that our t'filos have.

There=s a famous story that happened in the time of the Alshich Hakodesh. A certain person had always earned his livelihood hauling tar and other such materials on a wagon hitched to a donkey. One time he heard a shiur {class} given by the Alshich about pure trust in Hashem where no effort needs to be made. He thought to himself that he must be crazy working so hard to earn a living and decided to trust in Hashem and quit working.

He began to spend his days sitting by the fireplace reciting T'hillim {Psalms}. Even when his wife and children began to worry, asking him to return to work to earn some money, he remained calm and steadfast. "Are you crazy?" he asked them. "I heard from the Alshich that if a person really trusts in Hashem, He'll send sustenance without any work needing to be done. Why should I kill myself to bring something that will come on its own?" And with that, he calmly returned to his T'hillim.

Seeing no purpose in owning the wagon and donkey, he sold them to a gentle neighbor. This new owner took the wagon and donkey to an area where he was digging and discovered a large stash of gold and gems. He filled sacks, placed them on the wagon and then returned to dig some more only to be killed by a large falling rock. Hours later, when the donkey began to get hungry, it returned on the path it had walked for years, back to the house of its original owner. He calmly paused from his T'hillim to look outside and see the bounty that had come his way.

The students of the Alshich approached their Rebbe, wondering how this simple wagon driver had succeeded with his faith while they had all failed. The Alshich explained that the wagon driver had accepted the truth he had heard without doubts or fears. He understood it and accepted it as plain and simple fact. "You, on the other hand," he told his students, "had worries and concerns. You didn't believe in the power of your bitachon {trust}."

As I said, if we'd only believe in the power of our t'filos B

This past week a student related to me something incredible. He is a boy from a very rough background who was finding it difficult to adjust to religious observance. He didn't see himself ever becoming truly observant. Last week his mother called telling him that his great grandfather was in a coma and asked him to go to the Kotel to pray for him. As the Mashgiach {spiritual supervisor} was scheduled to speak that night, he recommended to the boy that he should go after the sicha {speech}. That night the Mashgiach discussed the power of t'filah. He quoted the Talmud that teaches that if a person says a certain part of the prayers with all of his focus, strength and heart, even an evil decree that had been standing for seventy years is torn up. The boy heard this and accepted it at face value. No doubts and no worries.

At the end of the sicha he promptly traveled to the Kotel and began to pray. As he told me: "I had 'sick' kavanah {focus} when I said those words and I did everything with more concentration than I ever did in my life. When I called my mom later we figured out that just when I left the Kotel was the time that my great grandfather came out of the coma."

He believed it.

Good Shabbos, Yisroel Ciner

In response to the many caring people who have asked about my father, he is post surgery and will soon be undergoing treatments. All continued prayers on his behalf (once again, his full name is Asher Chaim ben Perel) are greatly appreciated (and effective). Thank you, YC Parsha-Insights, Copyright 1 2001 by Rabbi Yisroel Ciner and Torah.org. Rabbi Ciner is a Rebbe [teacher] at Neveh Zion, <http://www.neveh.org/>, located outside of Yerushalayim [Jerusalem, Israel]. This list is part of Torah.org: The Judaism Site (Project Genesis, Inc.). <http://www.torah.org/learn@torah.org>

From: Yeshivat Kerem B'Yavneh[SMTP:feedback@kby.org]
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Parshat Mishpatim

"I Will Restore Your Judges as They Were Initially"
Rosh Hayeshiva RAV MORDECHAI GREENBERG shlita
"And these are the ordinances that you shall place before them."
(Shemot 21:1) The Mechilta comments, in the name of Rabbi Yehuda, "'And these' adds to the earlier ones [the Ten Commandments]. Just as the earlier ones are from Sinai, so too these are from Sinai." This statement stands in antithesis to the famous saying in the New Testament, from the teaching of Rome, "What is G-d's is G-d's; what is the Emperor's is the Emperor's."

That outlook says that there is a complete separation between religion and state, between the Divine ideal and the societal ideal. In contrast, Judaism teaches that the entire societal and political order has to be based on the Divine ideal, and not on human, societal norms. Righteous and pious individuals exist in every nation. The unique claim of Judaism is to form a nation that lives in its state, while all the orders of society and government -- not only that which is between man and G-d -- are Divine.

G-d says about Avraham, "I have loved him, because he commands his children and his household after him that they keep the way of Hashem, doing charity and justice." (Bereishit 18:19) It does not say, "they keep the way of Hashem and do charity and justice," which would mean that there are two realms: the way of Hashem (between man and G-d), and charity and justice (between man and his fellow). Rather, it says, "the way of Hashem, doing charity and justice" -- in other words, doing charity and justice is the way of Hashem.

Similarly, Moshe tells Yitro, "The people come to me to seek G-d." (Shemot 18:15) What is the nature of this seeking of G-d? "When they have a matter, one comes to me, and I judge between a man and his fellow." (18:16)

The approach which sets aside for G-d the spiritual realm alone, and removes Him from the socio-political realm, is an invalid approach, and is the basis of Chazal's opposition to one who goes to be judged before the secular courts. "Even for a case that they judge the same as the laws of Israel, and even if both litigants agreed to argue before them [the secular courts] -- it is prohibited. Anyone who comes to litigate before them is wicked, and it is as if he cursed and blasphemed and raised his hand against the Torah of Moshe Rabbeinu a"h." (Shulchan Aruch C.M. 26:1) "Secular courts" does not only mean a non-Jewish court, but rather any legal system that is not based on Torah law, even if its leaders are Jewish, since going before them implies admission that Divine justice is unable to deal with and to offer solutions to problems that are beyond the 613 mitzvot.

Secular justice comes only to ensure a proper societal order, so that society will function properly, but it does not intend to educate and to elevate society. In contrast, the purpose of Divine justice is not only to ensure proper functioning of society, but, as the Ran writes in his Drashot, "So that the Divine Influence will dwell on our nation and stick with us." Therefore, G-d is called the "King of Justice," and the judge is called Elohim, "for the judgment is G-d's."

Rav Herzog, the Chief Rabbi of Israel, wrote: "I do not agree to

appoint judges who will judge based on their own inclination, all the more so based on laws and practices that are not from our sacred Torah. This is simply rebellion against the Torah on the part of the community and the government in Eretz Yisrael. As for our Torah from Heaven -- what will be of it? There is no embarrassment for the Torah and internal destruction greater than this."

At the time of the establishment of the State of Israel he wrote:

Our desire, our goal, is that the State should be democratic in the original spirit of Israel, in the spirit of "Love your neighbor as yourself;" of "Righteousness, righteousness you shall pursue." Our intention is not that our democracy should be a mere imitation, subjugated in its spirit to the democracy of the nations. But now ... what system of justice [is there] -- a mixture of Turkish and English law! "Then I will restore your judges as at first ... Zion will be redeemed through justice." (Yeshaya 1:26) "On account of the justice that will be done in it, she will be redeemed from the nations." (Metzudat David) These are the nations that did not rise to the level of civilized nations until thousands of years after we stood at Har Sinai. In truth, the wisdom of their laws is like a monkey compared to a person relative to our laws ... and the one speaking to you is a person who is well versed in both Roman and English law.

Shabbat Shalom

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ENAYIM L'TORAH
Mishpatim 5761
THE PLEASURE OF TORAH
BY RABBI YAKOV HABER

Vayechezu es ha=Elokim vayokh=lu vayishtu And they [the great men of Israel] saw [the presence] of G-d, and they ate and drank (Mishpatim 24:11).

Midrashim and commentaries interpret these verses in diametrically opposite ways. Rashi, quoting from Midrash Tanchuma, explains that they viewed the Shekhina in an inappropriate, haughty way. However, many others (see Ramban, Seforno, Rashbam, and Targum Onkelos) explain that after witnessing the Divine Presence (or after their sacrifices were accepted), they rejoiced with food and drink (or as if they partook of food and drink).

The component of joy that accompanies an encounter with the Shekhina appears frequently throughout the Torah as a central element in avodas Hashem. The Rav, Rav Yosef Dov Halevi Soloveitchik, zt"l, explained that the very definition of true simcha is lifnei Hashem -- when one is in the presence of the Shekhina. Hence, the Torah on numerous occasions states u=smachtem lifnei Hashem...and you shall rejoice in the presence of G-d.

This component of simcha, although it should be present in all mitzvos (see Rabbeinu B=chaye in his introduction to Parashas B=ha=alos=kha), is especially significant concerning the mitzva of talmud Torah. The Rambam, in his Sefer HaMitzvos (Mitzvas Asei 3), describes how one can fulfill the commandment to love G-d. Shenachshov v=nisbonein b=mitzvosav ... ad shenasigaihu v=nehene b=hasagaso b=tachlis ha=hana=ah...that we should think and analyze his mitzvos (a reference to talmud Torah) ... until we understand it and enjoy its attainment with an extreme de-gree of pleasure. Here, as opposed to other mitzvos, we find the component of pleasure and joy in the very description of the mitzva itself. The words of R. Avraham of Sochatchov in the introduction to his Eglei Tal are well known. One should not think that the joy experienced through talmud Torah demotes the mitzva to a state of shelo lishma, not for the sake of heaven. The opposite is true; the purpose of the mitzva is to experience joy.

An even more striking statement appears in the commentary of R. Avraham min Hahar to Nedarim (36b). The Mishna there states that a

mudar hana=a mei=chaveiro -- one who is proscribed from receiving benefit from his fellow by dint of a neder -- may not use his sifrei kodesh. Now, mitzvos lav leihanos nit=nu -- generally, we don't view the pleasure received through mitzva performance as a benefit vis- -vis the prohibition of nedarim. Why, then, can he not use his sefarim? Whereas other Rishonim offer different answers, R. Avraham min Hahar resolves the difficulty with the above principle. Unlike other mitzvos, the mitzva of talmud Torah was given precisely so that the student of Torah should be mishtashei = a bid=var Hashem -- delight in the word of G-d. He proceeds to quote Tehillim (19): Pikudei Hashem y = sharim, m=sam=chei leiv - the commandments of Hashem are upright, they gladden the heart!

The author of Mesillas Yesharim opens his classic mussar work with the statement that man was created l=his=aneig >al Hashem -- to enjoy Divine pleasure in Olam HaBa. Midrash Tanchuma (Ki Savo 4) notes that the Torah really should not have been given in Olam HaZeh, since Hashem will teach Torah to all in Olam HaBa. However, it was given to Bnei Yisrael in this world so that we should understand the Torah in Olam HaBa. The World to Come is the world of nehenin miziv ha=shekhina (Berakhos 17b) -- enjoying the Divine radiance (which is derived from the above-quoted verse in our Parasha). The direct implication is that limud haTorah is equivalent to nehenin miziv ha=shekhina. This Midrash also highlights for us the great pleasure and joy inherent in Torah study. It is no less than a slice of Olam HaBa right here.

The centrality of pleasure and joy relating to talmud Torah and Hakbalas P=nei HaShekhina would appear to be related, as talmud Torah is similarly an encounter with the Shekhina (see, for example, Nefesh Hachayim 4:6). In the temporary absence of a Beis HaMikdash where the Shekhina dwelt, only the Torah can serve as the vehicle for the encounter with the Divine. Thus, it is not surprising that joy is so crucial in both of these commandments.

The staff wishes everyone a Shabbat Shalom. To submit questions or comments, for subscription and sponsorship information, or simcha announcements, please contact us at (917) 589-1716 or dyolkut@ymail.yu.edu. Mazal Tov to Avital and Elie Weissman, and to Michelle and Yehuda Sarna, on their recent marriages.

From: Shlomo Katz[SMTP:skatz@torah.org]
To:hamaayan@torah.org Subject: HaMaayan / The Torah Spring - Parashat Mishpatim

Edited by Shlomo Katz Mishpatim Today's Learning: Ketubot 10:3-4 Orach Chaim 382:3-5 Daf Yomi (Bavli): Gittin 17

This week's parashah contains civil laws and laws regarding the judicial system, two types of rules without which no society could exist. Rashi writes that the parashah begins with the conjunction "And" to remind us that just as the Aseret Ha'dibrot in last week's parashah were given at Sinai, so the laws in this week's parashah were given at Sinai.

Why must the Torah remind us of this fact? R' Yitzchak Meir Alter z"l (died 1866; the first "Gerrer Rebbe," known as the "Chiddushei Ha'rim") explains that because these laws are both essential and logical, there is a risk that one would think that they are man-made. The Torah therefore instructs us that they were given at Sinai and that they should be observed, not because they are logical, but because they are G-d's will.

Rashi writes that Moshe might not have taught Bnei Yisrael the reasons for the mitzvot in this parashah, but Hashem commanded that he should. The Sefat Emet (1847-1905; the second "Gerrer Rebbe") explains similarly that Moshe did not want the Jewish people to observe the mitzvot because they agreed with the reasons. He wanted to ensure that Bnei Yisrael observed the mitzvot as G-d's decrees.

Hashem told Moshe, "No! Teach them the reasons. The real

challenge is to understand the mitzvot and _nevertheless_ to observe them solely because that is the will of Hashem." (Quoted in Ma'ayanah Shel Torah)

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From: Ohr Somayach[SMTP:ohr@ohr.edu] weekly@ohr.edu Torah Weekly - Mishpatim

* TORAH WEEKLY * Highlights of the Weekly Torah Portion Parshat Mishpatim

LEGALISM SHMEGALISM

"And these are the ordinances" (21:1)

A frequent canard leveled against Judaism is that it is a nit-picking legalistic system which puts ritual above righteousness. The New Testament's "Good Samaritan" story is a prime example of this libel. In fact, Christianity made a religion out of its rejection of Judaism's supposed "legalistic myopia."

This week's Torah portion contains a long list of "legalisms": A husband's obligations to his wife; penalties for hitting people and cursing parents, judges, and leaders; financial responsibilities for physically damaging someone or their property; payments for theft and penalties for not returning an object that one accepted responsibility to guard; the right to self-defense for a person being robbed. The list of "legalisms" goes on and on.

Judaism teaches that there is no difference between so called "ritual" law and laws concerning our fellow man. There is no difference between a mezuzah, Shabbat, tefillin on the one hand, and the obligation to honor our parents or feed the poor on the other. The object of all these laws is one and the same -- that we should be a holy people.

It's not sufficient that justice should be done. The Torah requires that we should become a people whose very nature is to do justice, that this is who we are; that justice and righteousness are our very essence -- not merely a pragmatic relationship with our fellow beings.

Judaism is a system where one's every thought and action can be suffused with holiness. Nothing in this world is devoid of the opportunity to be used to elevate ourselves and mankind. No activity is beyond the potential for holiness. This is what the world mistakes for "ritualism" and "legalism." The genius of Judaism is that it sees the potential for holiness even in the ordinary and the mundane. There is no such thing as a secular world versus a religious world. In Judaism there is no such thing as "church versus state." For there is nowhere in this world that is devoid of G-d. Every single thing in this world has the potential to be used, or refrained from, in the ascent of man to his Creator.

If something literally had "no use" -- it would also have no ability to exist. For that which is truly use-less has no merit to be and, by definition, could not exist.

You might think, however, that when it comes to social justice, there's not a lot to choose between Judaism and other religions and systems of morality.

You'd be wrong. Even though the Torah's code of social justice is superficially similar to other codes, there's an enormous difference.

And that difference lies in one Hebrew letter at the beginning of this week's parsha. That letter is vav. The letter vav at the beginning of a word means "and." Rashi explains that the reason our parsha begins

"And these are the ordinances" rather than just "These are the ordinances" is to connect this week's parsha to last week's. This is to teach us that just as the laws of man's relationship with G-d such as those outlined in last week's parsha come from Sinai, so too do the laws of social justice come from Sinai.

The rest of the civilized world also legislates social justice. The difference between their enactments and Judaism, however, is that one small letter at the beginning of our parsha -- And. No society can exist without some code of acceptable behavior, but the difference between the Torah and every other system of laws is enormous -- no man-made law can withstand the onslaught of a person's baser instincts. In times of trial and test, these laws go "out the window."

Rivers of innocent blood have flowed in wars in every era, including our own, in spite of the fact that "You shall not murder" is a universally accepted tenet.

This is what gives the Torah's code of social justice power and durability thousands of years after its institution.

Sources: * Rabbi Shlomo Yosef Zevin

HAFTARAH PARSHAT SHEKALIM: Melachim II 12: 1-17

Jealousy, lust and pride: According to our Sages, all of our mistakes and sins can be categorized under these three headings.

This week we read Parshat Shekalim, the first of four special readings leading up to Pesach. These readings represent the spiritual cleansing that must take place in the heart of every Jew to become worthy of the exodus from Egypt. We must rid ourselves of jealousy, lust and pride before we can become worthy of the title "Am Kodosh" G-d's holy nation.

The parsha of shekalim contains the formulation for the correction of jealousy. The jealousy of Joseph's brothers led them to sell him for twenty silver pieces. The correction for this sin is contained in the designation of the half shekel given to the Temple.

Unlike the other donations to the Temple, regarding the half shekel the Torah commands us that "the rich man may not give more, nor the poor man less." Thus the total equality of every Jew is ensured and the possibility of jealousy is erased.

Sources: * Rabbi Mordechai Miller explaining Pri Tzaddik

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From: Machon Zomet[SMTP:zomet@mail.netvision.net.il] To: shabbat-zomet@yerushalayim.net Subject: Shabbat-B'Shabbato: Mishpatim (Shekalim)

PUNISHMENT OR REWARD?

by RABBI AVRAHAM YOSEF SCHWARTZ Rabbi of "Bnei Tzion" Synagogue, Ramat Gan

According to Rashi, the Hebrew slave discussed in the beginning of this week's Torah portion is a thief who is unable to return what he stole since he no longer has it in his possession. Thus, the court sells him as a slave, with the sale price serving to repay his victim.

Afterwards, the slave has a very easy life. His master is required to support his wife and children. If the master has the bad luck of having only one pillow, he must give it to the slave, while he himself sleeps without a pillow. It is forbidden for the master to eat fresh bread while giving old bread to his slave. At the end of six years, when the slave goes free, the master is required to give him generous gifts. Is there any wonder some slaves wanted to extend their stay at their master's house?

And we can only wonder: This is, after all, a thief, an evil person ("Who is evil? Rabbi Yosef said, a thief." [Sanhedrin 113b]. Not only isn't he punished, he receives a reward. Is this truly the way of Torah, to encourage thieves?

The answer is that we in modern times are making a mistake, while the way the Torah treats a thief is both correct and efficient. We are familiar with the modern treatment of a thief, putting him in prison. However, this does not treat the root of the problem but rather ignores whatever circumstances led him to steal. What is more, in prison this man will meet other thieves like himself, not to speak of a wide variety of other types of criminals. This might even provide an opportunity to improve his techniques and become an even better thief. In view of all this, what is the point of putting a thief in prison?

The Torah, on the other hand, makes an attempt to solve the root of the problem, which caused the person to become a thief in the first place. It is quite likely that this man did not receive a proper education as a youth, so that he was not able to find a livelihood for himself and his family. This could well be the cause of his turning to thievery, and then following this with other crimes and a descent to the lowest possible moral level.

The Torah decrees that such a man should be sold because of his theft. Thus, he will spend time in the house of a righteous person, his master (who else but a righteous person would be willing to give up his own pillow for a "thief?"). And the thief will learn from his righteous ways. While he is working, he and his family will have no economic burden. And when he goes free, his master will give him a substantial gift, so that until he finds other work he will have what to eat, and he will not have to steal again.

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From: Jeffrey Gross[SMTP:jgross@torah.org] neustadt@torah.org; To: weekly-halacha@torah.org Subject:Parshas Yisro & Mishpatim WEEKLY-HALACHA FOR 5761

By RABBI DONIEL NEUSTADT Rav of Young Israel of Cleveland Heights A discussion of Halachic topics related to the Parsha of the week. For final rulings, consult your Rav.

WHICH OCCASIONS MAY A MOURNER ATTEND?

[Parts I & II]

When a close relative passes away, the family is required to sit shivah, followed by a three-week period of less "severe" mourning called shloshim. One who loses a parent observes a full year of mourning, starting with the day of burial(1) and ending 12 months later.(2) This extended period of mourning, known as "12 months", was instituted by the Sages in order to pay proper respect to parents. Since a child is obligated to honor parents even after their death, this mourning period for parents is longer than for any other relative.(3) [A child should not mourn for "12 months" if a parent explicitly requested that he not do so.(4)] One of the main features of this extended mourning period is the restriction on attending festive meals which take place outside of the mourner's home.(5) In the view of the Rabbis, partaking of festive meals outside of one's home is inappropriate for one who is in mourning. But what exactly constitutes a festive meal and what does not is a subject of much debate among the Rishonim and is further complicated by the various customs which have evolved over the years. What follows is an attempt to clarify the sources so that the reader can present his specific case to his rabbi for a ruling.(6)

Note: Our discussion covers the mourning period known as "12 months" only. The laws for shivah [or shloshim for a parent(7)] are stricter and are not the subject of this discussion.

The views of the Rishonim There are different views among the Rishonim(8) as to the type of meal which is restricted [Note that only the meal is restricted. It is clearly permitted for a mourner to attend a bris, a pidyon ha-ben or any other mitzvah ceremony [other than a wedding] before the meal begins(9)]: The restriction applies only to meals which are strictly of a social nature and have no religious significance (seudas ha-reshus). Any mitzvah celebration, e.g., a wedding, bris, bar mitzvah, etc. may be attended.(10) The restriction applies [mainly(11)] to meals of mitzvah celebration like weddings, bar-mitzvahs, brissim, etc. This is because the mitzvah itself lends a festive atmosphere to the occasion. There are two exceptions: 1) Weddings - if the absence of the mourner will cause great distress to the groom or bride and mar their simchah(12); 2) A meal which the mourner is obligated to eat, such as korban pesach or ma'aser sheini during the time of the Beis ha-Mikdash.(13) The restriction applies only to weddings [or sheva berachos] and remains in effect even if the absence of the mourner will cause distress to the groom or bride.(14) Other mitzvah celebrations, such as a pidyon ha-ben, bar mitzvah or siyum, are permitted.(15) The view of the Shulchan Aruch Shulchan Aruch deals with this issue from two different angles. First, the Rama rules that the basic halachah is a compromise between the second and the third views listed above. Thus he rules that all mitzvah celebrations - other than weddings - may be attended [like the third view], and even a wedding may be attended if the simchah will be marred by the mourner's absence [like the second view].

But after positing all of the above, the Rama goes on to say that the custom has become that a mourner does not attend any meal outside of his home, neither meals of a social nature [like the first view] nor any type of seudas mitzvah, including a bris or a pidyon ha-ben. While the Rama's custom is recorded in all of the later poskim and has become the accepted minhag yisrael, there are conflicting opinions whether the custom covers all meals outside the home or whether there are some exceptions. Some poskim mention a siyum(16) or a seudas bar mitzvah(17) as exceptions,(18) while others specifically include them in the Rama's ban and prohibit attending them.(19) The Rama's custom notwithstanding, it is clear that a mourner is not forbidden to eat a meal outside of his home if otherwise he would not have a place to eat. Thus it is permitted, for example, to invite an out-of town mourner who needs a place to eat,(20) or to invite a mourner's family for supper when circumstances have made it difficult for them to prepare their own food. [Continued next week]

FOOTNOTES:

1 Mishnah Berurah 568:44. 2 During a leap year, the thirteenth month does not count; the restrictions end after 12 months. 3 Igras Moshe Y.D. 1:255. See Nekudos ha -Kesef Y.D. 402 to Taz 9. 4 Shach Y.D. 344:9. 5 It is permitted to take part in any meal - except a wedding - which takes place at the mourner's home; Rama Y.D. 391:2. When possible, sheva berachos should be avoided as well; see Pnei Baruch, pg. 214, note 30, and pg. 460, and Nishmas Yisrael, pg. 294. 6 Each case must be evaluated on its own merit, as sometimes there are extenuating circumstances, such as family obligations or sholom bayis situations, which may affect the final decision. 7 Shloshim observed for other relatives generally follows the same guidelines as "12 months" for a parent. 8 There are also various interpretations among the latter authorities in explanation of the views of the Rishonim. Here, we have followed mainly the interpretation of the Aruch ha-Shulchan. 9 Geshet ha-Chayim 21:8-5. 10 S'mag, quoted in Beis Yosef Y.D. 391, but not directly quoted in Shulchan Aruch. 11 Apparently, this view also holds that festive meals of a social nature are prohibited [since this is stated explicitly in the Gemara Moed Katan 22b], but it still maintains that mitzvah celebrations are stricter. 12 Ra'avad, quoted by Rama, as explained by Aruch ha-Shulchan Y.D. 391:5. [The actual situation described in the source deals with the wedding of an orphan.] See, however, Noda beYehuda Y.D. 1:100 who maintains that this exception applies only if the wedding will otherwise be canceled. 13 Accordingly, this exception does not apply nowadays; ibid. [See Radvaz on Rambam Hilchos Aveil 6:6 for an explanation.] 14 Ramban, as explained by Aruch ha-Shulchan Y.D. 391:6. If the mourner's absence will cause the wedding to be canceled, it would be permitted to attend; ibid. 15 Nimukei Yosef, quoted by Rama. According to this opinion, attending a bris is questionable, since it is debatable whether or not a bris is considered a festive occasion; Rama, ibid. 16 See Shach Y.D. 246 :27, as apparently understood by Rabbi Akiva Eiger, Dagul Mirevavah and Pischei Teshuvah in Y.D. 391. See also Geshet ha-Chayim 21:8-6; 22:2-6. According to this view, it is permitted to attend a Melava Malkah whose purpose is to raise funds for charity if no music is played; She'arim Metzuyanim B'halachah 212:1; Nishmas Yisrael, pg. 274. 17 Ibid. This applies only to the meal that takes place on the day of the bar mitzvah or if the bar mitzvah boy recites a drashah. [Contemporary poskim note that nowadays the custom is to be stringent concerning

bar mitzvos; Pnei Baruch, pg. 224, note 63.] 18 Provided that no music is played; Shearim Metzuyanim B'halachah 212:1. 19 Chochmas Adam 161:2; Derech ha -Chayim; Kitzur Shulchan Aruch 212:1; Tuv Ta'am v'Daas 3:86. But even according to this view it is permitted to attend a siyum if the mourner himself is the mesayem (Beis Lechem Yehudah Y.D. 391:2; see Mishnah Berurah 669:8) or if the siyum is being held in memory of the deceased (Nishmas Yisrael, pgs. 261-262). 20 See Da'as Kedoshim Y.D. 391 who permits eating in a hotel.

WHICH OCCASIONS MAY A MOURNER ATTEND? [Part 2] DOES IT MAKE A DIFFERENCE IF IT IS SHABBOS or YOM TOV?

Some poskim(1) maintain that the Rama's custom of not eating meals outside of the mourner's home applies only to weekday meals; on Shabbos it is permitted to attend certain meals(2), e.g., a bris, a Seudas Shabbos or a group Seudah Shlishis.(3) Other poskim do not agree with this leniency and do not differentiate between Shabbos and weekdays.(4)

But most poskim are in agreement that a relative(5) - whose absence from a simchah will surely be felt or noted by the participants - may attend any meal on Shabbos, even a sheva berachos. This is because it is prohibited to make a public display of mourning on Shabbos.(6) If people will notice that a relative who should be there is not present, it is as if the "mourning" is taking place publicly.(7)

WHERE NO MEAL IS SERVED

The Shulchan Aruch quoted above discusses only attending a meal outside of the mourner's home. There is no mention, however, about partaking in a simchah where refreshments or snacks are served.

Harav S.Z. Auerbach was asked whether the Rama's custom refers only to meals eaten out of the home or also to attending a kiddush or a simchah where refreshments are served. He answered that a mourner is permitted to attend such a kiddush or a simchah, congratulate the celebrants, partake minimally of the food and then leave.(8) He noted that even such limited participation should be avoided if there is dancing or music being played.

Harav Auerbach added that it is permitted to attend in this limited fashion only in order to celebrate a simchah or a mitzvah observance. It is prohibited, however, for a mourner to attend any function whose purpose is purely social. Thus it is prohibited for a mourner to invite people to his house, or to be invited to other people's homes, for a social gathering even if no meal is served.(9)

ATTENDING A WEDDING - SPECIAL CIRCUMSTANCES

As previously stated, a mourner may not attend a wedding celebration. Nor may he enter a wedding hall while a wedding is taking place, even if he will not be eating there or actively participating in the wedding.

There are three views quoted in Shulchan Aruch(10) about attending the chupah only(11): Some allow it; others allow it only if the chupah takes place outside of the wedding hall, e.g., in a shul [or outdoors]; others prohibit even that(12) and require the mourner to stand outside the shul [or hall] while the chupah is taking place.(13)

Upon consultation with a rabbi, there could be room for leniency to allow the following mourners to attend a wedding: 1. Parents and grandparents of the groom and bride.(14) 2. Siblings [who have been living together in one home].(15) 3. A shoshvin (one who escorts the bride or groom to the chupah).(16) 4. For the sake of family harmony (sholom bayis).(17) 5. If otherwise there will be no minyan at the wedding.(18) 6. A rabbi, whose job is the be the mesader kiddushin.(19) 7. A cantor, sexton, musician, photographer or anyone whose livelihood depends upon being present.(20) 8. In certain, unique situations, when the absence of a relative will seriously interfere with the happiness of the groom or bride, some poskim permit their attendance.(21) 9. Rama quotes a view that any mourner may attend a wedding if he serves as a waiter(22) and does not partake of the food while in attendance at the wedding dinner. It has become customary that only relatives rely on this leniency.(23)

FOOTNOTES: 1 She'alas Ya'avetz 2:180; R' Efrayim Z. Margalios, 26; Kol Bo, pg. 361; Ge shet ha-Hachayim, pg. 233. 2 But a Sheva Berachos, etc., is prohibited even

according to this view. 3 Eating these meals with the company of friends enhances the special Shabbos atmosphere. If the purpose of the meal is purely social, however, it may be prohibited according to all views. 4 Pischei Teshuvah 391:2 and 4; Igros Moshe Y.D. 3:161. Seemingly, this is also the view of all the major poskim who do not differentiate between Shabbos and Yom Tov. 5 Or a close friend; Tzitz Eliezer (Even Ya'akov 56). 6 Even during the shivah or shloshim. 7 She'alas Ya'avetz 2:180; R' Efraim Zalman Margalyos, 26; Pischei Teshuvah 391:4; Igros Moshe Y.D. 3:161. There is an opinion (Shach Y.D. 393:7) that holds that a public show of aveilus is only prohibited during the Shabbos of the shivah. If so, this leniency does not apply; Shemiras Shabbos K'hilchasah 65:66. 8 Minchas Shelomo 2:96-12. According to Harav Auerbach's opinion, apparently, it is permitted to attend any simchah where no actual meal is served. While there certainly are sources upon which this decision may be based (see Teshuvah me-Ahavah 3:77-1), it is not clear if all poskim are in agreement; see Igros Moshe Y.D. 3:161 who allows attending a sholom zachar only if the mourner's absence will be noticed. 9 This ruling is based on the words of the Shulchan Aruch and Taz Y.D. 385:1, Teshuvos Binyan Olam 62 and Gesher ha-Chayim 21:7-9. 10 Y.D. 391:3. See Aruch ha-Shulchan 12. 11 Chupah means the actual ceremony [even though music is being played; Shevet ha-Levi 1:213]. It does not include the reception after the chupah. 12 Unless the mourner is honored with reciting a berachah under the chupah. 13 While there is no clear decision or binding custom, the Rama seems to rule like the second view and Gesher ha-Chayim 21:8-4 writes that this has become the custom. 14 Aruch ha-Shulchan Y.D. 391:10; Igros Moshe Y.D. 2:171 and O.C. 4: 40-16 [who permits parents to attend a child's wedding even during shivah.]; Harav S.Z. Auerbach (Shemiras Shabbos K'hilchasah 65:66 and Tikunim u'Miluim) concerning Sheva Berachos. 15 Gilyon Maharshah Y.D. 391:1. 16 Some poskim permit a shoshvin to attend the wedding but not to partake of the food, while others allow him to eat if he also "serves a little bit". 17 Igros Moshe Y.D. 1:255; Tzitz Eliezer (Even Ya'akov 56-9). 18 Rabbi Akiva Eiger; Y.D. 391:3. 19 He should not, however, partake of the meal - Kol Bo, pg. 360. 20 See Kol Bo, pg. 360; Gesher ha-Chayim 21:8-3; Pnei Boruch, pg. 227, note 73. 21 Tzitz Eliezer (Even Ya'akov, 56). Not all poskim agree with this leniency. 22 A "waiter" means serving the entire meal, just like any other waiter who is employed by the caterer - Harav S.Z. Auerbach and Harav Y.S. Elyashiv quoted in Pnei Boruch, pg. 216, note 35. 23 Gesher ha-Chayim 21:8-11. Weekly-Halacha, Copyright 1 2001 by Rabbi Neustadt, Dr. Jeffrey Gross and Torah.org. The author, Rabbi Neustadt, is the principal of Yavne Teachers' College in Cleveland, Ohio. He is also the Magid Shiur of a daily Mishna Berurah class at Congregation Shomre Shabbos. The Weekly-Halacha Series is distributed L'zchus Doniel Meir ben Hinda. Weekly sponsorships are available - please mail to jgross@torah.org. The series is distributed by the Harbotzas Torah Division of Congregation Shomre Shabbos, 1801 South Taylor Road, Cleveland Heights, Ohio 44118 HaRav Yisroel Grumer, Marah D'Asra. Torah.org: The Judaism Site <http://www.torah.org/> 17 Warren Road, Suite 2B Baltimore, MD 21208

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THE TANACH STUDY CENTER www.tanach.org In Memory of Rabbi Abraham Leibtag Shiurim in Chumash & Navi by Menachem Leibtag PARSHAT MISHPATIM - abstracts

Part One - Organizing Parashat Mishpatim

Parashat Mishpatim presents a wide array of laws and mitzvot. Due to the detailed nature of the legal content of this parasha, we often neglect to look upon it from a bird's eye view and assess the overall structure. So, let's give it a try. We will first arrange the laws into discernible sections, and then analyze the progression from one section to the next. The first section, which runs from the beginning of the parasha through 22:19, discusses "case-type" law. Meaning, it addresses a range of specific circumstances in which the court must render a decision between litigants. The parasha then shifts to the imperative form, issuing certain obligations and prohibitions regarding basic, civil conduct. This section, which spans from 22:20-23:9, is clearly demarcated by one prohibition that both opens and closes the section: the prohibition against taunting foreigners. This mitzvah sets the tone for this entire section, which demands upright and ethical behavior: proper treatment of the underprivileged, paying taxes (tithes and firstborn animals), legal integrity, and helping others, including one's foes. The laws of Parashat Mishpatim conclude with a third and final section, which deals with Shabbat, the sabbatical "shemita" year, and the pilgrimage festivals. This progression may reflect the proper sequence when forming a religious society as demanded of Bnei Yisrael. First and foremost, a competent judicial system is necessary to ensure law and order. Secondly, the citizenry must become sensitive to the needs of others - particularly the underprivileged - even in matters unenforceable

by the courts. Only after society has grounded itself on these ideals of moral and ethical conduct can it experience a special relationship with the Almighty, as reflected by the laws of Shabbat and the pilgrimage holidays. We may detect another pattern in Parashat Mishpatim, as well, one which operates within the framework of Parashat Yitro. Let's consider the unit from Shmot 19 (Bnei Yisrael's arrival at Sinai) through the end of chapter 24 (the end of Mishpatim), and trace the progression of theme "outside-in," from the unit's beginning and end to its center. This unit begins and ends with a covenant: the Revelation in chapters 19-20 and the ceremony of chapter 24. Immediately following the commandments, G-d urges the people to recognize Him as the One who revealed Himself at Sinai, and then prohibits idolatry and orders the construction of an altar (20:19-23). These three issues, which parallel the first three of the Ten Commandments (the altar serves to sanctify G-d's Name, parallel to the third commandment), appear again in Parashat Mishpatim, prior to the account of the ceremony (23:20-25; note "for My Name is in its midst" in 23:21). Moving in one step further, Parashat Mishpatim opens with the freedom of servants after seven years, parallel to the mizvah of Shabbat. This mitzvah is represented at the other end by not only another mention of Shabbat, but also by the mitzvot of "shemita" and the festivals (23:10-9). In between, we find a whole array of laws governing interpersonal conduct, which parallel the final six commandments. This structure, which features the Sinaitic covenant at either end and civil law in the middle, reflects a fundamental Jewish principle: our religious responsibilities apply first and foremost to our day-to-day, civil conduct. We may never divorce spirituality from social conduct. To the contrary, the implementation of the covenant must occur in the social sphere before any other realm of life.

Part Two - The Second Half of Ma'amad Har Sinai

Although Parashat Mishpatim is best known for its legal content, we should not ignore the Parasha's conclusion, which continues the story of Ma'amad Har Sinai (the receiving of the Torah at Sinai). This final section (Shmot 24) includes: Moshe's relating the laws to the people and their acceptance thereof, the construction of an altar for offering sacrifices, Moshe's public reading of the "book of the covenant," and the ascent of Moshe, Aharon, his sons, and the elders up Mount Sinai. Seemingly, this account simply continues the story begun in Parashat Yitro. Recall that after the Ten Commandments Moshe ascends the mountain to study the laws. G-d teaches him many mitzvot, recorded in the final verses of Yitro through chapter 23 in Parashat Mishpatim. Moshe now comes down and tells the mitzvot to the people, who emphatically respond, "We will do!" (24:3). They then conduct a formal ceremony, including sacrifices and Moshe's public reading of these laws. This is how the Ramban explains. Rashi, by contrast, holds that this entire section occurred earlier, before the Ten Commandments. According to his interpretation, this ceremony of Shmot 24 actually took place in Shmot 19, as part of the preparations for Matan Torah. What prompted Rashi to reverse the sequence of the Chumash? Firstly, merging these two sections could help solve several enigmas. For example, in 19:22,24 G-d makes an ambiguous reference to "kohanim." To whom does this refer? If chapter 24 occurred at the same time, then this elite group may have been Aharon's sons and the elders who formed a representative body to formally accept the covenant on behalf of the entire nation, as described in 24:9-10. Furthermore, Bnei Yisrael declare "na'aseh" ("we will do") three times in Parshiyot Yitro & Mishpatim. By merging the two sections, this redundancy becomes clearer. Another advantage of Rashi's approach relates to the "book of the covenant" Moshe reads to the people. Rashi clearly cannot explain as the Ramban does, that this book consisted of the laws of Parashat Mishpatim; according to Rashi, Parashat Mishpatim hasn't happened yet! He therefore understands this book as Sefer Breishit. How appropriate it is for Bnei Yisrael to study Sefer Breishit as part of their formal acceptance

of the Torah! Breishit speaks of how and why they are selected as G-d's nation. Now that Bnei Yisrael accept the responsibilities and privileges of G-d's nation, they must review the purpose and function of their designation. Of course, Rashi's approach begs the question, why are two concurrent events separated? If these two chapters occurred simultaneously, why didn't the Torah combine them? Perhaps the two sections of preparations for the Revelation underscore the two distinct aspects of Matan Torah. Chapter 19 mandates strict measures of discipline and purity necessary in anticipation of a divine revelation: washing clothing, abstaining from marital relations, and keeping a distance from the mountain. Chapter 24, by contrast, presents a far more festive environment, replete with public study, offering and eating sacrifices, and celebration. Both these elements must accompany a spiritual encounter. On the one hand, one's relationship with G-d must be one of awe and trepidation, which require one to "keep his distance." At the same time, spirituality should serve as a source of great joy over the privilege of establishing a unique relationship with the Almighty.

Abstracts by DAVID SILVERBERG

<http://www.jpost.com/Editions/2001/02/22/Columns/Columns.21867.html>

SHABBAT SHALOM: Only Israel can inspire ethical monotheism
By RABBI SHLOMO RISKIN

(February 22) "And he took the book of the covenant, and he read it into the ears of the nation, and they said: 'Everything which the Lord has spoken, we shall do and we shall obey' " (Exodus 24:7).

The Jewish nation here enters into its second covenant - eternal pact - with G-d, a covenant based not on the common family-nation gene pool of the children of Abraham and Sarah, but rather on the common religious commitment of adherence to the world of G-d as it was revealed at Sinai.

From this perspective, we can certainly understand why the ratification of this covenant takes place, not following the description of the Sinaitic Revelation of the Ten Commandments in last week's portion of Yitro, but rather after the lengthy exposition of the major civil and ritual legislation of our religious ordinances as outlined in this week's portion of Mishpatim; after all, Judaism consists not of 10 commands but of 613!

What is difficult to understand is that between the exposition of the commands and the ratification of the covenant, there seems to be an interruption in the natural flow of the legal material - a sudden switch to the Israelite conquest of the land of Israel. Only following this strange digression do we return to the ratification of the covenant with which our portion concludes.

What has the land of Israel to do with the covenant of Israel as a religion? After all, religions - unlike nations - are generally not limited to specific locations or countries. In order to understand our text, as well as the Israeli-Jewish phenomenon in history, it is necessary to probe more deeply into the two major experiences of our covenants, the biblical accounts as well as the ritual expressions.

G-d's first covenant with Abraham guarantees the eternal continuity of future progeny and land patrimony - the two most important constituents of a nation-state. This "covenant between the pieces" came as a result of Abraham's request for a divine guarantee that his descendants would inherit the land of Israel, outlines the extent of the divinely guaranteed borders of our land, and emphasizes the blood (of the calf, goat and ram) and divine fire which accompanied the pact (Genesis 15:7-21).

These features of land and blood are found in the second covenant as well as at the conclusion of Mishpatim (Exodus *ibid.*, as well as 24:5, 6).

Unique to the first covenant is a deep sleep which G-d causes to fall upon Abraham, a great dark dread and an ominous prophecy of persecution and enslavement which happily concludes with freedom and the settlement of Israel (Genesis 15:12-21).

The second covenant emphasizes the Israelites' acceptance of the commands, features a sacrificial celebration which includes the pouring of blood on the altar as well as on the nation, and triumphantly concludes: "And they saw G-d, and they ate and they drank." (Exodus 24:3-11)

The contrast between these two covenantal experiences led Rabbi J. B. Soloveitchik to interpret the first as our national covenant of fate and the second as our religious covenant of destiny (see Soloveitchik, Kol Dodi Dofek ("The Voice of My Beloved Knocks") in *Hayahid Vehayahad*).

An individual is not asked whether he wishes to be born into a specific family or nation-state; "accident of birth" is a matter of fate, and the fate of the Jewish nation has been to endure far more than its to-be-expected share of persecution, exile and suffering.

Perhaps this is why the ritual act of circumcision is called "the covenant of the foreskin" (*brit mila*), whose divine command comes 25 verses after the covenant between the pieces (Genesis 17:9-14). An eight-day-old Jewish male infant is not given the choice as to whether or not he wishes to shed some blood; the ritual of circumcision expresses the Jewish fate built into the covenant of our Israeli nationality.

Not so the religious faith of the commandments of revelation; a Jew must choose whether he wishes to abide by the laws or not, whether he wants to keep the Sabbath or reject it, to honor his parents or to disregard them.

The covenant of fate is imposed; the covenant of faith is chosen. To be born into a particular family-nation is our fate; to choose an ideal and ideology as our life's mission is our destiny. The infant about to be circumcised is an object upon whom a ritual is to be imposed; the *bar/batmitzva* and bride/groom who have chosen a life dedicated to the ideals of Torah are subjects actualizing their deepest desires.

Yes, on the one hand, every nation, and therefore any national covenant, is dependent on a specific homeland into which one is born and about which one generally has little choice.

This is not the case, however, with regard to the Jews and the Jewish homeland, Israel. Because we have been exiled to so many lands for so many years, our return to Israel had to depend upon our choice to return to Israel, our willingness to fight for Israel, our understanding that only Israel is our promised land and ultimate home.

Moreover, Israel provides us with the only possible framework for creating a society based on Torah law; the prophetic challenge of a Jewish state is that it become a model of justice and compassion, ethics and integrity, family purity and concern for human welfare which will inspire the world towards ethical monotheism.

Thus the destiny of the nation of Israel can only be fully realized in the land of Israel dedicated to the Torah of Israel.

The land of Israel is as integral a part of our destiny as the people of Sinai; we may have returned to it as a result of the merit of our strength, but we shall actualize it only as a result of the strength of our merit.

Shabbat shalom

From: Ohr Somayach[SMTP:ohr@ohr.edu] To: dafyomi@ohr.edu Subject: The Weekly Daf - #367

Gittin 12-18 Issue #367 Parshat Mishpatim

By RABBI MENDEL WEINBACH, Dean, Ohr Somayach Institutions
VOICE AND HANDS

When some of the sages came to pay a sick call on the great sage Rabba bar Chana they became engaged in a Torah discussion. It was rudely interrupted by a Persian gentile who took away their lantern because it was a day in which these

heathens permitted light only in their house of idol worship. This so upset the sick sage that he prayed to Hashem: "Either hide me in Your shade or exile me to the shade of the Romans."

This implication that the Romans were more tolerable towards the Jews than the Persians is challenged on the basis of Rabbi Chiya's interpretation of a passage in Iyov (28:23) "G-d understands her ways (of Torah and those who study it -- Rashi) and He knew where its place should be." Hashem knew that Jews would not be capable of surviving the decrees of the Romans (who decreed against the study of Torah and performance of mitzvot -- Rashi) so He had them exiled (at the destruction of the first Beit Hamikdash) to Babylon.

The Gemara's response to this challenge is that while Jews were in Babylon under the Chaldean kings -- Nevuchadnetzar, Evil Merudoch and Beltshatzar -- Babylon was preferable to Roman rule. It was only after the Persians conquered Babylon that treatment of the Jews so deteriorated that even Roman rule was preferable.

What is the essential difference between Persian and Roman rule?

Maharam Shif points out that Roman rule over Jews is conditional on Jews being negligent in the study of Torah. This pattern was indicated in Yitzchak's blessing to Esav, the forefather of the Romans, when he consoled him about the fact that he had already blessed his brother Yaakov to be his master. "When you have cause to complain (that Yaakov's descendants do not observe the Torah) you shall cast off his yoke from your neck" (Bereishet 27:40). The particular role of Torah study in determining who will be ruler or subject comes to expression in the earlier words of Yitzchak, "The voice is that of Yaakov but the hands are that of Esav" (Bereishet 27:22), which our Sages (Bereishet Rabba 65:20) see as a prophetic promise that as long as the voice of Yaakov learning Torah resounds then the hands of Esav can have no dominion, but when that voice is silent those hands gain control.

* Gittin 17a

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From: Kollel Iyun Hadaf[SMTP:kornfeld@netvision.net.il] Subject: Insights to the Daf: Gittin INSIGHTS INTO THE DAILY DAF brought to you by Kollel Iyun Hadaf of Yerushalayim daf@dafyomi.co.il, <http://www.dafyomi.co.il> RABBI MORDECHAI KORNFELD

GITIN 3 - dedicated by Marcia and Lee Weinblatt to the merit of Mr. and Mrs. Israel and Gisela Turkel (Yisroel Shimon ben Reb Shlomo ha'Levy, Golda bas Reb Chaim Yitzchak Ozer), of blessed memory.

GITIN 8 - This Daf has been sponsored by Mr. and Mrs. Herb Scheinfeld, l'Iyuy Nishmas Golda bas Reb Chaim Yitzchak Ozer (Mrs. Gisela Turkel), Minnie Weinstein, Sarah Scheinfeld and Rivkah Rachel Scheinfeld. *** Please send your D.A.F. contributions to: *** D.A.F., 140-32 69 Ave., Flushing NY 11367, USA

Gittin 3 WHY A SINGLE WITNESS IS BELIEVED TO TESTIFY ABOUT A GET QUESTION: The Gemara says that a single witness is believed to testify that the Get was written Lishmah and that it is not forged, because of a leniency that the Chachamim instituted in order to prevent situations of Agunah from arising. The Gemara asks that accepting the testimony of a single witness in this case is a *Chumra* and not a Kula, because if the husband challenges the Get, he will be believed and he will invalidate the Get!

The Gemara answers that since the Shali'ach must hand over the Get in front of a Beis Din, he is very careful to research the matter ("Meidak Dayek") and he will not let his reputation become ruined.

The simple understanding of the Gemara is that since the Shali'ach is so careful not to let his reputation become ruined, his words are very reliable and therefore his word is believed against the word of the husband. This indeed is what Rashi writes here (end of DH me'lkara). However, Rashi prefaces those remarks by saying that since a Shali'ach does not want to ruin his reputation, he will make sure that the husband indeed wants to divorce the woman and that the husband will never consider coming to challenge the validity of the Get. Why does Rashi need to add these comments? If the Shali'ach's word is believed -- like Rashi writes -- against the word of the husband even when the husband does come and challenge the Get, then why is it necessary for the Shali'ach to make sure that the husband will not come in the first place?

ANSWER: There are a number of points in the Gemara that are unclear and need explanation. First, why does the Gemara ask that it is a Chumra to believe one witness in this case, because if two witnesses were required, "then the husband *would not come* and invalidate the Get?" The Gemara should have said that it is a Chumra because if two witnesses were required, "then *even if the husband comes*, he will not be able to invalidate the Get" (while if a single witness is believed, then the husband *will* be able to invalidate the Get)!

Second, the Gemara asks the same question according to the view of Rava, that accepting the testimony of a single witness is a Chumra and not a Kula, since, if the husband comes and challenges the Get, he will invalidate it! How can the Gemara assert that if the husband comes and challenges the Get he will invalidate it? The whole purpose of saying "b'Fanai Nichtav" according to Rava is in order to override the husband's challenge to the Get! It is obvious that the Chachamim instituted that the single witness will be believed more than the husband! Why,

then, should we think that if the husband challenges the Get, the Get will be invalidated because of his word?

It is because of these questions that Rashi explains that the Gemara's question is not that the husband will be *believed in court* if he challenges the Get, but rather that if the husband challenges the Get, he might create a *rumor* that the Get is invalid and people will not want to marry the woman, thinking that she is still an Eshes Ish. The answer of the Gemara cannot be that the Shali'ach is "Meidak Dayek" and therefore he is believed more than the husband, because, first, we already knew that he is believed in court more than the husband, and, second, if a single witness is strong enough to counter the husband's challenge, and we suspect that the Get is forged, then the logic of "Meidak Dayek" cannot strengthen the testimony of the witness, since the very fact of his Shelichus is under suspicion. Even though he testifies in front of a Beis Din that he is a Shali'ach and he says "b'Fanai Nichtav," he is no more concerned about his reputation than the husband, who testifies in court that the Get is a forgery! Rather, the Gemara means that the Shali'ach is "Meidak Dayek" to find out for certain that the husband is divorcing his wife willingly and will not be interested in challenging the Get in the first place. This is the way Rashi explains the Gemara.

This explains why the Gemara says that if two witnesses were required, "the husband would not come and challenge the Get and invalidate it," but if a single witness is required "the husband will come and challenge the Get and invalidate it." The Gemara does not mean that the husband will actually disqualify the Get when he contradicts the single witness that the Chachamim required. As we have explained, the Gemara realized -- when it discussed the opinion of Rava -- that the Chachamim trusted the single witness to repudiate the claim of the husband. The Gemara's question is that if a single witness is required, the husband will not be afraid to challenge the word of the witness and to *spread a rumor* that the Get is invalid. Even though the Beis Din will not accept the word of the husband, nevertheless the very spreading of a rumor that the Get is not valid will harm the wife.

If, however, this is true, then why does the Gemara add the words "and invalidate it?" We are only afraid that the husband will challenge the validity of the Get and spread a rumor, but we are not afraid that he will invalidate it! (See TOSFOS, DH Chad Asi, who is bothered by this question and concludes with the somewhat forced explanation that "invalidate it" is not to be taken literally.) In addition, why does Rashi find it necessary to add that since the Shali'ach is "Meidak Dayek," even if the husband does challenge the validity of the Get *the Shali'ach is believed* and his testimony overrides the testimony of the husband?

The answer is that what we have said until now is only true according to Rava. Rabah, though, requires the testimony of "b'Fanai Nichtav" not because the husband might [falsely] challenge the Get and say that it is forged, but because *we* (i.e. Beis Din) are genuinely afraid that the Get truly was not written Lishmah. (It is true that TOSFOS 2b, DH IFi (2) suggests that even according to Rabah, the Chachamim were afraid only that the husband would *falsely* claim that the Get was not written Lishmah; they were not actually concerned that the Get was actually not written Lishmah. Rashi (2b, DH v'Rabanam), though, takes the approach that the Chachamim were afraid that the Get was truly not written Lishmah.) The enactment of our Mishnah was that the Shali'ach who says "b'Fanai Nichtav" is trusted to allay our concerns. However, this only allows us to trust the Shali'ach as long as nobody else challenges his words. The Chachamim did not give his words the power to contradict the husband if he comes and claims that the Get was actually not written Lishmah. Therefore, according to Rabah, the Gemara's question was not just that when a single witness testimony that the Get is Lishmah, the husband will come and *spread a rumor*. The question was that if the husband comes and says that the Get was not written Lishmah (or forged), he will be *believed* in court to contradict the single witness, as Rashi explains (DH d'Iy Matzrechas)! That is why the Gemara says that the husband will *invalidate* the Get."

Rashi therefore explains that the Gemara -- when explaining the opinion of Rabah -- answers that when the witness testifies that the Get was written Lishmah, we trust his testimony *more* than that of the husband since the Shali'ach is "Meidak Dayek." Even if the husband claims that the Get was not written Lishmah, nevertheless since he admits that the Shali'ach *was* a valid Shali'ach, we have a Chazakah that the Shali'ach is "Meidak Dayek" and we accept the Shali'ach's testimony that the Get was written Lishmah.

When the Gemara explains the opinion of Rava later on the Amud, though, it cannot be suggesting that the husband would be believed to cancel out the testimony of the Shali'ach (since the entire purpose of the enactment in the Mishnah is to *trust* the Shali'ach against the word of the husband). Therefore, the Gemara's question must be that the husband will *spread a rumor* against the word of a single witness, and the Gemara's answer is that the Shali'ach will take pains to see that the husband is not interested in spreading a false rumor about the Get, as Rashi explains. The reason the Gemara uses the term "the husband will come and *invalidate* the Get" when discussing Rava's opinion is because it used the identical term when discussing Rabah's opinion earlier on the Amud. (Tosfos often refers to such a phenomenon, calling it "Agav.")

Tosfos here, on the other hand, does not explain this way, since he follows his own opinion expressed earlier, that even according to Rabah we are only afraid that the husband will spread a false rumor -- we have no doubts about the actual validity of the Get. Hence, even when explaining the view of Rabah, the Gemara must have known that the Shali'ach *will* be trusted to override the husband's word, since that was the entire purpose of the enactment of the Mishnah. (M. Kornfeld)

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