

Jerusalem Post Feb 21 2006

**GENERATIONS Rabbi Berel Wein**

The continuing and necessary stress on continuity in Jewish life is based upon the realization that only through continuity in the family structure can continuity be achieved in the national structure as well. The past one hundred-fifty years of Jewish life recorded two episodes that broke this chain of continuity that had survived so many attempts to destroy it over the ages. The first was the revolutionary spirit of Marxism, secularism and nationalism that swept the street of the Jewish young in Europe and other places as well at the end of the nineteenth century. This spirit was so strong and so widespread that it undermined almost all Jewish family structure and pitted the younger generation in angry confrontation against the older generation. The old had to be discarded in order to make room for the new. This new spirit of Jewish activism and utopianism caused an abandonment of Jewish practice and a substitution of foreign values for traditional Jewish thought and attitudes. The rip in the fabric of Jewish continuity occasioned by this revolutionary spirit, a spirit that tragically has proven to be unrealistic and destructive in practice, has great ramifications in Israeli society today. To a great extent, the religious and secular societies here in Israel have little interaction one with another. They are like darkened ships that pass each other in the night. This augurs little comfort for our continuity as a united people and a strong society. The "new" generations have lost connection to their ancestral heritage and their past generations.

The second calamity that befell the Jewish world that destroyed our chain of continuity is the Holocaust and its resultant trauma on Jewish society. Aside from the fact that two entire generations were destroyed, thus leaving millions of Jews with no grandparents or immediate past generations to relate to, the Holocaust guaranteed that our attempt to restore our past would be in the main unsuccessful.

The Orthodox world has created a fantasy past of Eastern Europe, a world that did not exist in the 1930's. In creating this fantasy world of unanimous sweetness, unity and piety, we have made it impossible to really reconnect to our past generations since they never existed in the manner that our fantasizers now portray them as having been. Current Jewish housing developments carry names of Polish and Lithuanian villages whose Jewish populations were destroyed, many times by their very neighbors in those villages. To me this has always been an eerie and incorrect way of recalling the past. The Jewish world abounds in stories, fables, and legends about the past generations, most of which are fanciful and not accurate. Much of what is therefore askew in current Jewish religious society is a product of this lack of true continuity between generations. It is difficult to accurately recreate the past, especially if we wish to make it fit into currently acceptable political and social norms. Creating a false and make-believe past eventually is detrimental to a healthy and strong generational future.

The Holocaust has also wreaked havoc in the generational inheritance of the secular Jewish society. There remained no one to stand up and admit the mistakes of the past revolutionary generations. There was no grandfather around to tell a grandchild that Marx had bankrupted as an ideologue long before the Soviet Union actually collapsed. And the secular Jewish culture and social heritage of Eastern European Jewry, which almost in spite of itself was automatically suffused with Jewish values and the spirit of Jewish tradition, had almost no surviving teachers or role models for the new Israeli generation. That generation therefore substituted Western culture with all of its attractive surface richness and its deep-seated problems for Jewish culture. The results of this

substitution of values and culture are plain for all to see in today's Israeli society.

In the Sephardic world, the upheaval of forced immigration and the breakdown of generational authority caused by that society's forced secularization in Israel, also destroyed the bonds of family generations. It however suffered in this fashion to a lesser degree than its Ashkenazic brethren. Nevertheless, it was unable to reveal to the larger Israeli society its long experience with the true face of Islam and of the existential struggle that it is now clear that we face here. This breakdown of generational communication has proven to be quite harmful to us. It is always more painful to have to learn bitter lessons from scratch instead of from guidance and instruction. Yet, that is exactly what we will have to do. We will have to rebuild the generational chain of Jewish society even if it must begin now only with ourselves. Only generations that interface with each other can create meaningful Jewish continuity. Shabat shalom.

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**Weekly Parsha MISHPATIM Rabbi Berel Wein**

One of the main issues that the Torah deals with in this week's parsha is that of slavery. The Torah envisioned two types of servants. One was Jewish, who was basically a hired hand for a period of six years or until the yovel (Jubilee year) arrived, whichever came first.

One of the main issues that the Torah deals with in this week's parsha is that of slavery. The Torah envisioned two types of servants. One was Jewish, who was basically a hired hand for a period of six years or until the yovel (Jubilee year) arrived, whichever came first. This servant had the right to renew his indenture past the six-year period if he so desired but never past the time of the arrival of the yovel year. The Torah obviously disapproved of the renewal arrangement, for the servant first had to suffer having his ear drilled before continuing service to his master. Rashi, quoting the Talmud states that the Lord is disappointed, so to speak, in the servant's choice of continued indenture since "they [the Jews] are my servants and are not meant to be servants to others servants." There are compelling human reasons for the arrangement of servitude. It was to repay items that had been stolen or to provide some sort of home setting and living for the very destitute and homeless. It is also humanly understandable that inertia and fear of outside social conditions and having to begin life anew may contribute to the servant wishing to remain a servant to a kind and decent master for longer than the six-year period. Nevertheless, from all of the restrictions that the Talmud discusses on the treatment of servants it is obvious that the project of slavery could not ever be of financial or economic benefit to the masters of those servants. The prophets of Israel in later generations also spoke out strongly against the institution of slavery amongst Jews. As such, it seems that the Torah saw this arrangement as a method of social rehabilitation of petty criminals and the unfortunate dregs of society. But in its moral view of human life, the Torah had scant room for slavery as a social or economic institution. There was also a set of laws that governed the purchase and maintenance that governed the second type of servant – the non-Jewish one.

If that be the case, that the Torah did not favor at all the institution of slavery, then why did the Torah allow its existence within Jewish society at all? This difficult question has challenged all of the commentators to the Torah, especially those of the last two centuries. There is no doubt that for millennia slavery was an accepted social institution in the world, even in the civilized world. It took a four-year bloodbath with over six hundred thousand dead to end slavery in the United States in the middle

of the nineteenth century. There is slavery still existent in parts of the world even today. There is a conception in Torah that the Torah dealt with the reality of the weakness of human behavior and allowed under very strict and hoarded circumstances behavior and institutions, which were not in the purview of the great moral framework. The story of the yefat toar - the beautiful non-Jewish captive woman taken in war and permitted to the Jewish soldier under rigorous conditions and restrictions - is an example of such a Torah attitude in a difficult situation that allows behavior because of social conditions that does not really meet the standards of Torah morality. The idea of slavery is perhaps one of those examples. In any event, slavery has been non-existent in most of the Jewish world for many centuries and the study of slavery and its laws and restrictions remains today a theoretical study without current practical implications in Jewish life. Shabat shalom.

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## **TORAH WEEKLY**

### **Parshat Mishpatim**

**For the week ending 25 February 2006 / 27 Shevat 5766**

**from Ohr Somayach | [www.ohr.edu](http://www.ohr.edu)**

#### **OVERVIEW**

The Jewish People receive a series of laws concerning social justice. Topics include: Proper treatment of Jewish servants; a husband's obligations to his wife; penalties for hitting people and for cursing parents, judges and leaders; financial responsibilities for damaging people or their property, either by oneself or by one's animate or inanimate property, or by pitfalls that one created; payments for theft; not returning an object that one accepted responsibility to guard; the right to self-defense of a person being robbed.

Other topics include: Prohibitions against seduction; witchcraft, bestiality and sacrifices to idols. The Torah warns us to treat the convert, widow and orphan with dignity, and to avoid lying. Usury is forbidden and the rights over collateral are limited. Payment of obligations to the Temple should not be delayed, and the Jewish People must be Holy, even concerning food. The Torah teaches the proper conduct for judges in court proceedings. The commandments of Shabbat and the Sabbatical year are outlined. Three times a year - Pesach, Shavuot and Succot - we are to come to the Temple. The Torah concludes this listing of laws with a law of kashrut - not to mix milk and meat.

G-d promises that He will lead the Jewish People to the Land of Israel, helping them conquer its inhabitants, and tells them that by fulfilling His commandments they will bring blessings to their nation. The people promise to do and listen to everything that G-d says. Moshe writes the Book of the Covenant, and reads it to the people. Moshe ascends the mountain to remain there for 40 days in order to receive the two Tablets of the Covenant.

#### **INSIGHTS**

##### **Public MisSpeaking**

**"Distance yourself from a false word." (23:7)**

I will never forget one of the great lines of political doublethink uttered by a famous Hollywood 'B'-film actor and sometime United States President. When challenged over the truthfulness of a statement he had made, he replied without batting an eyelid, "I misspoke." Lithe as a lounge-lizard, he had managed to finesse a bald lie into an innocent slip of the tongue. I was duly impressed.

Politics has always been truth's slippery slope. Advertising fares no better. And even though standards of truthfulness are mandated for advertising, it's amazing how much can be infiltrated between the lines to distort and misrepresent without falling foul of the law.

"Distance yourself from a false word."

The Torah is uncompromising in its ban on lying. However, there are circumstances where this prohibition can conflict with other prohibitions. What does one do in those situations?

The brother of the Vilna Gaon, Rabbi Zalmele, together with another rabbi, once went to visit a friend of Rabbi Zalmele. They found the friend seated at his meal. He sprang to his feet and begged them to join him. Rabbi Zalmele knew that this man was extremely poor and the meal that he was eating was inadequate for one person, let alone three. Rabbi Zalmele thus excused himself from joining him, protesting that the doctor had prohibited him from the kind of food that his friend was eating.

After they left, the other rabbi turned to Rabbi Zalmele and said, "Is it true that you are ill?" Replied Rabbi Zalmele, "No." Most surprised, the other said to him, "You, who are so careful not to let a false word escape your lips, how can you, of all people, tell a direct lie?" Rabbi Zalmele replied, "The Rambam (Maimonides) was a doctor. He writes that it is prohibited to share the food of someone who does not have enough for himself."

Source: Iturei Torah

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## **Peninim on the Torah by Rabbi A. Leib Scheinbaum - Parsahs Mishpotim**

### **PARSHAS MISHPOTIM**

**If you buy a Jewish bondsman, he shall work for six years. (21:2)**

The Torah's treatment of the Jew who falls on hard times and resorts to stealing as a means of support is in total contrast with secular law. The secular world views a thief as having a habitual, chronic failing: once a thief, always a thief. The punishment that is imposed upon a thief is a prison term where he spends his days and nights with individuals of all walks of life, perpetrators of all forms of crime. By the time he "graduates" from prison, he has been exposed to every type of human deficiency. He entered as a thief, and he leaves as an authority on every form of abomination.

The Torah takes an approach that is radically different. Understanding that a lack of self-esteem might be a precursor to this person's downfall, the Torah seeks to imbue him with a positive state of mind and, thereby, raise his self-esteem. He stole; he cannot repay his debt. Bais Din will find a way for him to reimburse his victim, while simultaneously placing him in an environment that would be therapeutic for the issues that confront him.

While some of us might take issue with the thief's ignoble background, the Torah insists that once the thief is sold as a Jewish bondsman, everything changes. Indeed, Chazal say that one who purchases an eved, servant, actually purchases a master. First of all, the actual sale must be performed with utmost dignity. The thief is not sold publicly. It must be a private sale, one that will uphold his respectability. A man who steals has lost hope. We must see to it that his aspirations and confidence return. Everything about being an eved is focused toward this goal. The master may not demand that he undertake any form of hard labor. He must speak to him with respect and treat him as an honored member of the family. Horav Yechezkel Sarne, zl, asserts that the relationship that the master must retain with the eved supercedes even that which every Jew must establish with his fellow Jew. We have a mitzvah of V'ahavta l'reiacha kamocho, "Love your neighbor as (you love) yourself." In the event that this is impossible, as in a situation when there is only one cup of water for both of them to survive, then we say, chayecha kodmin, "your life precedes his." In other words, there is no stipulation of kamocho, "as yourself," if your own life is in danger. Concerning the eved, however, this law does not apply. The eved is always first.

In the master's home, the eved learns how to act towards others. He learns respect for others, and develops self-respect for himself. One who respects his fellow Jew could neither hurt nor steal from him. The six years that the eved spends in his master's home is an educational process which disciplines and enlightens him. It is a process that indoctrinates him with the character development that he is sorely missing and fosters within him a sense of self-esteem. When the eved realizes his true self-

worth, he will never again resort to denigrating himself with an act of theft.

The Torah begins Parashas Mishpatim, the parsha which addresses civil law, with the laws pertaining to the eved Ivri, by design. It teaches us that regardless of how low a person has sunk, it is our mutual responsibility to assist in his rehabilitation, so that he can once again return to Hashem and serve him productively. Furthermore, the Torah intimates to us the inestimable value of each and every Jew. We may never give up hope - on anyone.

**If has nothing, he shall be sold for his theft... If the theft shall be found in his possession... he shall pay double. (22:2,3)**

In the Talmud Bava Kamma 79b, Chazal distinguish between a ganav, thief, and a gazlan, robber. The thief must pay a fine of keifal, double the principle. If he does not have the ability to repay his "debt," he is sold into slavery to cover what he owes. The robber, on the other hand, pays only the principle - if he is able. If he is unable to pay, he does not. Indeed, the halachah should have been the opposite, since the gazlan, robber, grabs with force, while the thief sneaks in at a time when people will be unaware of his presence. Chazal explain that there is another element to the ganav's nefarious deed that demands an extreme form of atonement: his attitude towards Hashem. The robber is evil, but he does not conceal this from anyone. He acts openly and blatantly, stealing and plundering to his heart's content. The ganav, on the other hand, is ashamed of what people might say. Therefore, he sneaks into the home under the protective veil of night. He does not want people to know that he is a thief, but what about Hashem? Does he give greater recognition to what people might think than to what Hashem knows? Apparently, he does. One who attributes greater eminence to man than he does to Hashem deserves a greater punishment.

In an alternative exegesis, Horav Tuviah Lisitzin, zl, suggests that the ganav has acted surreptitiously, surveying the house, developing a relationship with the owner, so that he could determine the most opportune time to break into the house. He has become the owner's friend, so that he can steal from him, or he takes advantage of a current friendship to further his miscreant goal. This is low. It takes a real scoundrel to use people in such a manner. He has manipulated a friend, so that he can steal from him. The person deserves a punishment commensurate with his contemptibility.

This idea surfaces again in connection with the din, law, of to'ain taanas ganav, a watchman who claims and swears that the object he was asked to guard was stolen. If witnesses testified that he has lied, and the object has been discovered in his possession, the shomer, watchman, pays keifal, double. If the watchman were to claim, however, that the object was lost, and it was discovered later that he lied, he does not pay. Why? In both cases, the watchman has lied and sworn falsely. What difference does it make what it is that he has lied about?

In the Talmud Bava Metzia 94b, Chazal say that an aveidah, a lost article, is analogous to a peshiah, an act of negligence, while geneivah, theft, has a greater resemblance to an oneis, an accident. Therefore, a watchman who claims that the article he was guarding has been stolen from him is attempting to present himself as being wholesome and upright. An "accident" occurred, and the article was stolen. Nebech, it is unfortunate, but he cannot be blamed. The one who claims that the object has been lost is willing to present himself as having been negligent concerning its care. In both cases, the shomer is a liar, but in one of them, the case of geneivah, he seeks to conceal his true character. He is, therefore, punished accordingly.

We now have a new understanding of the sinner who covers up his true nature. He demonstrates that he has greater respect for what people think than for what Hashem knows. That is like adding insult to injury by compounding his sins.

**If you encounter an ox of your enemy or his donkey wandering. You shall return it to him repeatedly. (23:4)**

The Torah in Sefer Devarim 22:1 writes a similar enjoinder, but uses a different word to describe the circumstance in which the animal is now found. There it says, "You shall not see the ox of your brother, or his sheep, or his goat, cast off... You shall surely return them to your brother." The use of the word nidachim, "cast off," as opposed to toeh, wandering, which is the Torah's word of choice in Parashas Mishpatim, prompts the Ramban to distinguish between the situations that each pasuk addresses. Toeh, wandering or straying, is a term implying that the animal has just deviated slightly from the correct path and can subsequently be returned without much problem. Nidachim, however, implies that the animal has run far away. It has distanced itself from its home and its master. In addition, in Sefer Devarim, the Torah adds a sheep and goat to the list of lost animals. Both of these animals will find it difficult to return on their own to their masters' homes.

The Chofetz Chaim, zl, views these pesukim as an imperative for each and every one of us to demonstrate concern for the spiritual well-being of our brethren. If the Torah emphasizes its concern for a Jew's valuables, for his ox, donkey, or sheep, certainly it behooves us to, at least, do the same and more for its owner, our Jewish brother or sister, who has strayed or even who has distanced himself far from the Jewish mainstream. Moreover, Chazal teach us (Bava Metzia 31A) that we derive from the words, hasheiv teshiveim lo, "you shall return it to him repeatedly," that one is enjoined to return the animal even one hundred times. Consequently, by implication, we are obligated to return a lost Jewish soul as often as necessary. Caring for a lost Jewish soul is not a one-time deal; it is a mission that one must undertake regardless of the daunting nature of this task.

The Chofetz Chaim adds that those in our generation who have become alienated from the Torah are not real sinners. They have not acted with animus towards the Torah. They simply neither know, nor have they ever experienced, the beauty and serenity of a Torah way of life. They are no different than lost sheep who have strayed far away and have no way of returning home - on their own. Those that have the talent and ability to reach out to the estranged Jew must do so, and those who lack either the talent or self-confidence to act personally should at least support those who do.

When we reflect upon American Jewry, we realize that the Torah renaissance to which we are privy today is -- for the most part -- the work of a handful of dedicated laymen and Roshei Yeshivah who toiled b'mesiras nefesh, with self-sacrifice, to plant the seeds of Torah in this country. Horav Yehudah Heschel Levenberg, zl, came to New Haven, Connecticut, in 1922, and founded the first advanced yeshivah in America. He came at the behest of the Alter, zl, m'Slabodka, Horav Nossan Tzvi Finkel, zl. His devotion to his students and his dedication and zeal to build Torah in the American spiritual wasteland were guided by a unique compass. It was a tradition from the great tzaddik, Horav Shimshon, zl, m'Ostropolia, who said that to introduce Torah to a new country, one must be ready to sacrifice everything, even his life. He succeeded in producing a number of the gedolei Torah who guided the past, and whose lives continue to inspire the present generation of bnei Torah. In order to feed his students, Rav Levenberg would go from door to door, if necessary. In fact, at one point, he was even reduced to collecting tomatoes from Jewish farmers in the area, so that he could feed his students.

On his deathbed, he related the following to his close student, Horav Sender Linchner, zl: "Do you know the meaning of mesiras nefesh? You probably think of mesiras nefesh as being burned at the stake to sanctify Hashem's Name. No. That is mesiras haguf, sacrifice of the body. I could have remained in Slabodka and spent my life going through Shas (the entire Talmud) many times. Instead, I came to America and spent my days collecting tomatoes from Jewish farmers around New Haven, so that my talmidim would have something to eat. That is mesiras nefesh."

I could go on with stories about those who labored in the field of Torah, so that we, their beneficiaries, could be availed the multiplicity of Torah institutions that exist today. Every community had its own unique rav or rosh yeshivah, who, together with committed laymen, built Torah in their respective communities. I would be remiss, however, not to mention the individual who probably was the architect of Torah in America, Horav Shraga Feivel Mendlowitz, zl.

Rav Shraga Feivel was an individual who lived with a sense of responsibility for his fellow Jew. In fact, no subject so dominated his teaching or private conversation as the need for every Jew to concern himself with the fate of his fellow Jew. Among the most important phrases in his repertoire was, "What are you doing for Klal Yisrael?" He would go so far as to posit that a person who partakes of Hashem's bounty- who breathes His air, who eats His food, and who benefits from His knowledge - yet does not feel compelled to share his money, food or knowledge with others serves no purpose in Creation. He would interpret Chazal's maxim in Pirke Avos 2:18, Al tehi rasha bifnei atzmecha, "Do not judge yourself to be a wicked person," with a homiletical bend. Anyone who limits his efforts to himself alone - who is bifnei atzmecha, for himself - is derelict of his obligation as a Jew.

Rav Shraga Feivel went one step further in his devotion. He felt that reaching out meant to attend to a person's material needs, as well as to his spiritual deficiencies. There is no dearth of stories about Rav Shraga Feivel's sensitivity to the material needs of his students. He understood that a hungry boy could not learn, and that clothes for Yom Tov were a staple. The list goes on. A young refugee from a very distinguished European family arrived penniless at the yeshivah. Rav Shraga Feivel saw to it that this young man would "find" a dollar in his jacket every week. Furthermore, knowing that this delicate young man found it difficult to partake from the meals served in the kitchen, Rav Shraga Feivel thought of a ruse to supply him with an adequate meal every day. He told the young man that a distinguished Torah scholar had arrived from Russia. Since it was not befitting a man of his stature to eat his meals in the dining room, it would be best that he eat at a restaurant. Would the young man be willing to accompany the scholar to the restaurant, so that he not be compelled to eat alone? The ploy worked, and the young man had one daily meal at the restaurant.

Rav Shraga Feivel made it a point to know each student's financial situation. One of today's leading philanthropists remembers how, as a young student in Torah Vodaath, he suffered real want. His father had passed away, leaving his family with very little. Rav Shraga Feivel was acutely aware of his circumstances: "Before he would talk to me about an afternoon chavrusa, study partner, he would inquire if I had eaten a filling lunch. He always asked me about my mother, and how she was faring at home."

Tuition was never an issue that would bar anyone from attending the yeshivah, as long as Rav Shraga Feivel was at its helm. One day as he was walking through the hall, he heard a woman sobbing in the financial office. When he investigated, he discovered that this woman, who had three sons in the yeshivah, was literally begging for a tuition reduction. Observing this, Rav Shraga Feivel signaled to one of the officers to follow him out of the room, "Come, let us go see for ourselves how she is living." They went to her apartment and discovered a place where the very walls cried out from the poverty within. Rav Shraga Feivel took out a few dollars from his pocket and left it on the table.

Understandably, he reduced her tuition, explaining to the board that they were dealing with pikuach nefesh, issues that border on life and death. In the future, he instructed them to view all tuition issues in this manner. Torah is the lifeblood of our People. There is no reason to spill Jewish blood in order to have access to it.

Men such as Rav Shraga Feivel, and others like him who built Torah in this country, viewed their work as a mission, themselves as agents of the

Almighty and their sense of responsibility for Klal Yisrael their raison d'etre.

**If you see the donkey of someone you hate crouching under its burden, would you refrain from helping him? You shall help repeatedly with him. (23:5)**

Rashi defines the word azov as ezrah, to help. One helps the donkey, regardless of the fact that the owner of the donkey is one who persists in committing sins, despite repeated warnings not to do so. He is someone whom it is permissible to hate, since he flaunts his degradation of the Torah. Yet, we are enjoined to offer and assist him. Targum Onkeles defines the word azov as abandon/refrain or desist. In this context, we are being told to abandon our animus towards this individual, desist from our resentment of his actions, overlook who he is and what he does in order to help him. Horav Zev Weinberger, Shlita suggests a corollary between these two definitions. One might think that while it is permissible to have a negative sentiment towards this individual, assisting him in his time of need is an action that takes place despite one's negative feelings. It is almost as if the "helper" wants to say, "I do not care for you. Yet, I am willing to help you." This is nekamah, pure revenge, a negative commandment in the Torah.

Targum Onkeles posits that one should synthesize both definitions of azov. First, abandon the hatred you have in your heart towards this individual. Find a favorable place in your heart for him. Then, help him. By first eschewing any feelings of contempt within his heart, the assistance he offers will be much more appropriate and meaningful.

**Va'ani Tefillah**

**Yehi ratzon...she'yibaneh Bais HaMikdash.**

**May it be Your will...that the Bais HaMikdash be soon rebuilt...**

After reciting the halachos pertaining to the Bais Hamikdash and its various services, we entreat Hashem that He rebuild that edifice, so that we will be able to serve Him properly. If we develop a clear and profound understanding of the halachos, and we pray for the day that the service for which we hope will be revived, then the restoration of the Bais Hamikdash merely becomes a vehicle for us to complete our task of service to Hashem more fully. In other words, our entreaties are not merely empty words, dreams and hopes about an experience that might just happen one day. No! By learning and studying the laws, by developing a profundity in their detail and minutiae, we not only become proficient in them, we are, to a certain extent, experiencing the service. We are doing everything but actually being there. This, too, will one day soon occur, and our words will achieve reality.

It seems strange that the tefillah begins with a prayer for the rebuilding of the Bais Hamikdash, followed by an entreaty that Hashem give us our portion in His Torah, and concludes with another request that we be able to serve Hashem in the Bais Hamikdash as in days past. Why is there a break in the prayer for the entreaty of v'sein chelkeinu b'Torasecha, "give us our portion in Your Torah"?

Pardes Menachem cites the Talmud Sotah 49b, where Chazal say that in the end of the days prior, to the advent of Moshiach, the spiritual and ethical level of the Jewish People will wane. Chazal detail an entire list of deficiencies, including lack of respect for elders and Torah leaders. They conclude by saying that we have no one upon whom to rely but our Father in Heaven. Therefore, when we ask for the End of Days to finally arrive, we are placing ourselves in a dilemma. To allay the fears of what this period will mean to us from a negative perspective, we immediately entreat Hashem that He take pity on us and give us the fortitude to withstand the challenges and that He grant us our portion in His Torah.

I'zechar nishmas HILLEL BEN CHAIM AHARON JACOBSON by his family: David, Susan, Daniel, Breindy, Ephraim, Adeena, Aryeh and Michelle Jacobson and great grandchildren

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**"RavFrاند" List - Parshas Mishpatim**

### **Those in a Thankless Role Deserve A Thank-You**

The parsha begins with the words “And these are the laws which you shall place before them.” [Shmos 21:1] In commenting on this pasuk, the Medrash cites the passage: “Through justice a king establishes a land, but the man of Terumos will destroy it.” [Mishlei 29:4]

The Medrash elaborates: If a person will make himself like the Terumah portion which is set aside from the rest of the grain and placed in the corner of the house... In other words, if a person sets himself apart and says: “why should I have to get involved in the problems of the community?” If he takes the attitude, “why do I need this hassle of community involvement?” If he takes the attitude of “I will take care of myself...” Regarding such people, the passage speaks by saying “the man of Terumos will destroy it.”

The Medrash then cites an incident involving Rav Assi. When Rav Assi was about to die, his nephew entered and found him crying. Rav Assi’s nephew asked him, “Why are you crying? Is there any area of Torah that you have not learned or have not taught? You have many disciples who can testify to the contrary. What are you afraid of? Is there any area of Gemilas Chessed [acts of kindness] that you have not performed? And your greatest praise is that you distanced yourself from rendering judgment—you did not involve yourself in litigation and dinei Torah and did not sully yourself with messy communal matters. What could be wrong?”

Rav Assi responded, “It is for this very negligence (of not occupying myself with litigation and communal matters) that I am crying. Maybe I will face Heavenly Punishment over the fact that I could have rendered judgments for Israel and abstained from doing so.”

Terumah is holier than chullin [non-sacred produce]. It is set aside, on its own. The man of Terumos that the Medrash refers to is the person who considers himself like “Terumah.” He feels that he is above the masses that are “chullin”. He feels “I don’t need all this” and refuses to sully himself with the needs of the common people (hamon am). “Let me do my own thing. Let me be for myself. I want to be like terumah that is set aside in the corner.”

This attitude, the Medrash states, is destructive. The lesson we must take from this Medrash is that not only those who are worthy to be judges must occupy themselves with congregational needs. We are all called upon, on many occasions and under many circumstances to get involved—to become the chairman, to sit on the committee. Everyone who has sat on a committee or been involved in communal needs knows that it is full of aggravation. It is so easy to take the attitude “I don’t need this.”

One gets involved in a shul and what does one get for it? Rarely a thank-you, only complaints! Someone was involved in putting out mimeographed divrei Torah for a shul. What did someone comment to him? “You shouldn’t have printed it on pink paper!” Is there a ‘yasher koach’ for doing it? No! The only comment was that someone did not like the color of the paper! This is what one can expect when getting involved—whether it is the shul or the school or the mikveh. All one can expect from involvement in any communal organization is grief. Guaranteed.

That is why Chazal say that one has to do it. Regarding one who says, “Not me; I will sit in my corner, learn my daf-yomi, and send in my check, but don’t get me involved,” the Medrash quotes the passage “The man of Terumos will destroy it!”

This is why we recite a “Mi Sheberach” (the traditional communal blessing) very single Shabbos for those “who occupy themselves with the needs of the community faithfully.” Such people deserve a “Mi Sheberach”; they deserve a “Yasher Koach”.

### **Everyone Can At Least Listen**

Later in the parsha, the verse says, “You shall not cause pain to any widow or orphan.” [Shmos 22:21] Rashi cites a teaching of our Sages that the same applies to any person; however the Torah spoke about a common situation. These are the types of people to whom it is very easy to cause

grief. When people have already suffered the pain of the loss of a husband or parent, tears are very close to flowing, under any circumstance.

I would like to share an interesting Gemara and an interesting comment of Tosfos, along with a very interesting insight from Rav Baruch Mordechai Ezrachi.

The Gemara states: Rav Yehudah was sitting in front of (his Rebbi) Shmuel. A certain woman came in and cried before Shmuel, but he (Shmuel) ignored her. Rabbi Yehuda then said to his Rebbi: Does not the Master agree that ‘whoever stops his ears at the cry of the poor, he also shall cry, but shall not be heard?’ [Mishlei 21:13] Oh, keen scholar, he replied, “Your superior (will be punished) with cold (water), but your superior’s superior (will be punished) with hot. Mar Ukva, the head of the Court (Av Beth Din) is sitting! (In other words, “I am not in charge so I can’t adjudicate in this matter - Mar Ukva is in charge.”) [Shabbos 55a] That is the end of this Talmudic passage. We do not know from the Gemara in Shabbos whether Rabbi Yehuda was right in suggesting to his Rebbi that he should have paid more attention to the woman or whether Shmuel’s response was appropriate. However, there is a famous Gemara in Bava Basra [10b] that, according to ancient tradition, sheds further light on this incident.

The Gemara in Bava Basra says that one of the Amoraim went up to Heaven and came back down. He was asked what he saw in Heaven and responded, “I saw an upside down world. The ones who are prestigious in this world are lowered in the True World and those who are subservient here sit in more prestigious places in Heaven.” Tosfos cites a tradition from the Geonim (the post-Talmudic generation of scholars subsequent to the generation of Amoraim who appear in the Gemara) in the name of Rabbeinu Chananel, that when this Amora went to Heaven, he saw Shmuel sitting subservient to Rav Yehudah his student, because of the latter’s correct criticism of his Rebbi in the aforementioned incident. In the True World, Shmuel and Rabbi Yehudah switched places—Shmuel became the disciple and Rabbi Yehudah became the teacher.

Rav Ezrachi questions this Gemara in Bava Basra. After all, he argues, Shmuel was the one who taught Rabbi Yehudah all his Torah. In fact Shmuel WAS the Rebbi. How can we discount all the years he invested into his disciple and make him now subservient to that student?

It must be, says Rav Ezrachi, that the one lesson Rav Yehudah taught Shmuel (namely that he should have been more considerate of the woman who came crying into his Court) was so important that it outweighed all the Torah that Shmuel taught Rabbi Yehudah.

This critical lesson of ‘whoever stops his ears at the cry of the poor, he also shall cry, but shall not be heard?’—of how we must view an aggrieved party—is essential to making a Jew what he is supposed to be and in the True World, was more vital than all the Torah that Shmuel ever taught Rav Yehudah.

That is how careful we must be with widows, with orphans, and with aggrieved parties—people who are hurting. Sometimes there is nothing we can actually do. We cannot bring back the husband or the father. We cannot write out a check for all that they need. We can not even help to stop the immediate pain. There is one thing, however, that we can all do. We can listen. We can always listen. Whether one is rich or poor, whether one is a Rabbi or a layperson, whether a person is wise or not so wise, powerful or not so powerful, everyone can listen, pay attention and show that at least they care.

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### **Rabbi Yaakov Neuburger**

#### **The TorahWeb Foundation**

#### **The Pride of Ownership: Material and Spiritual**

Arrival at midbar Sinai...mamleches kohanim...Goi kodosh...na’aseh venishma... har Sinai...matan Torah.

If you steal and cannot pay...damages... unemployment benefits...if your ox damages...watching someone else's cow...more damages.

It sounds anticlimactic to me. Is this how the "kingdom of priests" is to begin the study of its mission of becoming an "ohr lagoyim" (a "light unto the nations")? True, the Ramban, amongst others, explains that parshas Mishpatim elaborates on all of the asseres hadibros, and the laws of torts and theft are the "fine print" of the prohibition against coveting. But is this the best place to start? Should we not start with Shabbos and lead into a discussion of creation and yetzias Mitzrayim, or begin with kibud av v'em and create the context of mesorah for all that would follow? Even a discussion of murder would reinforce the sanctity of human life and learning about the laws of oaths would strengthen the appropriate reverence for Hashem in all His representations. Should this not all come before teaching about the laws of torts and theft?

To be sure, this is not the first time that the Torah concerned itself with theft in a surprising and seemingly disproportional manner. After all, Chazal deduce that the fate of the dor hamabul was sealed not because of decadence or murder, rather because of rampant theft. Similarly, the Torah highlights the care that Avrohom Avinu employed to avoid pasturing his flock in privately owned fields, a practice which caused irreconcilable dissonance between him and his nephew.

One might suggest that this emphasis on rightful ownership is borne out of and shapes an appropriate attitude towards property, which speaks to the faith that we have in Hashem providing and protecting us. One that steals, obviously questions Hashem's concern and commitment to him and his family. Accordingly the study and internalizing of parshas Mishpatim is a statement of divine providence delivered in concrete and practical terms. Nevertheless, it seems unlikely to me that for that reason alone matters of property should seal the fate of a generation of evil doers and trump the entire halachik system immediately after matan Torah.

Therefore I would submit that there is a deeper issue here, based on the writings of Harav Moshe Chaim Luzzatto. At the beginning of Derch Hashem, he explains that Hashem in His ever giving goodness created this world to give us the opportunity to benefit from being close to Him in the world of the neshamos. Using human terms to which we can relate, Ramchal points out that we would be uncomfortable to receive unearned goodness, and that would not bring about the absolute good that Hashem wants to bestow. That is why Hashem gave us opportunity in this world to earn that goodness that we look forward to enjoying. In the words of Chazal, we will feel a sense of "ownership" over our spiritual accomplishments and that the goodness that we will receive will be just deserts. Achieving closeness to Hashem and feeling that we come to it honestly is indeed the ultimate reward.

It would follow that one who does not respect the constraints of "ownership" probably does not buy into the pride concomitant with justly established "title" as well. This kind of attitude undermines the very purpose of our world. Thus the acceptance of theft as a part of life can seal a generation's fate as it indicates being out of touch with the very purpose of our stay here and as a result mitigates the chances of that era becoming inspired to attend to the ratzon Hashem.

Surely this lesson, which may well have been the introduction to parshas Mishpatim, is an appropriate "opening shiur" after matan Torah.

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### **Rav Kook on Mishpatim Revealing Our Inner Essence**

The ultimate moment of glory for the Jewish people - their greatest hour - occurred as God revealed His Torah to them at Mount Sinai. The Israelites made an amazing proclamation: "We will do and we will listen to all that God has declared" [Ex. 24:7].

They promised two things: to do, and to listen. The order is crucial. They promised to keep the Torah, even before knowing why. The Midrash [Shabbat 88a] says that, in merit of this pledge of loyalty, the angels

rewarded each Jew with two crowns. And a Heavenly Voice exclaimed, "Who revealed to My children this secret that is used by the angels?"

(1) What was so special about this vow, "we will do and we will listen"? On the contrary, would not fulfilling mitzvot with understanding and enlightenment be a higher level of Torah observance?

(2) Why is this form of unquestioning allegiance a 'secret used by the angels'?

While wisdom is usually acquired through study and reflection, there exists in nature an intuitive knowledge that requires no formal education. The bee, for example, naturally knows the optimal geometric shape for building honeycomb cells. No bee has ever needed to register for engineering courses at MIT.

Intuitive knowledge also exists in the spiritual realm. Angels are sublime spiritual entities who do not need Torah studies in order to know how to serve God. Their holiness is ingrained in their very nature. It is only human beings, prone to being confused by pseudo-scientific indoctrination, who need to struggle in order to return to their pristine spiritual selves.

For the Jews who stood at Mount Sinai, it was not only Torah and mitzvot that were revealed. They also discovered their own true, inner essence. They attained a sublime level of natural purity, and intuitively proclaimed, "we will do!" We will follow our natural essence, unhindered by any spurious, artificial mores.

[adapted from Mo'adei HaRe'iyah p. 486]

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### **Bar-Ilan University's Parashat Hashavua Study Center**

**Parashat Mishpatim 5766/ February 25, 2006**

#### **The Proscription against Interest in the Light of Modern Credit Economies**

**Yaron Jacobs - Attorney at Law**

The severity of the prohibition to charge interest comes across in the numerous warnings in the Torah.[1] Standing opposite these prohibitions are various financial instruments that sanction the use of credit, notwithstanding the prohibition.[2] In this paper, we will not deal with the problematics of the ways around the prohibition to lend for interest—implementing an action whose object is to make something forbidden by the Torah permissible (ha'aramah); [3] rather, the heart of our discussion is to investigate whether between the proscription and the reality of life, we can build a bridge across the gap. Specifically, can one deduce from the idea of forbidding interest, as it was understood by the Sages, the possibility of credit transactions as is the norm in a modern economy?

It should be noted that the Sages discussed the idea of forbidding interest both from the theoretical point of view, in terms of the reasons for the commandment, and from a practical point of view, coping with real questions such as the possibility of charging a gentile interest,[4] heter iska ("transaction permit," allowing a lender to take interest by regarding him as a partner of the borrower) and other mechanisms for circumventing the prohibition. The common denominator among the commentaries is that they see the prohibition against interest as lying outside the rubric of fiscal law. There remains, however, a wide variety of views on the matter.

**Why Not to Take Interest**

The view of interest as a certain return for the lender, known in advance, is voiced by Kli Yakar:[5]

"Do not deduct interest from loans to your countrymen" (Deut.23:20) – even though the lender profits thereby, there is another reason for the commandment. The main reason for proscribing interest is that it removes a measure of faith, for every person in business casts his eyes toward Heaven, since he is uncertain whether or not he will profit. But a person who

lends for interest knows exactly what his profit will be and trusts in the guarantee which he holds in his hands, thereby turning his heart away from G-d.

In other words, the heart of the matter in the prohibition against interest is to prevent a weakening of one's faith in the Lord.

The author of Sefer Ha-Hinukh views the root of this commandment as follows:

For the good Lord desires the welfare of His people, whom He has chosen, and therefore commanded to remove a stumbling block from their way, lest one person swallow up the wealth of his fellow without noticing it himself, until he finds the borrower's house devoid of all goods, for such is the way of interest.[6]

In this view, the prohibition against interest serves to guarantee proper community life. A similar view, that emphasizes the hesed aspect of the prohibition, is found in Abarbanel's commentary to Deut. 23:16:

Interest itself is not something improper . . . it is neither vile nor despicable, and it is part of commerce and business dealings, and is decent in and of itself . . . Therefore the Holy One, blessed be He, associated this matter with charity (hesed) that a person shows his fellow, to lend him money without any profit or benefit to himself.

The source of Abarbanel seems to be, as is often the case, Nahmanides (Deut. 23:20):

Interest which is freely agreed between two parties is not forbidden, save from the standpoint of brotherhood and charity, as He commanded us, "Love your fellow as yourself" . . . Therefore it is written, "so that the Lord your G-d may bless you," for a person does his fellow an act of loving kindness when he makes him a loan without interest, and it is considered as an act of charity on his behalf.[7]

What Sort of Mitzvah Is It?

A distinction can be drawn between the approach taken by Kli Yakar, who considers that interest does not belong to fiscal law but rather concerns relations "between a person and G-d," (bein adam la-Maqom) and the approach taken by Sefer Ha-Hinukh, Abarbanel and Nahmanides. For the latter three, as well, the prohibition against interest is not a fiscal regulation. Instead, it is a matter of proper "relations between a person and his fellow" (bein adam la-havero). Their approach helps us understand the idea of mutual consent that underlies loan agreements, and the discrepancy between forbidding interest on loans between Jews and the Torah ruling that "you may deduct interest from loans to foreigners"(Deut.23:21).[8]

A further distinction between them is that Kli Yakar does not see the prohibition against interest from the point of view of the commandment to give charity (hesed or tzedaka), in contrast to the other commentators. Indeed, from the plain sense of the text (in Exodus 22 and Leviticus 25) the charity in giving loans to the poor appears to be the reason to forbid taking interest. That, as we have pointed out, was the view of the above-mentioned commentators. However, according to them, why should one not be able to take interest on a commercial loan, as opposed to a loan given in the context of charity? What Kli Yakar says provides an answer to this argument, since he sees taking interest on any loan as expressing a lack of trust in the Lord and therefore forbidden.[9]

Another point of view is expressed in the commentary, Akedat Yitzhak, on this week's reading:[10]

What the Torah says here, is that should you not be moved to give an outright gift to the poor, but you wish to help him with a loan, you should at least not act towards him as a creditor, and needless to say you should not exact interest from him, for if he lacks the principal, which is why he borrowed, how is he to repay both principal and interest?

In other words, the intention is to give charity, and logic demands that this intention preclude charging interest, for that would undo the purpose of the loan.

An unusual view, which in principle entails a difficult problem, is found in the remarks of the author of Torah Temimah in his commentary "Tosefet Berakhah" (on Lev. 25:36). He sees the proscription against interest through the eyes of the Biblical period, when the Israelite people were engaged in agriculture and it was appropriate to forbid any loans whose objective was not charity and philanthropy. With the changing times, it was no longer practical to forbid taking interest. These socio-economic developments, he believes, provided the foundation for the Rabbis to allow the use of the heter iska.

Thus we learn that explanations of the prohibition against interest rest on several ideas: the extent of trust in the Lord, the commandment to give charity, hesed as a halakhic value, and a regulation stemming from the economic circumstances of the times.

Between Prohibition and Practice

All these explanations make it even more difficult to reconcile the commandment and its rationale with actual practice, which in effect neutralize the prohibition against charging interest. Therefore we shall try to tackle the question from the opposite direction, beginning with the view of economics, looking at the various mechanisms (heterim) to allow taking interest, and finally back to try and understand the Torah rulings.

Time and Risk

First we should consider the definition of interest: "An expression of the price of money in a given period, this price stemming from the ability to exchange money for capital goods for purposes of production. Hence the price of money is set by the value of its alternative uses for purposes of investment." [11] We learn from this definition that, as is customary with financial instruments, so with interest, the two main dimensions in the economist's view are time and risk. It follows from this that in order to enable circumvention of the prohibition of interest one must find suitable alternatives that answer to all these components. Indeed, if we consider the financial instruments used to make interest permissible, we see that this is just what was done. The Sages took various transactions in which there was an element of time – by definition the dimension of interest was inherent in the transaction – and added special terms so that in the resultant arrangement, even though there were economic characteristics similar to lending for interest, the specific transaction stood on its own. This applies to heter iska, by which a partnership is created which in effect neutralizes the loss of the investor, so that there is a partnership without the risk of fluctuations. The same applies to a rental agreement, in which with suitable guarantees one could remove responsibility for the asset from the owner and turn the transaction into a regular loan. Likewise purchasing on installment (Brit. hire-purchase) or selling at a discount.[12] In other words, the Sages found practical ways of licit compensation for credit through alternative transactions that had a dimension of time, combined with specific additions that spanned the gap between these and regular loans.

R.S.R. Hirsch on Interest

Now let us return to the Torah's commandment, as understood by Rabbi Samson Raphael Hirsch, and we shall see how the problem is resolved. In Hirsch's commentary on this week's reading (ch. 24) he enumerates several basic concepts about our subject:

It is not the idea of abstract justice that is embodied here, rather the idea that the entire society of the children of Israel is built on recognition that all our assets have been entrusted to us by G-d. Not justice, but charity is the Jewish concept in this commandment.[13]

Further on, the theoretical basis for the prohibition against interest is laid: The more we see that exacting interest does not contradict the demands of natural justice and accords with the usual concepts of law and justice by which charging interest does no wrong, the

more clear it becomes that the prohibition against interest belongs to the category of commandments – like the Sabbath, sabbatical and jubilee years – whose purpose is to serve as a testament reminding us of the Lord’s sovereignty over the world and over Israel... This is also the reason for the prohibition against interest, that the Lord commanded us to waive the lender’s right to receive interest from the borrower in order that we acknowledge and proclaim that He is lord and ruler over all our assets and belongings.

From here we move on to the practical implications:

The prohibition against interest does away with the destructive influence of money, the principal factor causing social inequality, and breaks the might and power of capital. If, however, this prohibition were to be upheld in all its strictness, all capital would lie dormant like a stone ... The owner of capital himself would have to engage in a craft and only thus would he be able to reap the fruits of his money, which otherwise would lay as if it were dead. Or, he would have to take as partners laborers who do not possess capital, and be forced to share his profits and losses with them.

Further on he tackles head-on the need for credit:

As we have said, the Torah does not deny the natural justification for taking interest in and of itself, but only forbids it out of the Jewish principle of uniting the people from the social standpoint. In contrast, in the modern view money is considered an object of consumption, and interest is considered like the rental fee one must pay for temporary use of money, just as one pays rent for a house...

So what difference is there between rent, which is permitted even by the Torah, and interest? Those who ask this question ignore the fact that the rented object remains in the ownership of the lessor, and the lessee essentially makes use of something that belongs to the lessor, paying for the wear and tear that he causes; whereas money that is lent to a borrower immediately becomes the possession of the borrower, and he owes only the value of the money to the lender, while the borrower is deriving benefit for something that is in his sole possession.

Therefore Rabbi Hirsch thinks that payment of interest is a loss to the borrower, and constitutes unfair enrichment to the lender. The basis for Rabbi Hirsch’s view lies in the notion of divine ownership, commanding us to make proper use of His money which is in our hands (this is paralleled by the laws of shemittah and jubilee years as regards real-estate). In view of this one can understand the logic of permitting various types of credit transactions: these must assure recognition of G-d’s supreme ownership of all capital. That is to say, one must prevent obligation and indebtedness, on this or that level, of one person to another. Indeed, the financial instruments that permit taking interest are all characterized by the creation of a partnership: heter iska, deflecting the aspect of ownership from the person to the object, renting, purchasing in installments (hire-purchase), discounting promissory notes, etc. These instruments essentially set up an relation of equality between the sides (landlord/renter, businessperson/investor, purchaser/seller) with respect to the loan. This being so, one can now collect the credit fees using these instruments, for there is no longer a forbidden aspect to the interest as per the view of Rabbi Hirsch.

Thus we see that as long as relations of equality are preserved between one person and another in commercial and financial dealings, these transactions do not fall into the realm of prohibited interest. Thus we find ourselves traversing the bridge that we set out to find at the beginning of our discussion, and its origin indeed lies in the reason for the prohibition. This bridge now leads dialectically to the idea that the laws were given so that “man shall live” (Lev. 18:5).

[1] Cf. Maimonides, Mishne Torah, Malveh ve-Loveh 4.2, who lists six negative commandments that are violated by a person who lends for interest, and two negative commandments that are violated by the borrower. Also cf. Maharal, Netiv ha-Tzedakah, ch. 6: “We have found no sin and transgression that has been dwelled upon by the Sages as much as this sin.”

[2] The familiar and well-known heter iska, as well as renting, selling promissory notes, leasing, etc. See Nathan Dreyfus, Dinei Ribit be-Re’i ha-Kalkalah ha-Modernit, Tehumin 14, 207.

[3] This must be discussed from two angles: is circumvention permitted and is circumvention helpful. See David Mish’an, “Hebetim Hilkhatiyim u-Misphatiyim shel Heter Iska,” Keter – Mehkarim be-Khalkalah u-Mishpat al-Pi ha-Halakhah, 2, p. 434; Moshe Silberg, Kakh Darko shel Talmud, Jerusalem 1962, pp. 26-44.

[4] On this question in medieval Europe cf. H. Soloveitchik, Halakhah, Kalkalah ve-Dimui Atzmi – ha-Mashkanta’ot be-Yemei ha-Beinayim, Jerusalem 1985.

[5] Lev. 25:36, also cf. note 2, above.

[6] Sefer Ha-Hinukh, commandment 68.

[7] Maimonides’ words regarding charity as a value of central importance are quite apt (Mishneh Torah, Hilkhot Shabbat 2): “Thus you learn that the laws of the Torah are not to bring vengeance to the world, rather to bring mercy, charity and peace to the world.”

[8] Cf. Leib Moskovitz, “Le-Ta’amo u-Mashma’uto shel Issur Ribit,” Mi-Perot ha-Ilan, Bar Ilan 1998, p. 562.

[9] For a survey of the position taken by the Sages in various generations, cf.: “Megamot Datio ve-Hevratot be-Torat ha-Tzedakah shel Hazal,” in Ephraim E. Urbach, Me-Olamam shel Hakhamim, Jerusalem 1988, pp. 97-124.

[10] Exodus, Mishpatim, ch. 46.

[11] Eitan Avnion, Lexicon le-Kalkalah, Tel Aviv 2004.

[12] For further elaboration see notes 2 and 3.

[13] Cf. J. B. Soloveitchik, Ha-Adam ve-Olam, Jerusalem 1998, 70-72. Rabbi Soloveitchik views the notion of charity in halakhah as an enforceable legal concept stemming from the collective responsibility of the Jewish community.

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## Haftorah - Parshas Shekalim Kings II : 12

This week’s haftorah, read in conjunction with Parshas Sh’kalim, deals with the collection of funds for the Bais Hamikdash. Before King Yehoash’s reign, the Bais Hamikdash was seriously neglected and much repair work was necessary to restore it to its original splendor. When the righteous King Yehoash came into power, he immediately instructed the kohanim to collect the necessary funds. After their unsuccessful attempt in achieving this goal he personally spearheaded the collection and received an overwhelming response.

The reason for this terrible neglect is explained in Divrei Hayomim (2:23) wherein the wicked Queen Atalya and her sons are blamed for the deteriorated condition of the Bais Hamikdash. The royal family severely mistreated the holiest structure in the world by carelessly roaming inside it, bringing much damage to its interior walls and structure. Although the Jewish people consistently donated funds to repair the Bais Hamikdash, the wicked sovereign repeatedly misappropriated them. Instead of using them for the Bais Hamikdash, she channeled them to further her idolatrous practices. After the pious Yehoash came to power, he removed idolatry from the royal family and faithfully applied the collected funds to their intended usage. After many years of neglect, the Bais Hamikdash was finally restored to its previous glory.

The pattern in this haftorah is reminiscent of the Jewish people’s formative stages as a nation. This week’s maftir reading alludes to the Jewish people’s comeback after abusing their financial resources, resulting in their most shameful plunge in history. (see Daas Z’kainim S’hmos 30:13). Moments before the Jewish people miraculously left Egypt, Hashem rewarded them with abundant wealth. Hashem effected a change of heart in the ruthless Egyptian slave drivers and they generously showered the Jewish people with gifts and wealth. However, the Jewish people did not properly appreciate Hashem’s unbelievable favor and became influenced by their newly gained wealth and power. During very trying and desperate moments, their newly gained sense of control heavily



influenced them. Instead of turning to Hashem for assistance, they applied their wealth and golden ornaments towards securing their own destiny and produced the Golden Calf. Hashem severely responded to this grave offense and the Jewish people sincerely repented to Hashem. Hashem then granted them opportunity to rectify their sin by inviting them to participate in the erection of the Mishkan. They learned their lesson well and generously applied their money to a most appropriate cause, the construction of Hashem's magnificent sanctuary. Hashem recognized their new approach to wealth and its potential good and deemed them worthy of His Divine Presence for the next thousand years. The reading of Parshas Sh'kalim and its accompanying haftorah are a most befitting introduction to our month of Adar. We read in Megillas Esther (3:9), that the wicked Haman offered the king an impressive ten thousand silver blocks in attempt to purchase the Jewish people from the wicked King Achashveirosh. Haman intended to use his wealth to influence the king to grant him permission to destroy the entire Jewish nation. However, Chazal teach us that Haman's efforts were preempted by the Jewish people's annual donation during the month of Adar to the Bais Hamikdash. By no coincidence, Hashem instructed the Jewish people to annually donate this exact sum -ten thousand silver blocks - to His treasury for sacrifices in the Bais Hamikdash. Hashem said, "Let the Jewish nation's sacrificial donation of ten thousand blocks preempt Haman's attempt to influence the king with his ten thousand blocks" (see Mesichta Megilla 13b).

The meaning of this seems to be that the Jewish people's annual donation demonstrated their proper understanding of wealth and its power. They allocated their wealth to the most worthy of causes and eagerly donated annually - without fail - ten thousand blocks of silver to Hashem and the Bais Hamikdash. This perfect approach to wealth and its positive values protected them from Haman's financial influence on the king. The Jewish people understood the true value of wealth and were not personally influenced by its potential ills. Therefore, they were not subject to Haman's financial influence and his powerful seductive approach to the king could not determine their fate. Eventually, the king would and did see through Haman's madness for power and all Haman's power and financial influence were of no avail.

Rabbi Dovid Siegel a is Rosh Kolliel of Kolliel Toras Chaim, Kiryat Sefer, Israel.

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## WEEKLY-HALACHA FOR 5766

**By Rabbi Doniel Neustadt. Rav of Young Israel in Cleveland Heights**

**A discussion of Halachic topics. For final rulings, consult your Rav  
WASHING DISHES ON SHABBOS**

As part of an overall strategy to minimize unnecessary work on Shabbos and to enhance the Shabbos day as a day of rest from all weekday chores and activities, the rabbis forbade washing dirty dishes on Shabbos unless those dishes are needed for that very Shabbos.(1) It is obvious, therefore, that all dishes that are to be used on Shabbos should be washed before Shabbos begins. One should not wait for Shabbos to begin to wash dirty dishes from Friday afternoon.(2)

QUESTION: Which dishes may be washed on Shabbos and which may not?

DISCUSSION:

It is permitted to wash dishes after the Friday night meal if they will be used for the Shabbos morning or afternoon meal. But it is forbidden to wash the Friday night dishes if they will not be used for any of the Shabbos day meals.

It is permitted to wash dirty dishes that accumulated from the morning or midday meals if they will be needed for the third meal (seudah shelishis) or for snacks that will be served later on in the day. It is also permitted to wash all types of dishes which are commonly used throughout the day,

such as glasses, teaspoons and fruit plates, etc, unless one is sure that they will not be needed again.(3)

It is permitted to wash all the dirty dishes that have accumulated even though only some of them will be needed later. Even if one plate or cup will be needed, it is permitted to wash all the plates or cups that are dirty.(4)

Several poskim debate whether it is permitted to wash dirty dishes for Shabbos use even if there are other clean dishes readily available. Some forbid it,(5) others discourage it,(6) while yet others permit it.(7) While it is customary to be lenient,(8) many poskim recommend that it is appropriate to be stringent when possible.(9)

In the case of a family simchah, for example, when used dishes may pile up and create a dirty, unsightly mess, it is permitted to wash the dishes [even if they not going to be used on Shabbos], since they are being washed for the sake of one Shabbos and not for a weekday need.(10)

Dishes that may not be washed on Shabbos may still be stacked in the dishwasher.(11) One may not sort different types of dishes or cutlery before placing them in the dishwasher, even if his intention is to make room for all of the dishes. It is permitted, however, to pick up a few similar dishes, e.g., a stack of fish plates or cups, and place each dish in its designated slot. If the dishes were improperly placed, they may not be rearranged according to size and type so that they will be ready for washing in the evening.(12)

A dishwasher may not be operated on Shabbos, even if it was preset by a time clock.(13) It is also strictly forbidden to instruct a non-Jew - on or before Shabbos - to operate a dishwasher on Shabbos.(14)

QUESTION: Is it permitted to rinse or soak dishes that may not be washed on Shabbos?

DISCUSSION:

Just as it is forbidden to wash dishes that are not needed for Shabbos, so is it forbidden to rinse them(15) in preparation for washing them after Shabbos. Soaking dishes in preparation for washing them after Shabbos is also prohibited. [Note: "soaking" is only prohibited when it entails a specific, additional act, such as filling a dirty pot with water to soak it, or filling a dishpan with water on Shabbos and then placing the dirty dishes in it. If, however, a dishpan was filled before Shabbos and the dishes are merely removed from the table and deposited therein, that is permitted.]

There are, however, a number of specific cases when rinsing or soaking is allowed. It is permitted, for instance, to rinse or soak dirty dishes which will otherwise become permanently stained, will attract insects or flies, or will emit a foul odor.(16)

In addition, some poskim permit soaking dishes or pots to prevent leftover grease or soft food particles from hardening and becoming difficult to wash after Shabbos.(17) Other poskim do not agree with this leniency.(18) All poskim agree that once the residue has hardened and formed a crust, it is forbidden to rinse or soak dishes or pots to prepare them for washing after Shabbos.(19)

WHEN WASHING DISHES ON SHABBOS IT IS PROHIBITED . . .

to turn on the hot water tap.(20) On Friday night, when the tank and the water it contains is still hot, it is strictly prohibited to turn on the hot water tap even if the boiler was turned off before Shabbos, since the tank and/or the hot water in the tank will cook the cold water which flows into it automatically.(21)

to use a sponge, a wet cloth, a paper towel or any implement made of any other absorbent material.(22)

to use steel wool or synthetic scouring pads which trap water between their fibers.

to use bar soap.(23)

WHEN WASHING DISHES ON SHABBOS IT IS PERMITTED . . .

to use hot or warm water that was heated before Shabbos. Hot water should not be poured directly over globs of fat in order to dissolve them.

(24)

to use liquid detergent.(25) It is preferable to add water to the liquid soap in order to dilute it before Shabbos.(26)  
to use synthetic scouring pads whose fibers are widely spaced and cannot trap water.(27)  
to use a nylon bottle brush.(28)  
to wear rubber or plastic gloves.  
to plug the sink drain with a stopper.(29)  
to empty the refuse which accumulates in the drain into a garbage can.  
(30)  
under extenuating circumstances, to plunge a blocked drain with a rubber plunger.(31)

#### FOOTNOTES:

1 O.C. 323:6 based on the Talmud, Shabbos 118a. Rashi and Ra'avad (Hilchos Shabbos 23:7) explain that the basic concept behind this rabbinic decree is to avoid "unnecessary toil for weekday purposes." This may be the Rambam's opinion as well; see Magid Mishneh, *ibid.* [Based on this explanation, some poskim hold that if the dishes are washed in order to be used next Shabbos and they will not be used during the week, it is permitted to wash them (Salmas Chayim 1:75). But other poskim do not agree (Tehillah l'David 302:6), and it is customary to be stringent; see Tzitz Eliezer 14:34-2.]  
2 See Machatzis ha-Shekel 302:6.  
3 Mishnah Berurah 326:28, 29; Ketzos ha-Shulchan 146:16.  
4 Mishnah Berurah 323:26; Aruch ha-Shulchan 326:7; Ketzos ha-Shulchan 146:16.  
5 See Be'er Moshe 6:82 quoting Ohel Moed who permits washing dishes only when there are no other dishes available.  
6 Tosfos Shabbos 323:8; Minchas Shabbos 80:254; Aruch ha-Shulchan 323:7.  
7 Harav M. Feinstein (oral ruling, quoted in Kol Hatorah, vol. 54, pg. 18); Harav Y. Kamenetsky (oral ruling, quoted in Emes L'Yaakov O.C. 323:6); Bris Olam (Ofeh 90).  
8 Shevet ha-Levi 5:39.  
9 B'tzeil ha-Chachmah 4:130; Shevet ha-Levi 6:42; Machazeh Eliyahu 62-3.  
10 Tzitz Eliezer 14:37-1, quoting Teshuvos M'harshag O.C. 1:61, based on Mishnah Berurah 302:19. See also Da'as Torah O.C. 444:1 (s.v. v'im).  
11 Igras Moshe O.C. 4:74 (rechitzah 4). But this is permitted only for those who generally clear their dirty dishes straight from the table into the dishwasher; Shemiras Shabbos K'hilchasah 12:35.  
12 But it would be permitted to rearrange the dishes according to size or type if the intention is to make more room for all the dishes in the dishwasher.  
13 Minchas Shelomo 2:20; Shemiras Shabbos K'hilchasah 12:35. See also Igras Moshe O.C. 4:60 who prohibits operating any appliance on a time clock on Shabbos.  
14 O.C. 307:2. A dishwasher may not be operated in one's home even if the non-Jew offers to operate the dishwasher without being told to do so; see The Monthly Halachah Discussion, pgs. 264-268 for more details.  
15 When dishes are stacked in an empty sink, the routine use of the sink for washing hands or food etc. is permitted, even though the dishes in the sink will inadvertently be rinsed off; see Mishnah Berurah 321:21.  
16 She'arim Metzuyanim B'halachah 80:27; Shemiras Shabbos K'hilchasah 12:2; Machazeh Eliyahu 55:5. [In the unlikely event that soaking or rinsing will not remedy these conditions, then washing is permitted as well.]  
17 Minchas Shelomo 2:35-12; Shemiras Shabbos K'hilchasah 12:3; Machazeh Eliyahu 55-5.  
18 See Me'or ha-Shabbos, vol. 1, pg. 115 quoting Harav Y.Y. Fisher; Nishmas Shabbos (O.C. 323:361).  
19 Shemiras Shabbos K'hilchasah 12:3.  
20 If the hot water tap was turned on inadvertently, it should be turned off as quickly as possible; see Nishmas Shabbos 318:73-2. See also Shulchan Shelomo 318:1-1 and Orchos Shabbos 1:90.  
21 Igras Moshe Y.D. 2:33; O.C. 5:20-4; Shemiras Shabbos K'hilchasah 1:39 and Tikunim U'miluim 31, note 4.  
22 O.C. 320:17.  
23 Based on Mishnah Berurah 326:30. See dissenting opinion in Yabia Omer 4:27.  
24 Mishnah Berurah 253:100; Harav S.Z. Auerbach (Shemiras Shabbos K'hilchasah 12:8).  
25 Aruch ha-Shulchan 326:11; Kaf ha-Chayim 326:43; Harav Y.S. Elyashiv (quoted in Shalmei Yehudah 9:3).  
26 To satisfy the view of Igras Moshe O.C. 1:113 who discourages the use of liquid soap on Shabbos; see Az Nidberu 10:16.  
27 Harav S.Z. Auerbach (Shemiras Shabbos K'hilchasah 12:15). See also Yabia Omer 4:30-19.  
28 Be'er Moshe 1:43.  
29 Shemiras Shabbos K'hilchasah 12:16.

30 O.C. 308:34.

31 While many poskim allow unclogging a blocked sink or stuffed toilet with a plunger, there are those who do not, maintaining that this may constitute "fixing" the drain, which may be a violation of Makeh B'patish; see the various opinions in Igras Moshe O.C. 4:40-9; Minchas Yitzchak 5:75; Shemiras Shabbos K'hilchasah 12, note 50; Yabia Omer 5:33.

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## YatedUSA Parshas Mishpatim 26 Shevat 5766

### Halacha Talk

by Rabbi Avraham Rosenthal

#### Greeting the Shechinah: Kiddush Levanah

Kiddush Levanah is a unique mitzvah. Chazal tell us (Gemara Sanhedrin 42): "If a person recites the bracha on the month in its time, it is as if he greets the Shechinah (the Divine Presence)." The Gemara continues, "Had Bnei Yisroel not been privileged to greet their Father in Heaven except for once a month, it would be sufficient."

We will later explain what it means to "greet the Shechinah." But first, let us discuss this mitzvah and some of the relevant halachos.

Question #1: Where is the Kiddush in Kiddush Levanah?

Question #2: What is the Molad?

Question #3: When is the best time to recite Kiddush Levanah?

Question #4: Can one recite Kiddush Levanah when it is cloudy?

Question #5: Kiddush Levanah is referred to as "Greeting the Shechinah." What does that mean?

#### WHERE'S THE KIDDUSH?

This mitzvah is referred to by two different names. Bircas HaLevanah, the blessing of the moon, and Kiddush HaLevanah, the sanctification of the moon. Although poskim use the two names interchangeably, and both have sources in the Rishonim, the Sefardic communities commonly use the former name, while the Ashkenzaim call it by the latter.

The Maharshag (Vol. 3, Siman 5) records a conversation that he had with his son regarding the correct name for this mitzvah. His son claimed that the name "Kiddush HaLevanah" seems to be incorrect and resulted from a mistake that crept into the seforim, as we do not sanctify the moon during the bracha. Rather we praise Hashem who created the heavens and all that they contain. His son posited that the correct name for the mitzvah should be "Chiddush HaLevanah," the renewal of the moon, as this is the event that has taken place, and it is the theme of the bracha, as well as its conclusion, "Mechadeish chadashim," "He who renews the months."

The Maharshag comments that although this is a very astute observation, it is difficult to say that the name, "Kiddush HaLevanah" is a mistake, as it appears in the earliest of sources. Rather, he contends that the name came about as a carry-over from the procedure done by the Sanhedrin. Before the establishment of our fixed calendar, Rosh Chodesh was proclaimed every month based on the testimony of witnesses who saw the new moon. This event was called "Kiddush HaChodesh," the sanctification of the month. As this took place when the new moon was visible, the name Kiddush HaLevanah came into being. In actuality however, Kiddush HaChodesh and Kiddush HaLevanah have nothing to do with each other.

Although our text of the bracha follows the version formulated in Gemara Sanhedrin (42a), another reason for the name Kiddush HaLevanah may be based on a different version of the bracha which concluded "Mekadeish chadashim," "He who sanctifies the moon." It is possible that the name

“Kiddush HaLevanah” is based on this version of the bracha. (See Midrash Rabbah Shemos 15:24, Shibalei Haleket 167)

#### THE MOLAD - A MOON IS BORN

To properly understand when one may recite Kiddush Levanah, we must briefly discuss the “Molad.”

Everyone is familiar with Shabbos Mevarchim, when in many congregations during “Rosh Chodesh Bentching” or “Bircas HaChodesh” the gabay or chazzan announces the Molad.

What is the Molad?

We know that the moon circles the earth once every month. When the moon is behind the earth in relation to the sun, we see a full moon, and when the moon passes between the earth and the sun, we cannot see it at all since this is the stage of the new moon. The precise moment when the moon passes between the earth and the sun is the Molad, or the “birth” of the new moon. The time of the Molad announced on Shabbos Mevarchim refers to this event. (This is actually an over-simplification, but it is sufficient for our discussion.) The Molad serves as the basis for calculating the earliest and latest times for Kiddush Levanah.

One should be aware that most people think that the time of the Molad announced in shul is the actual time of the Molad. In reality, it cannot be taken at face value for two reasons. The first reason is because it is not based on our method of telling time. For example, on this coming Shabbos Mevarchim Adar 5766, the gabay will announce: The Molad will be on Monday night, two hours, twenty-eight minutes and seventeen chalakim (a chailek is 1/18 of a minute, or a bit more than three seconds). Many people think that this refers to 2:28 AM on Tuesday morning. This is incorrect, as the Molad could be about twenty minutes earlier, depending on several factors. However, the explanation of these calculations is beyond the scope of this discussion.

The second reason is because even if the time announced was actually in sync with our clocks, it is based on Yerushalayim Time, i.e., the time in Yerushalayim at the time of the Molad. Therefore, when calculating the earliest and latest times for Kiddush Levanah it is essential to have a luach that makes the conversion to local time. To the best of my knowledge, most luchos simply include the Yerushalayim time without any conversions.

How does one find out the latest time for Kiddush Levanah? There are several options: 1) find a luach that makes the adjustment, 2) find a Rav who knows how to make the calculations, or 3) one can make an approximate calculation by first subtracting a half hour from the latest time for Kiddush Levanah in Yerushalayim, and then make the adjustment for your local time zone. For example, the Ezras Torah Luach for the month of Adar 5766, has the last time of Kiddush Levanah as Tuesday night (Motzai Purim) 8:50 p.m. This is actually the given time for Yerushalayim. One should subtract a half hour from this time, which brings us to 8:20 p.m. and then make the adjustment from the time in Yerushalayim to your local time. Thus, for the East Coast, one would subtract seven hours, bringing the last time for Kiddush Levanah to 2:20 p.m., Tuesday afternoon. Since we cannot recite Kiddush Levanah during the day, the last opportunity for the mitzvah during Adar on the East Coast will be until dawn Tuesday morning.

#### THE EARLIEST TIME

Although several Rishonim (Rambam, Rashi, Yad Ramah) maintain that one may recite Kiddush Levanah as early as the first of the month, Rabbeinu Yonah and most Acharonim hold that one should wait until the third of the month when the moon is large enough for one to be able to benefit from its light. (Mishnah Berurah 426:20) (Please note that when discussing the earliest and latest times for Kiddush Levanah, when we refer to the days of the month, we are referring to the number of full days after the Molad. For example, three days is seventy-two hours after the Molad, and seven days is seven twenty-four hour periods after the Molad.)

On the other hand, the Shulchan Aruch (426:4) writes that one should not recite Kiddush Levanah before seven days have passed. The Aruch HaShulchan (ibid. 13) questions why the Shulchan Aruch accepted the opinion of an individual over that of the majority. He explains that the Shulchan Aruch based his opinion on the Kabbalah, and that many follow this practice. He points out, however, that although one may do this in places that are not generally cloudy, “in our country, and especially during the months of MarCheshvan and Kislev, it is difficult to keep this practice” because of the frequency of overcast conditions.

#### THE BEST TIME

When is the best time to recite Kiddush Levanah?

In order to answer this question, we must discuss three halachic issues: 1) The advantageous time of Motzai Shabbos, 2) doing the mitzvah “b’rov am,” with a group of people, and 3) “zrizin makdimin,” that one should always try to do a mitzvah at the earliest opportunity.

Let us explain these three issues and see how they apply to our topic.

##### 1) Motzai Shabbos

As we mentioned, Kiddush Levanah is described as “greeting the Shechinah.” Therefore, the mitzvah should be done with simcha and one should wear nice clothes, similar to one who is greeting a very important guest. For these two reasons, Motzai Shabbos is an opportune time for reciting Kiddush Levanah, as one is in a happy frame of mind after having kept Shabbos properly and is still wearing Shabbos clothes.

##### 2) “B’rov am”

This concept, which is learned from the pasuk (Mishlei 14:28), “B’rov am hadras Melech,” “the King’s Glory is in a multitude of people,” indicates that it is preferable to do a mitzvah with a group of people. Although most mitzvos, Kiddush Levanah included, can be done without a group and certainly without a minyan, when several people do a mitzvah together it lends more importance to the mitzvah.

##### 3) Zrizin makdimin

This idea, like the previous, is also not unique to Kiddush Levanah. We find in the Chumash that when Avraham Avinu went to the akeidah, the pasuk says, “And Avraham arose early in the morning.” This teaches that one should always try to do a mitzvah as soon as possible.

When the earliest opportunity to recite Kiddush Levanah is on Motzai Shabbos, one can perform the mitzvah with all three of the aforementioned advantages. However, when the earliest time for the mitzvah occurs during the week, there is a disagreement among the poskim as to which of these three issues takes precedence. Should one recite it immediately during the week and lose out on the advantage of Motzai Shabbos and perhaps even b’rov am, or should one lose out on zrizin makdimin and wait until Motzai Shabbos?

The Bach and the Vilna Gaon are of the opinion that the advantage of zrizin makdimin takes precedence over Motzai Shabbos, and one should recite Kiddush Levanah at the earliest opportunity.

The prevalent custom follows the opinion of the Shulchan Aruch (426:2), which is that one should recite Kiddush Levanah on Motzai Shabbos even though he loses out on zrizin makdimin. The Rema gives a condition to this, that one should only wait until Motzai Shabbos when it is the tenth of month or earlier. However, if Motzai Shabbos is on the eleventh of the month or later, one should not wait, because if so, he will have four nights or less remaining to recite the bracha, and there is concern that he may miss the opportunity to do so.

With regards to this disagreement, the Biur Halacha (ibid. s.v. ela) concludes that what the Rema wrote regarding Motzai Shabbos applies also to b’rov am. Therefore, if one knows he will have the opportunity until the tenth of the month to recite Kiddush Levanah b’rov am, he should wait to do so. He also quotes the Chayei Adam who defines b’rov am as three people.

However, regarding the disagreement between the Shulchan Aruch and the other Acharonim as to whether Kiddush Levanah is recited after three or seven days, the Mishnah Berurah holds that if the third of the month is

during the week, it is proper to wait until Motzai Shabbos. He goes on to say that one who wishes to rely on the opinion of the Vilna Gaon and recite Kiddush Levanah at the earliest opportunity may certainly do so, especially during the winter months.

Aside from the advantage of zrizin makdimin, the Kaf HaChaim (12) quotes another reason to recite Kiddush Levanah at the earliest opportunity; that from the day one recites Kiddush Levanah, he is assured that he will not die an unusual death during that month.

One who intends to recite Kiddush Levanah on Motzai Shabbos and finds himself with a group reciting it during the week, should recite it with them. However, if he knows that he will also have a group on Motzai Shabbos, he is allowed to wait. (Sha'ar HaTziyun 426:20)

#### THE LATEST TIME

The Gemara says that because the bracha is recited over the renewal of the moon, one may recite Kiddush Levanah only until the moon is full. There is a disagreement between the Shulchan Aruch and the Rema regarding what this means. According to the Rema, the midpoint between one Molad and the next is the last opportunity for Kiddush Levanah. Chazal tell us that the amount of time between one Molad and the next is twenty-nine days, twelve hours, forty-four minutes, and three-tenths of a second. Therefore, according to the Rema, one can recite Kiddush Levanah until fourteen days, eighteen hours and twenty-two minutes after the Molad. The Shulchan Aruch gives an extra few hours, allowing a full fifteen days from the Molad. The Biur Halacha (s.v. v'lo) leans toward the opinion that if the midpoint between the moldos has passed, but it is still the fifteenth day from the Molad, one can recite Kiddush Levanah.

#### RECITING KIDDUSH LEVANAH

Since Kiddush Levanah is the equivalent of greeting the Shechinah, one should ideally recite it outdoors, just as one would go outside to greet an important person. However, this is not essential. If one is sick or otherwise prevented from going out, he may recite Kiddush Levanah indoors, and should look at the moon through a window or an open door. (MB 426:21)

Before starting Kiddush Levanah, one should make sure that the area is free of anything that causes foul odors, such as garbage cans. (ibid.)

Although the expression of the Shulchan Aruch, that one "rests his eyes" on the moon and recites the bracha, indicates that one should look at the moon throughout Kiddush Levanah, the Mishnah Berurah quotes other opinions who disagree. According to some, one should not look at it during the entire Kiddush Levanah, but only during the actual bracha. However, the Shelah HaKadosh is even more stringent and says that one should not even look during the bracha. Rather, one should only look before starting. (Sh.A. 426:2, M.B. 13)

If one did not look at the moon before Kiddush Levanah, nor realized that the moon was renewed, rather he merely followed the crowd outside and recited the bracha, he has fulfilled his obligation. This is because it is as if someone told him that the moon was renewed, and he recited the bracha based on that information. (Sheivet HaLevi vol. IV, 125.4)

There is a disagreement among the poskim as to which direction one should face during Kiddush Levanah. According to some opinions, one should face the direction he usually faces when davening. (Ishei Yisroel 40:29) Others claim that since the original custom was to face the moon and it is only because of Kabbalah that a custom evolved not to look at the moon (Aruch HaShulchan 5), there is no basis for turning towards the direction that one davens to. (Siach Tefillah, 5763 edition, pg.328)

Another requirement of Kiddush Levanah mentioned by the Shulchan Aruch is "to straighten one's feet." The poskim explain this to mean that ideally one should stand with his feet together as in Shemoneh Esrei. The reason for this is because one who recites Kiddush Levanah greets the Shechinah. Therefore, he should stand in fear like he does during Shemoneh Esrei.

#### CLOUDY SITUATIONS

Very often when reciting Kiddush Levanah, the moon is covered with various thicknesses of cloud cover. In these situations, when may one recite Kiddush Levanah and when can he not?

The Mishnah Berurah (3) concludes that if the cloud is thin and the moon is seen and one can benefit from its light, Kiddush Levanah is recited. However, if the cloud is thick, he should not recite the bracha.

There is an opinion that if the moon is covered by a thin cloud, although he can benefit from the moon's light, it is preferable to wait for an opportunity when the moon is not covered at all. (Da'as Torah 426:1 s.v. u'badin)

If a cloud covers the moon while one is in the middle of the bracha, he may conclude the bracha. However, if before starting, one estimates that a cloud will cover the moon before the conclusion, he should not start.

#### THE MONTHS OF TISHREI AND MENACHEM AV

The Rema maintains that one should not recite Kiddush Levanah before Tisha B'Av and before Yom Kippur. The Mishnah Berurah explains that before Tisha B'Av one is mourning and before Yom Kippur one is fearful of the Day of Judgment; therefore a person is lacking the simcha which is an integral part of Kiddush Levanah.

However, regarding the Aseres Yemay Teshuvah, the Biur Halacha (s.v. v'lo) quotes the Levush, that it is actually preferable to recite Kiddush Levanah before Yom Kippur, because perhaps the merit of this mitzvah will tip the scales to his advantage.

Those that follow the rulings of the Vilna Gaon, who felt that zrizin makdimin takes precedence over other considerations, recite Kiddush Levanah even during the Nine Days and the Aseres Yemay Teshuvah.

The months of Tishrei and Av present another issue with regards to Kiddush Levanah. Since the prevalent custom follows the Rema to wait until after Tisha B'Av and Yom Kippur to recite Kiddush Levanah, the question is, can this mitzvah be done after a fast? As mentioned, when reciting Kiddush Levanah, one should be in a happy frame of mind. After a full day of fasting, this is not the case.

We find two customs regarding Motzai Tisha B'Av. One custom is not to recite Kiddush Levanah after the fast because it is not a time of simcha. The same would apply to Asarah B'Teves and Tzom Gedalyah, as well. However, if one did not recite Kiddush Levanah before Ta'anis Esther, even according to this opinion one should recite it after the fast since the opportunity may be lost. According to this opinion, if Tisha B'Av is on a Thursday, one waits until Motzai Shabbos. (Rema 426:2, M.B. 11)

However, the more common custom is to recite Kiddush Levanah on Motzai Tisha B'Av. The Arizal explained that the reason for this is because Moshiach is born on Motzai Tisha B'Av, and we inform the moon and the Jewish People that they will be renewed. (Be'air Haitaiv 551:25)

The Mishnah Berurah maintains that one should be careful to eat something and put on shoes before Kiddush Levanah. On the other hand, if this will cause one to miss the opportunity of b'rov am, he may recite Kiddush Levanah even before eating. (ibid., Sha'ar Hatziyun 9)

In order to fulfill this condition of the Mishnah Berurah, many shuls will either provide some light refreshments after the fast, or arrange to recite Kiddush Levanah later that evening after everyone has had time to refresh themselves. If one's shul follows the former practice, he should bring shoes to shul for after Maariv.

This is all true on Motzai Tisha B'Av. However, on Motzai Yom Kippur, since we are happy over the atonement that we attained, the custom is to recite Kiddush Levanah immediately after Yom Kippur, even before eating.

#### WHAT ARE WE SAYING?

Aside from the actual bracha of Kiddush Levanah, whose text is formulated in the Gemara, various pasukim and texts are added, based on Kabbalah and custom. Let us examine some of what is said.

In the first line, “boruch yotzeich,” the first of every other word comprise the letters of the name “Yaakov.” This alludes to the fact that Yaakov’s children will be renewed like the moon. (Levush)

The Mishnah Berurah (426:14), quoting several Achronim, rules that when saying “k’sheim she’ani...” one should be extremely careful not to bend his knees in the direction of the moon, so it should not appear that he is bowing towards it. Rather, he should lift himself up on his toes and “dance.”

The Levush explains that the dancing is an expression of the simcha that one should have would greeting the Shechinah.

We continue with the pasuk, “tipol aleihem,” as a tefillah, that similar to our request in the previous line that no enemy should be able to touch me, Hashem should cause them to be fearful.

The Rema explains the reason for mentioning Dovid HaMelech is because Dovid’s dynasty will be renewed like the moon.

One reason for saying “Shalom Aleichem” is to assure one’s neighbor that he was not the subject of the tefillah that Hashem should cause the enemy to be fearful. (Mateh Moshe 540) Another reason is that it alludes to the idea previously mentioned that one who has recited Kiddush Levanah will not die that month. It is the equivalent of saying, now that you have recited Kiddush Levanah, you will have peace. (Siddur Avodas Yisroel, pg. 338)

The custom is to say “Shalom Aleichem” three times to three different people. If there is only one person, he should say it to that person three times. (ibid.)

The Rema writes that answering “Aleichem Shalom” is the equivalent of saying “Shalom Aleichem.” Therefore, if for example, someone greeted me with “Shalom Aleichem,” and I responded “Aleichem Shalom,” I only need to greet two more people with “Shalom Aleichem.”

If one is in the middle of reciting the bracha and someone greets him with “Shalom Aleichem,” he should not respond until after concluding the bracha, because to do so is an interruption. (Ishei Yisroel 40:33)

At the conclusion of Kiddush Levanah we recite Aleinu L’Shabei’ach. The Biur Halacha (s.v. u’mevareich) explains the reason behind this. One might mistakenly think, chalah, that since we go out and act joyfully in front of the moon, we are giving it honor. Therefore we recite Aleinu in order to emphasize the declaration, that “Hashem is G-d, in heaven above and on the earth below, there is none other.”

Based on the halacha that one should be careful not to bend one’s knee in the direction of the moon when saying “kesheim she’ani,” it is obvious that the same applies to Aleinu, and one should not bow towards the moon.

Some have a custom to examine one’s tzitzis after Kiddush Levanah. HaGaon Rav Tzvi Pesach Frank (Har Tzvi vol. I, 12) explains, that now, according to many Rishonim, there is no obligation to wear tzitzis at night since the night is dark and the tzitzis are not seen. In the future however, one will be obligated to wear tzitzis at night as alluded to in the words of Kiddush Levanah, “the light of the moon should be like the light of the sun.”

The Rema writes that just as the moon will be renewed, so too the Jewish people will return to cleave to Hashem. Therefore, there is a custom that after Kiddush Levanah, the participants dance, similar to the dances of a wedding.

#### GREETING THE SHECHINAH

Rabbeinu Yonah (end of fourth perek of Brachos) writes that although Hashem cannot be seen, He is discernable through His powers and wonders that are evident in the creation. The Levush (426) expands on this and explains why Chazal instituted to recite a bracha on the moon more than any other heavenly body. This is because out of all the stars and planets, the moon’s motions through the sky are the most noticeable. Of course, one who is observant can discern the movement of other heavenly bodies, but the motions of the moon are the easiest to see. By contemplating the moon’s movements, how it waxes and wanes through

its monthly trek around our planet, one begins to comprehend the grandeur of the heavenly hosts and thereby see Hashem’s greatness through His creation. This is alluded to in Tehillim (19:2), “The heavens declare the glory of Hashem, and the expanse of the sky tells of His handiwork.” This is the meaning of “Greeting the Shechinah.”

The Aruch HaShulchan (426:2) explains another element of Kiddush Levanah – the reason why it is recited with simcha. The Jewish People are compared to the moon. Just as the moon has no light of its own, rather it reflects the light of the sun, so too the Jews have no light of their own, only the light of Hashem that shines from His Torah. Just as the moon at times is dark and at times is light, so too the Jews have their ups and downs. But as we are referred to in the bracha of Kiddush Levanah, “those who are destined to renew themselves like it,” in the future, Klal Yisroel will outshine all others. And just as the moon appears to be darkened at certain times, but in actuality, it shines brightly, the same is true of the Jewish People.

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### The Weekly Halacha Overview by Rabbi Josh Flug

#### The Halachic Definition of Bread

There are numerous areas of Halacha where something defined as bread is subject to certain unique rules. Some of these areas include achilat matzah (the mitzvah to eat unleavened bread on Pesach), hafrashat challah (the mitzvah of separating tithes from bread), and Birkat HaMazon (the mitzvah of reciting a blessing after eating bread). Regarding these mitzvot, the Torah (Devarim 16:3, Bamidbar 15:19 and Devarim 8:9-10 respectively) specifically mentions lechem (bread). For this reason, the Gemara, Menachot 70b, and Berachot 44a, (see Rashi ad loc., s.v. Eretz) derives the definition of bread from matzah and applies it to challah and Birkat HaMazon. Just as matzah must be from the five grains (wheat, barley, spelt, rye and oats), so too challah and bread for Birkat HaMazon must be from the five grains.

If matzah is the prototypical definition of bread, one must then address types of baked goods that are not necessarily similar to matzah. There are three qualities of matzah that contribute to its definition of bread. The first is that it is made from a mixture of flour and water. The second is that it is made from dough as opposed to batter. The third is that it is baked as opposed to cooked. This article will discuss the status of grain items that don’t meet all three criteria.

#### Bread That Was Kneaded With Liquids Other Than Water

The Gemara, Berachot 42a, states that one recites the beracha of Mezonot on pat haba’ah b’kisnin (loosely translated as bread that is eaten as a snack). However, if one establishes a meal on pat haba’ah b’kisnin, he is required to recite HaMotzi on the pat haba’ah b’kisnin. Rambam, Hilchot Berachot 3:9, states that dough that was kneaded with honey, oil or milk is considered pat haba’ah b’kisnin. R. Yosef Karo, Beit Yosef 168, explains the rule of pat haba’ah b’kisnin by stating that pat haba’ah b’kisnin has the halachic status of bread. However, since pat haba’ah b’kisnin is generally eaten as a snack, the rabbis did not require one to recite HaMotzi and Birkat HaMazon. They therefore instituted that Mezonot and Al HaMichya is sufficient. Nevertheless, if one actually establishes a meal by eating pat haba’ah b’kisnin, the rabbis require him to recite HaMotzi and Birkat HaMazon. [A more detailed discussion of pat haba’ah b’kisnin will appear in the next issue. Although Birkat HaMazon is a biblical obligation, the rabbinic leniency to recite Al HaMichya on pat haba’ah b’kisnin does not encroach on any biblical obligation. Shulchan Aruch HaRav 168:12, notes that one can fulfill the biblical obligation of Birkat HaMazon by reciting Al HaMichya. Therefore, it was up to the rabbis to decide which instances require one to recite Birkat HaMazon, and which instances allow one to recite Al HaMichya- the abridged form of Birkat HaMazon.]

Baked Goods Made from Batter

The Gemara, Berachot 37b, discusses two types of batter-derived products. The first, teroknin (batter is poured into a hole in the oven), are considered bread for the purpose of challah. The second, terita (batter is poured across the floor of the oven), is not considered bread for the purpose of challah. Rabbeinu Asher, Berachot 6:11, explains that the reason why teroknin are considered bread and terita is not is because teroknin batter is baked in a mold and therefore, the end product resembles bread. However, terita does not have a defined shape and therefore lacks the proper form to be considered bread. A practical example of teroknin is a cake made from batter that was baked in a cake mold. One would be obligated to separate challah from such a cake if the batter contains enough flour to require hafrashat challah (at least eight cups of flour). Such a cake has the halachic status of bread.

While griddle-style pancakes (also known as griddle cakes) seem to be the logical practical example of terita, pan-baked pancakes (depending on how they are made) may be subject to a dispute between R. Yochanan and Reish Lakish cited in the Gemara, Pesachim 37a. The dispute revolves around the status of an item baked in a pan. R. Yochanan maintains that such an item attains the status of bread. Reish Lakish disagrees and contends that such an item does not attain the status of bread. The Talmud Yerushalmi, Challah 1:4, notes that this dispute is limited to a pan-baked item that is heated over a stove without any liquid. If the heat source is not beneath the pan but rather on all sides (such as in an oven) everyone agrees that it attains the status of bread. If there is liquid in the pan, everyone agrees that it does not attain the status of bread. Tosafot, Pesachim 37b s.v. D'kulei quote the opinion of Rabbeinu Tam who further limits the dispute to batter-baked items. If dough is baked in a pan, everyone agrees that it attains the status of bread.

Rama, Orach Chaim 168:14, rules in accordance with the opinion of R. Yochanan. He adds that if one adds only a small amount of liquid to the pan in order to "grease the pan" the pan-baked item would still attain the status of bread. Therefore, pancakes that were made in a pan that did not contain a significant amount of oil attain the halachic status of bread (as pat haba'ah b'kisin) and if one establishes a meal on those pancakes one would be required to recite HaMotzi and Birkat HaMazon. [This would only apply if the pancakes were made in manner that the batter fills the entire pan and the pancake takes on the form of the pan. If multiple pancakes are made in one pan, they would be similar to griddle cakes.] If they were made on a griddle, they are similar to terita and do not attain the status of bread. If a significant amount of oil was used, they do not attain the status of bread whether they were made in a pan or on a griddle.

It should be noted that not all batter-baked products are subject to these rules. Mishna Berurah 168:38, states that if the batter-baked product is extremely thin and fragile, it lacks the necessary form to be considered bread. Therefore, one would not recite HaMotzi on such an item, even if one establishes a meal on it.

#### Cooked Dough

Most Rishonim (see Rabbeinu Shimshon, Challah 1:5, Ramban, Hilchot Challah 26b, and Rambam Hilchot Bikkurim 6:12) maintain that cooked dough does not attain the status of bread. However, Rabbeinu Tam, op. cit., contends that since the requirement to separate challah commences at the dough stage, all dough is considered bread regardless of whether it is cooked, fried or baked. Tosafot, op. cit., add that according to Rabbeinu Tam, pasta would attain the status of bread and one should recite HaMotzi on pasta. Nevertheless, Tosafot note that since many varieties of pasta lack the proper form required to constitute bread, one may be lenient in reciting Mezonot on those varieties of pasta. [See Piskei Teshuvot 168:21 who quotes numerous reasons why Mezonot is recited on all forms of modern-day pasta.]

Shulchan Aruch, Orach Chaim 168:13, rules that cooked dough does not have the status of bread and one may recite Mezonot on such an item. However, he adds that a y'rei shamayim (G-d fearing individual) should

show deference to the opinion of Rabbeinu Tam and avoid eating cooked or fried dough unless it is eaten as part of a bread meal (in which case one does not recite a beracha on such an item). Mishna Berurah 168:38, notes that a fried item will usually be considered pat haba'ah b'kisin, and one may recite Mezonot on such an item even according to Rabbeinu Tam. Nevertheless, he adds that if one is showing deference to Rabbeinu Tam, he should not establish a meal on a fried-dough item because according to Rabbeinu Tam, that item has the halachic status of bread. Therefore, one who is concerned for the opinion of Rabbeinu Tam should not establish a meal on doughnuts.

#### Part II

The previous issue discussed the halachic definition of bread and its halachic ramifications. The article addressed a concept known as pat haba'ah b'kisin (loosely translated as bread that is eaten as a snack) which has the halachic status of bread and yet, one is not required to recite HaMotzi or Birkat HaMazon on such an item but rather Mezonot and Al HaMichya (unless a meal is established on this food item). This article will address what food items constitute pat haba'ah b'kisin.

#### The Definitions of the Rishonim

Beit Yosef, Orach Chaim 168, cites three definitions of pat haba'ah b'kisin as presented by the Rishonim. Rashba, Berachot 41a, s.v. Nimitza, states that one example of pat haba'ah b'kisin is a "pocket" filled with honey, nuts or spices. A modern-day equivalent example would be fruit pie. Rambam, Hilchot Berachot 3:9, defines pat haba'ah b'kisin as an item that was made with dough that was kneaded with honey, oil, or milk. Cakes and cookies would fit this definition. Aruch, Erech Kesen, quotes Rav Hai Gaon who states that pat haba'ah b'kisin is dry thin bread. The modern day equivalent would be crackers.

Shulchan Aruch, Orach Chaim 168:7, quotes all three opinions and rules that if the food item meets the definition of any of the three opinions, the food item is treated as pat haba'ah b'kisin. There are two ways to understand the ruling of Shulchan Aruch. First, Shulchan Aruch's ruling is based on the principle of safek berachot l'hakel, the lenient position is taken on matters of doubt regarding berachot. Since there is a dispute as to what is the definition of pat haba'ah b'kisin, if the food item meets any of the criteria presented by the Rishonim, one may employ safek berachot l'hakel to rely on that opinion and recite Mezonot on the food item. This approach to understand the ruling of Shulchan Aruch is supported by R. Yosef Karo's own Beit Yosef, Orach Chaim 168, where he states explicitly that one may treat the food item as pat haba'ah b'kisin if it meets the criteria of any of the opinions because one may be lenient on doubts of rabbinic nature.

Second, one could understand that in fact, there is no dispute regarding the definition of pat haba'ah b'kisin. The true definition of pat haba'ah b'kisin is bread that is eaten as a snack. All of the definitions mentioned by the Rishonim are not rigorous definitions of what constitutes pat haba'ah b'kisin. Rather, they are all examples of types of bread that are eaten as a snack. The reason why one may treat a food item as pat haba'ah b'kisin if it meets any of the criteria presented by the Rishonim is because if a food item does meet any of the criteria, it will generally be eaten as a snack. If it lacks all of the criteria, it will generally be eaten as part of a meal. Mishna Berurah, Biur Halacha 168:7, s.v. V'Halacha, notes that these two approaches to understanding the opinion of Shulchan Aruch are a matter of dispute between R. Akiva Eger, Glosses on Shulchan Aruch, Orach Chaim 168:8, who assumes the first approach, and R. Mordechai Carmi, Ma'amar Mordechai 168:14, who sides with the second approach.

#### Pat Haba'ah B'kisin Served as Dessert

The Gemara, Berachot 41b, states that one must recite a beracha rishona on food items that are served during a bread meal but are not an integral part of the meal. Shiblei HaLeket no. 159, rules that pat haba'ah b'kisin is not an exception to this rule and if pat haba'ah b'kisin is

served a dessert, one would recite a Mezonot on the pat haba'ah b'kisinin. This ruling is codified by Shulchan Aruch, Orach Chaim 168:8.

R. Akiva Eger, op. cit., questions the ruling of Shulchan Aruch. While it is true that in principle one should recite a beracha on pat haba'ah b'kisinin that is eaten as dessert, Shulchan Aruch omitted an important practical detail: Since there is a dispute as to what the criteria of pat haba'ah b'kisinin are, one should not recite a beracha on pat haba'ah b'kisinin in the middle of a bread meal unless it satisfies all three criteria. If one of the criteria is absent, the beracha on that food item might in fact be HaMotzi in which case no beracha is warranted. R. Eger therefore concludes that unless the pat haba'ah b'kisinin item does in fact meet the criteria of all three opinions presented above, one should not recite a beracha on such an item in the middle of a bread meal. Mishna Berurah, Biur Halacha 168:8, s.v. Te'unim, responds that R. Eger is following his own opinion that there is in fact a dispute among the Rishonim as to what constitutes pat haba'ah b'kisinin. However, according to Ma'amar Mordechai that there is no dispute, the beracha on any item that is a snack item is undoubtedly Mezonot and one would recite a Mezonot on a pat haba'ah b'kisinin dessert.

#### The Proper Beracha on Matzah

One of the practical differences between the two approaches is the proper beracha on matzah. Matzah meets Rav Hai Gaon's criteria for pat haba'ah b'kisinin as it is dry and thin. However, matzah is generally not eaten as a snack but rather as part of a meal. According to the first approach, since matzah meets the criteria of pat haba'ah b'kisinin according to one of the aforementioned opinions, its beracha should be Mezonot. R. Ovadia Yosef, Yechaveh Da'at 3:12, follows the first approach and therefore concludes that Sefardic Jews should recite a Mezonot on matzah. He adds that on Pesach, one would recite HaMotzi because the Torah establishes it as bread for the duration of Pesach. According to the second approach, one would recite HaMotzi on matzah because it is generally eaten as part of a meal. [This idea is mentioned by R. Eliezer Waldenberg, Tzitz Eliezer 11:19, and R. Tzvi P. Frank, Har Tzvi 1:91, as the possible basis for common Ashkenazic practice to recite HaMotzi on matzah throughout the year. R. Frank adds that according to this approach there is a difference between matzah, which is eaten as part of a meal, and matzah crackers which are eaten as a snack.]

#### The Proper Beracha on Pizza

R. Mordechai Willig, Am Mordechai, Berachot 24:1, sides with the second approach that the criteria to determine whether a baked item is considered pat haba'ah b'kisinin is whether it is eaten as an integral part of a meal or as a snack. He notes that accordingly, the proper beracha on pizza is HaMotzi as pizza is generally eaten as an integral part of a meal. One can add that pizza may not be subject to the debate between R. Eger and R. Carmi. The argument that pizza is considered pat haba'ah b'kisinin is based on the assumption that pizza is kneaded with fruit juices and is therefore pat haba'ah b'kisinin according to Rambam's definition. However, Rama, Orach Chaim 168:7, rules that Rambam's criteria is not met unless the amount of juice (or other non-water ingredients) is so significant that it is considered a primary ingredient. The fact that there is minimal amount of juice, oil, or egg in an item will not render it pat haba'ah b'kisinin. In order for a pizza to be considered pat haba'ah b'kisinin according to Rama (if one follows R. Eger's approach), it would have to be kneaded with a significant amount of non-water ingredients. [Although one might argue that pizza is a "pocket filled" item as it is "filled" with cheese and tomato sauce, Shulchan Aruch 168:14, rules explicitly that one recites HaMotzi on an item filled with meat, cheese or fish.]

#### Mezonot Bread

There are certain breads that are advertised as "Mezonot bread." These breads are kneaded with juice instead of water. According to R. Eger, since these breads are not kneaded with water, it is proper to recite Mezonot on these breads. However, according to Ma'amar Mordechai

and those who follow his approach, since these breads are meant to be eaten as part of a meal, one would recite HaMotzi on these breads. Furthermore, according to R. Eger, in order to recite Mezonot on these breads, two conditions must be met. First, the bread would have to be totally (or mostly) kneaded with juice. Second, one can only recite Mezonot on these breads if one is only eating a small amount of food. If one is establishing a meal using these breads, one would be required to recite HaMotzi, even if they are considered pat haba'ah b'kisinin.

There is a solution for those who find themselves in situations where netilat yadayim or Birkat HaMazon is not feasible. One can simply use "bread" that is not made from one of the five grains. If, for example, one eats a sandwich made of rice bread or corn bread, there is no requirement for netilat yadayim. [It is important to note that many rice breads or corn breads are really wheat flour based. This solution is only applicable to rice and corn breads that do not contain wheat flour.]

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#### TALMUDIGEST—Pesachim 37 - 43

**For the week ending 25 February 2006 / 27 Shevat 5766**

**from Ohr Somayach | [www.ohr.edu](http://www.ohr.edu)**

**by Rabbi Mendel Weinbach**

#### **THE MAROR MYSTERY - Pesachim 39a**

When our ancestors in Egypt were commanded (Shmot 12:8) to eat the meat of the korban pesach together with matzah and maror (bitterness), no details were given about the nature of the bitterness. Rabbi Rachumi therefore asked the Sage Abaye how we know that the intention was bitter herbs. He even suggested the following things which are bitter, only to have Abaye explain why they did not qualify:

- 1) The bile of a fish - Since the Torah mentioned matzah and maror in the same passage, there is a suggested equation. Just as matzah is made from something that grows from the earth, so must maror be something that grows from the earth.
- 2) Hirduf - the bitter wood of a tree (which Moshe used {Shmot 15:25} in miraculous fashion to make the bitter waters of Marah drinkable for his people.)

Just as matzah is made from grain that must be repeatedly planted, so must maror be from vegetables, not trees.

- 3) Harzifa- a vegetable which is poisonous for animals.

Just as matzah is edible food that can be purchased in Yerushalayim with the funds that redeemed ma'aser sheini (second tithe), so must maror be something that can be purchased from these funds and harzifa is not something which people eat.

Tosefot points out that in regard to the above species which is poisonous to animals, the gemara could also have disqualified it for use as fulfillment of the mitzvah for the same reason the gemara (Mesechta Succah 32b) disqualifies it for use as one of the four species we are commanded to take on Succot - that "the ways of Torah are pleasant" and would not require us to use something of a poisonous nature.

#### **WHAT THE SAGES SAY**

"Although the mishna lists a number of bitter herbs which qualify for the mitzvah of eating maror on Pesach eve, the preferred species is chazeret (Romaine lettuce)."

Rabbi Oshia

"Chazeret is what we call chassa, and it is thus called because it recalls that G-d was chass (had mercy) on us and took us out of Egyptian bondage."

The Sage Rava - Pesachim 39a

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#### **YatedUSA Parshas Mishpatim 26 Shevat 5766**

**Parshas Mishpatim: From Slavery to Naaseh VeNishma**

**Based on an address**

**by Rabbi Fishel Schachter**

### Adapted for print by M. Heimowitz

Ask most children to tell you in which parshah the words Naaseh VeNishma appear, and they will probably tell you Parshas Yisro. Actually, the words Naaseh VeNishma appear at the end of Parshas Mishpatim. True, Parshas Yisro is the parshah of Matan Torah. But Matan Torah only begins in Parshas Yisro. It continues on through the entire Parsha of Mishpatim as well.

Parshas Mishpatim begins with the words “Ve’eileh hamishpatim asher tasim lifneihem.” Rashi comments that the Torah’s use of the word eileh, these, indicates the beginning of a new idea, while the use of the word ve’eileh, and these, indicates that there is continuity between what is currently being discussed and what has previously been discussed. The words Ve’eileh hamishpatim imply that just as the Aseres HaDibros and other halachos at the end of Parshas Yisro were given at Har Sinai, the mishpatim were also given at Har Sinai. The complex halachos of the ox that gores, of compensation for damages, of the Jewish justice system, of bein adam lechaveiro, constitute an integral part of Matan Torah.

Rashi adds that the reason the laws of Parshas Mishpatim immediately follow the halachos of building a mizbayach is to teach us that the Sanhedrin should be located adjacent to the Beis HaMikdash. Just as there is no break between Matan Torah and Parshas Mishpatim, there can be no segregation of the Beis HaMikdash and the Sanhedrin, who implement the mishpatim. The mishpatim are not merely a system of practical guidelines designed to ensure that human beings can coexist with one another in a functional society; they are as much a part of avodas Hashem as the avodah in the Beis HaMikdash was.

It is only after all of the mishpatim were transmitted to Klal Yisroel that the story of Matan Torah resumes. Only at the end of Parshas Mishpatim does Matan Torah reach its climax: Klal Yisroel’s proclamation of Naaseh VeNishma.

The Torah is making an emphatic point by placing the mishpatim right in middle of the story of Matan Torah. Don’t think, the Torah is saying, that the laws of bein adam lechaveiro are any less fundamental to kabbalas haTorah than the laws of bein adam lamakom. Don’t think that integrity is optional when doing business. Don’t think that you can mistreat the members of your family and still be an ehrliche yid who davens, learns, and gives tzedakah. If you are not a mensch, you are not a yid.

#### A Father’s Pain

If the Torah is trying to teach us that the laws of bein adam lechaveiro are fundamental to kabbalas haTorah, wouldn’t it be reasonable to expect that Parshas Mishpatim would begin with the most basic principles of bein adam lechaveiro? Loans and interest form the basis of an economy, so we could understand if the first mitzvah of Parshas Mishpatim were the mitzvah of lending money, “Im kesef talveh es ami,” or perhaps the prohibition of ribbis. And it would not come as a surprise to us if the first mitzvah in the parshah were the mitzvah of helping a Jew with his packages. After all, isn’t chessed at the core of our national identity?

But Parshas Mishpatim does not begin with any of these mitzvos. It begins, somewhat surprisingly, with the halachos of the eved ivri, the thief who cannot compensate his victim and is sold by the beis din as a slave.

Why, asks the Alter of Kelm, did the Torah choose to begin Parshas Mishpatim with a discussion of the laws of a common criminal? Is the eved ivri more important than the commandment of midvar sheker tirchak, the injunction against bribery, or the mitzvah not to cause pain to widows and orphans?

Imagine, says the Alter of Kelm, that a man is blessed with a number of sons, all of whom are ehrliche yidden, honest in business, baalei chessed. All, that is, but one. There is one son who somehow fell through the cracks in the system and became a common thief, a ganif.

This father deserves to enjoy much nachas from his sons. But whom do you think is on the father’s mind? Is it the son who has earned a sterling

reputation for his integrity in business? Is it the son who just received an award at the yeshiva’s dinner? Is it the son who completed all of Shas?

Of course not. No matter how successful his other children are, this poor father agonizes over his ganif of a son all day long. By rights, he should be reveling in his well-deserved nachas from his other sons – but that nachas pales in comparison to the pain he feels over the son who spends his day picking pockets. This son is the one who is at the forefront of the father’s mind.

By beginning Parshas Mishpatim with the laws of the eved ivri, the Torah is teaching us who is on the forefront of the mind of our Father in heaven. No, it is not the people who run the interest-free gemachs, or the people who are scrupulously honest in business, or even the people who spend their days doing chessed. It is the ganif, the yid who stole and now has to be sold as an eved ivri.

As much nachas as Hashem has from all of His other children, His primary concern is the children who fall through the cracks. That is why the laws of the eved ivri come before any of the other mishpatim. It is as though Hashem is begging you, kaveyachol, to turn your attention to the dregs of society, to those precious neshamos who have strayed from the path and desperately need to be cleansed from the filth and grime into which they have fallen.

#### The Torah’s Corrections System

The Torah goes into great detail describing what you are to do with your eved ivri. First, you are to take him into your house. Then, you are to share everything you have with him. Moreover, you are to give him preferential treatment. If there is only one pillow, you are to give it to him and sleep without one. Finally, after six years, you are to set him free. But you are not to send him away empty-handed; you are to shower him with gifts.

Contrast the Torah’s treatment of a thief with the modern criminal justice system. A teenager is caught shoplifting and the young offenders’ court sentences him to a stint in the juvenile corrections system. While in jail, he meets a few friends who give him tips how to avoid getting caught during his next bout of kleptomania. Upon his release, he hits the streets, ready to put his friends’ advice into practice. By now, he is not just a little ganif.

The next time the young thief is apprehended, it is no longer child’s play. He is sent on to the adult penal system, where he picks up some more tricks of the trade from the hardened criminals who become his cellmates and soul mates. The cycle continues, and the little ganif goes in and out through the revolving door of the justice system a few more times, augmenting his education each time with lessons from the pros. His career extends beyond theft and eventually, he finds himself in a maximum-security facility, indicted for some of the worst crimes in the book.

Sad to say, this fellow is a victim of the justice system. Chances are, the poor little ganif never had a normal family life, never experienced unconditional love, never learned how to behave in an acceptable manner. He may have lived all his life on the streets, where social niceties were non-existent; survival was all that mattered.

When the little ganif is brought to beis din, however, he is not sent to jail to join the prison population. Rather, he is forced to become a member of a normal family unit, where he is treated with the dignity and respect mandated by the Torah. The family shares everything they have with him. He is given responsibility, something he may never have had before. He learns to put in an honest day’s work, he learns what it means to be part of a functional family, and he learns how to become a productive member of society.

Finally, when the eved ivri’s six-year rehabilitation period is over, he becomes a free man. He is not sent away penniless, however, for fear that poverty might prompt him to go back to live on the streets and revert back to his thieving ways. Instead, his master showers him with gifts, paving



the way for the eved ivri to turn over a new leaf and begin to build a normal life.

This is how you are to deal with the Jew who has fallen through the cracks, the Torah is telling you. Treat him with respect, with compassion, with love. Show him what it means to be normal. Expose him to the joys of family life. Treat him as a member of your own family.

Later in the parshah, the Torah tells you what to do if you see that someone's ox or donkey has strayed. "Hasheiv teshivenu lo," the pasuk says. Chazal interpret the apparent repetition of *hasheiv teshivenu* to mean that you are obligated to return an animal repeatedly – *afilu meah pe'amim*, even if it has strayed one hundred times. If you are obligated to return a stray animal to its master, says the Chofetz Chaim, how much greater is your obligation to return a stray yid to his Master! And if your attempts to rehabilitate this yid are unsuccessful, do not give up. *Hasheiv teshivenu* – you are required to reach out to him over and over again, *afilu meah pe'amim*.

Avoiding the Victim Syndrome

There is another important reason why Parshas Mishpatim opens with the laws of the eved ivri. At this point, Klal Yisroel have just left Mitzrayim, where they were enslaved, oppressed and victimized. Now, the experience of *galus Mitzrayim* is fresh on their minds, and they remember very well what it means to be a slave.

It is a sad fact that people quickly forget how it feels to be a victim. In fact, when people who have been victimized are later placed in positions of authority, they often reenact the very same misdeeds that they themselves were prey to. Promote a lowly clerk to the position of CEO, and you are likely to find him blowing cigar smoke in the faces of the other clerks within a very short time.

The Torah does not want Klal Yisroel to forget how it feels to be a slave. By placing the laws of the eved ivri at the forefront of Parshas Mishpatim, Hashem is instructing Klal Yisroel how to use their newfound freedom. Remember your experience in Mitzrayim, the Torah is saying, and do not fall into the trap of treating your slaves the way you were treated. In fact, you are to go to the opposite extreme. If you only have one pillow, give it to your slave. He is vulnerable, just as you were at one time.

Klal Yisroel's enslavement in Mitzrayim was a prerequisite to *kabbalas haTorah*. But our experience in Mitzrayim can only be viewed as a meaningful prelude to *kabbalas haTorah* if it influences our conduct towards those who are subordinate to us.

The laws of the eved ivri are an introduction to all of the *mishpatim*, for they represent attitudes that are fundamental to *Yiddishkeit* and *kabbalas haTorah*. If you feel the pain of your Father in heaven over the child who has strayed, if you make every effort to reach out to that child, if you use your experience as a slave to determine the way you treat others, then you are qualified to absorb the remainder of the laws of Parshas Mishpatim. And then, you can relive the climax of Matan Torah and join in the chorus of *Naaseh VeNishma*.

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**Arutz Sheva - February 21, 2006**

### **YOUTH MUST BE SERVED**

It was *deja vu* all over again. Suddenly, I was a teenager once more.

The year is 1968, the place Chicago, my hometown. I am standing amidst huge throngs of people - most of them in their teens or '20s - at the site of the Democratic National Convention, where the Democratic candidate for President will be chosen. A massive protest against the War in Vietnam is in progress for a third straight day, and, although there is a kind of circus atmosphere among the demonstrators, tensions are running extremely high. The huge crowd is chanting *en masse*, "1-2-3-4, we don't want your bloody war; 5-6-7-8, we don't want to escalate." Signs against politicians, the military-industrial complex and virtually every vestige of the Establishment are everywhere.

Facing off against the crowd are "Chicago's Finest," a wall of mounted police in riot gear. They are under strict orders by the Windy City's legendary, autocratic Mayor Richard J. Daley to hold back the crowd, to be brutal if necessary, but to show the protestors just who is "Boss." (Mayor Daley's nickname).

Even from behind their plexi-glass masks, I can sense that the police - and the animals beneath them - are champing at the bit, waiting for the right opportunity to punish the "hippy-dippy flower children" for ruining what the Mayor had hoped would be a grand opportunity to show off the Second City to the world. (Daley had "won" the right for Chicago to host the Convention after securing JFK's razor-thin election victory eight years earlier, when he "delivered" a huge Democratic plurality in Chicago, swinging Illinois' electoral votes and the Presidency to Kennedy).

Now, the Mayor watched in abject fury as his golden prize was becoming severely tarnished.

All at once, the cops on horseback charged the crowd. With their metal-tipped batons swinging indiscriminately, they beat the defenseless protestors with Cossack-like ferocity, smashing skulls and breaking limbs.

The TV cameras rolled with the punches, capturing the horrendous scenes in bloody, living color. By the time the smoke had cleared and the hundreds of wounded removed to the hospital, the vivid scene of Chicago at war had been indelibly imprinted upon the American psyche.

The Democratic Convention, along with the JFK assassination and Woodstock, would become the defining image of the tumultuous '60s. It would shake the American political system - bringing down one President and leading to the impeachment of another - and would ultimately help to end the disastrous Vietnam debacle, leaving the heavily armed United States gun-shy for more than two decades. In many ways, the kids came out on top.

All these scenes rushed back to me as I watched the recent confrontations at Amona. Again, idealistic young people stood on one side while armed, mounted policemen stood on the other. To be sure, there were those protestors who over-stepped their bounds and acted disgracefully and violently towards government forces, just as some over-zealous kids in '68 threw bags of human feces at the police and taunted them with shouts of "Here, piggy, piggy." To be sure, there were hot-heads and agitators among the Israeli throng, just as Abie Hoffman and Tom Hayden ("Mr. Jane Fonda") had egged on the Convention crowd.

But for the most part, the cruelty and brutality were heavily weighted on the part of the police, not the protestors. Numerous innocents were clubbed and beaten for no reason other than they were there; the charge of the horses directly into the crowd did not distinguish between the peaceful and the provocateurs.

While there is plenty of blame on both sides, the playing field was not exactly even in Amona. After all, who should we expect to demonstrate more restraint and more control in crisis conditions: A 15 year-old student, already hurt, confused and frustrated by this summer's pullout from Gush Katif; or an adult in uniform, supposedly trained to carry out his job with precision and professionalism?

As the world gleefully watched the Jew vs. Jew violence, all the currency we had accumulated from the Gush Katif withdrawal - when soldiers accomplished their task with hugs and not head-breaking, where the tears far outnumbered the truncheons - vanished into thin air.

Something snapped that day, and this country crossed a red and bloody line.

What is most distressing to me about all this is the sheer cruelty displayed by our police, the "over-the-top" zealotry which they displayed while beating young boys and girls, even after the kids had been rendered helpless and lay on the ground. So extreme was their behavior that many protestors insisted they could not be Jewish. Indeed, the Talmud says that "if you detect a strain of cruelty in a person, you can rightly question his Jewish lineage."

When had we ever seen this kind of gratuitous violence? What, exactly, fueled this near-savage behavior? Why didn't the police use another form of crowd control, such as water hoses, or even tear gas? After all, these were not criminals or convicts on a rampage, nor were they drug addicts or vandals out to do reckless vandalism. These were good kids from good homes, who believe deeply in the sanctity of the land and are prepared to fight - and die, if necessary - in or out of uniform, to preserve the Jewish homeland. Surely they deserved better.

The knee-jerk reaction of acting Prime Minister Olmert to whitewash the police behavior and stonewall any investigation into their conduct was absolutely Daleyesque. He, too, stood by his troops to a fault, refusing to acknowledge any malfeasance of duty on their part and placing all the blame on the younger generation.

But youth must be served. Instinctively, our kids sense that there is something amiss here. A society that first encourages settlement, then retracts it, that demonizes the pioneers and cavalierly abandons them to their fate, that rolls back sacred principles at will and redefines the values always held dear, is a society that must be confronted and challenged. Thank G-d we have a younger generation that gives a damn, that has a cause, that cares deeply about what happens to this country.

Rather than beat back that impulse, we have to address it, nurture it and treat it with the respect it deserves.

Rabbi Weiss is Director of the Jewish Outreach Center of Ra'anana and of the Ohel Ari Jewish Heritage Center.

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*Excerpts from the Ezras Torah Calendars*

**Shabbos Parshas Mishpatim, Parshas Shekolim**

**Feb. 25, 27 Shevat**

We recite the regular Shabbos service (many say the [Piyutim for special occasions], for Parshas Shekolim). We take out two Sifrei Torah; seven Aliyahs in first Sefer Torah from the weekly Sidrah – Mishpatim; Half-Kaddish. The Maftir reads from Parshas Ki Sisah (Exodus 30:11-16). The Haftorah for Parshas Shekolim is read from Kings II 12:1-17. We do not permit a child to read the Haftorah for the congregation on any of the four special Shabbosos: Shekolim, Zochor, Parah, and HaChodesh. We bless the month of Adar; we do not say "Kayl Malei" or "Av Harachamim".

The foremost Rabbis of past generations instituted a wonderful practice whereby, on Shabbos Shekolim Shuls all over America conducted appeals for Ezras Torah, which was a holy bastion of relief and succor for thousands of families of Torah scholars, including Gedolim, Tzaddikim, widows, and children, whose poverty was relieved, to some degree, by the work of Ezras Torah. This practice must be maintained through the present, because these appeals have become a major source of income for Ezras Torah. Heaven forbid that this practice be changed or replaced.

**MUSSAF**

Shemonah Esrei of Shabbos Mussaf; the Chazzan's Repetition; (Piyutim for those who say them); Kaddish Tiskabel; Ein Keilokeinu; Aleinu; Shir Shel Yom; Anim Zmiros Mourner's Kaddish; Adon Olam.

**MINCHA**

Three Aliyahs in Parshas Terumah. We say "Tzidkascha Tzedek".

**EREV ROSH CHODESH. MONDAY, 29 SHEVAT, FEB. 27**

(Some observe Yom Kippur Koton.) No Tachanun at Mincha.

**FIRST DAY ROSH CHODESH. TUESDAY, FEB. 28, 30 SHEVAT**

The usual service for Rosh Chodesh: Yaaleh Veyavo in Shemonah Esrei; Half-Hallel; Kaddish Tiskabel; Torah Reading; Mussaf for Rosh Chodesh, etc

**SECOND DAY ROSH CHODESH. WEDNESDAY, MAR. 1, 1 ADAR**

We conduct services exactly as on the first day of Rosh Chodesh.