

INTERNET PARSHA SHEET  
ON MISHPATIM - 5760

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From: Rabbi Yissocher Frand ryfrand@torah.org  
"RavFrand" List - RABBI FRAND ON PARSHAS MISHPATIM  
These divrei Torah were adapted from the hashkafa portion of Rabbi  
Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion:  
Tape # 227, Taking Medicine on Shabbos. Good Shabbos!

### Why Pick On The Ear?

At the end of the six-year Shmita cycle, all Jewish servants go free from their masters. (A Jew becomes a servant either by selling himself because he is destitute, or through being sold by Bais Din [the Court] as a punishment for stealing and being unable to repay what he stole.) If a Jewish servant does not want to leave his master at the end of the six year Shmita cycle, he is taken to the door post and his master bores a hole through his ear. He then remains in servitude [Shmos 21: 5-6]. The Talmud [Kiddushin 22b] tells us the significance of the fact that it is specifically his ear that is pierced: "The ear that heard on Sinai 'you are to be slaves to Me' and nevertheless chose to sell himself into slavery (acquiring a different master for himself) and then chose to remain in servitude when he had the opportunity to go free is deserving of punishment."

The Gerrer Rebbe (Sefas Emes) protests that it is not really the ear's fault; it is the brain's fault! The ear is just a receptacle, a tool for hearing sounds. In fact, it is his brain or perhaps his heart that is at fault. That is the part of him that fails to realize to whom he is supposed to be a slave. Why pick on the ear?

The Sefas Emes answers that it is the ear's fault, because the message remained only in the ear. The trouble with this person is that he heard -- externally; but he did not listen. He did not internalize the message "They shall be slaves to Me; not slaves to other slaves". That was his sin. It remained only in the ear. In one ear, out the other.

I once heard from Rav Michel Twerski, who is a practicing Rabbi and a practicing psychologist, that he has noticed a very interesting phenomenon. Patients who are receiving therapy can often discuss a problem and realize what the solution to the problem is. However, very often, they just can't implement the solution. They hear what needs to be done, but they don't listen. They don't internalize it.

Rav Michel Twerski commented that we have become a spectator society. People, unfortunately, it is sad to say, watch so much theater, so many movies and so much television that their lives become soap operas. People become 'just spectators' to their own lives. Therefore, they cannot act to improve their lives and to change what is going on in their lives anymore than they can act to change what is going on in the movies or the soap operas.

### Treatment of Widows And Orphans Determines One's Reward and Punishment

The parsha contains the Biblical prohibition against mistreating orphans and widows. G-d threatens us "If you make an orphan or a widow feel bad, watch out! I hear their cries and I will take revenge against you." [Shmos 22: 21-23]

The Rambam writes in Hilchos De'os Chapter 6, "A person must take heed of orphans and widows. Even though one does not get lashes for this offense (because there is no specific action involved), it is (nonetheless) a severe offense because its punishment is spelled out in the Torah. 'My anger will lash out against you... by sword'. G-d made a

B'S'Dpecial covenant with widows and orphans that when ever they cry out as a result of oppression, their cries will be answered."

There are a number of incidents documented from the life of the Chofetz Chaim that seem out of character for him. When the Chofetz Chaim would see that someone was not kind to an orphan or a widow, he would say, "Wait and see -- this person will be punished!" This is surprising. The Chofetz Chaim was not the vindictive type. We do not find that the Chofetz Chaim made statements such as, "This fellow spoke Lashon Hara (gossip), watch it -- he will be punished." He never said "This person desecrated the Sabbath -- watch it, he will get it." Such things are not our business. They are the domain of G-d.

But regarding someone who did an injustice to an orphan or a widow, the Chofetz Chaim would say, "Wait and see -- he is going to get it."

There was an unfortunate practice in Russia that children would be seized and drafted into the Czarist army. Their enlistment was not for 4 years or for 8 years, but for 30 years. Any children that wound up in the Russian army, if they lived to tell the tale, invariably emerged as broken people. This was a living death sentence.

Unfortunately, the practice was that when the Czar's officers would come looking for children, people would arrange for other children to be taken to fill the quota. Particularly, orphans were taken. There was no one to bribe the authorities; the quota had to be met; so who was taken? the orphans.

There was a wealthy Jewish butcher whose son was supposed to be inducted into the army. He bribed an officer to take an orphan rather than his son. When the Chofetz Chaim heard this story, he said, "Wait and see. This man will receive punishment and pay the price." Thirty years later that butcher's son came down with cholera and died. The Chevra Kaddisha refused to touch him because of the contagious disease. That same butcher had to dig a grave and bury his son with his own hands.

Was the Chofetz Chaim being vindictive? No, the Chofetz Chaim was being a believer. When G-d promises "I will hear his cry" then that becomes a part of belief in Torah -- to believe that the oppressor will receive his punishment.

I heard recently that Reb Chaim Ozer, the Rav in Vilna, said, "For years I thought that my "ticket" to the World to Come will be the Achiezer (his classic multi-volume collection of thousands of Responsa). However, I now (towards the end of his life) believe that my "ticket" to the World to Come will be that I was responsible for the sustenance of widows and orphans throughout Europe." Hundreds of thousands if not millions of rubles passed through his hands. He supported Yeshivos and the impoverished; widows and orphans. That, he believed, was his crowning glory to take to the next world, despite his monumental contribution to the annals of Torah literature.

Sources and Personalities Gerrer Rebbe -- Rabbi Yehudah Leib Alter (1847-1905), the second Gerrer Rebbe and a leader of Polish Jewry. Rabbi Michel Twerski -- Rabbi Congregation Beth Judah; Milwaukee. Chofetz Chaim -- (1838-1933) Rav Yisrael Meir HaKohen of Radin. Author of basic works in Jewish Law and Jewish values (halacha, hashkafa, and mussar). Rabbi Chaim Ozer Grodzinski -- (1863-1940) Vilna, Lithuania; a leader of Lithuanian Jewry.

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From: Yated USA[SMTP:yated-usa@ttec.com] Yated Neeman USA Columns ...

Parsha Perspectives Parshas Mishpatim- Double Jeopardy by RABBI MORDECHAI KAMENETZKY

In addition to the many dinim that Parshas Mishpatim teaches about animals damaging property, people damaging property, and about people hurting people-both physically and emotionally, the Torah reserves a special verse for hurting the feelings of a special group of people-almonos and y'somim, widows and orphans. Hashem swears His revenge on the perpetrators: "You shall not taunt a widow or orphan. For if you shall cause pain, and there will be a cry to me, I shall hear the cry. My wrath shall blaze and your wives shall be widows and your children, orphans" (Shmos 22:20). The words of the posuk are repetitive. "For if pain-you shall cause pain-and cry-there will be a cry to me-hear I shall hear the cry." It seems that there are two pains, two cries and Hashem hears them all. What are the two pains that the orphan and widow experiences? What are the two cries? And why does Hashem hear the cries twice?

A true story, that I heard, but will only repeat with the names changed, cast a light that can be used to explain the seemingly extra phraseology. The sudden death of Velvel Mansberg two months before Pesach, left his bereaved widow and four young children in a terrible state of despair. The community tried hard to help them put their lives together after their terrible ordeal. During a trip to the shoe store a week before the Yom Tov, the salesman, who knew the sad situation, went to the back of the store. He came out with a very special treat. He slowly handed each child a large, helium-filled, mylar balloon. He started with the youngest. "One for Tzippy, one for Dovi, one for Leah, one for Shimmi, and," he slowly said with a smile, "one for Mommy." As the children were cherishing their shiny balloons, Leah began walking out of the store. She opened the door and confidently let go of her beautiful balloon. Both Mrs. Mansberg and the salesman watched in shock as the balloon floated skyward. "Why did you do that?" snarled the insulted salesman. Trying to compose himself, he added, "You know, Leah, it is terribly wrong to throw away a gift-especially in front of the person who gave it!" Five-year-old Leah ignored the salesman's protests as she watched the mylar balloon float away. She waited until all that appeared was the image of a silver coin floating like a feather. With one eye focused on the clouds, she turned to her mother and stoically explained her actions. With tears swelling in her eyes she explained, "Tatty didn't get one"

The Kotzker Rebbe once explained, "Every pain you cause an orphan is twofold. In addition to the taunt or callous remark there is another hurt. The orphan thinks, 'He would not have done that if my father was here to protect me!'" Images of a lost parent never leave the widow or child. Every action embodies a remembrance of their parent or spouse. Sometimes it is hard to realize that their feelings are amplified by deep reflections. "What would Mommy have said to these insults?" "If my husband was alive, they would not treat me this way!" "I am sure that my Tatty would not have let this fellow start with me!" The tragic memories die hard and they are compounded by the pain and frustration of additional suffering. When there is pain, the pain is doubled, and so is the cry. First there is the pain of the actual occurrence, then there is the pain of reflection; what would have or could have been. It is important to guard our tongues and watch for any words that may cause pain. More so toward those who live with pain. Flippancy remarks can cause agonizing ramifications. Surely then, it is more important to watch for words that may double the pain. For Hashem tells us that when we pain those who are already in pain, "-hear I shall hear the cry." And He hears that pain-twice. Rabbi Kamenetzky is the Associate Dean of Yeshiva South Shore and the author of the Parsha Parables Series.

From: Rabbi Chaim Dovid Green dgreen@torah.org Dvartorah - Parshas Mishpatim - To Choose to Choose  
Best wishes of Mazal Tov to Rabbi and Mrs. Lam on the birth of a daughter!

RABBI LABEL LAM Parshas Mishpatim 5760  
To Choose to Choose

There is nothing more dramatic in the entire universe than when, within a private moment, a person girds his loins (whatever that means) and make a decision. There, I said it. I realize that it doesn't sound all that eventful. Allow me to explain, please.

We usually think of decisions with a small "d". Those types of decisions are between Coke or Pepsi, Chinese or Italian food etc. They can really be categorized as preferences since they exist on a horizontal plane and can easily be reckoned by the family pet as well.

A real decision with a capital "D", for example, is something I observed by a friend of mine who used to smoke three packs of cigarettes a day for almost two decades. I don't know when he had time for anything else. It sounds like a full time job. One day, for some mystical reason, he decided to quit, and that was that. Since then he never touched a cigarette. That's dramatic!

Accompanying a sincere decision is a mini-power pack that gives the person the ability to withstand all the future consequences of that decision. The next day and forever more he'll have to find something new to do with his hands. He'll need some nifty social response when an old crony offers him one from his pack. He will need an awesome commitment to his principles and a superhuman energy to survive "the slings and arrows of outrageous fortune."

When I began to understand the power of this single act of heroism I started to appreciate why we make such a big deal about weddings. I always wondered why everyone is so willing to cross the ocean or the George Washington Bridge. Why was so much money and man hours being spent on such a brief celebration; for harps, flowers, booze and some 400 chickens have to give their lives for the event!?

What is so extraordinarily appealing is simply that two people are making a decision. They are deciding to remain bound together forever. At that moment a huge power pack is available that will enable them to remain constant for fifty or seventy years in the face of millions of unforeseen variables. The economy, health, the in-laws, society around them, and the children will take them on a roller coaster ride that will test "whether that nation or any nation so conceived and so dedicated may long endure." The enormity of the energy available at that moment is staggering. People intuitively come to bask in the light as if it's a space ship launching.

Even the grandest of weddings is merely a faint echo of an original event 3312 years ago. No romance or attraction could ever truly approximate the real magnetic pull that lured an entire nation out into the barren wilderness to forge an eternal bond.

We can only imagine the enormous superhuman energy that was endowed when the entire nation declared "in a singular voice saying; 'everything Hashem says we will do!'" (Shemos 24:3) That commitment unleashed an enduring force that has allowed us to remain through the gauntlet of persecution and expulsion "till the last syllable of recorded history", till the day when "Hashem will be one and His name one." (Zachariah 14:9)

All that abundance was buried in an initial challenge, "And now Israel if you will listen well to My voice and guard My covenant, I will make you a treasure from all the nations" (Shemos 19:5) Rashi comments; "If you will commit yourselves it will be sweet from here and further because all beginnings are difficult". The hardest part is the initial decision, to move from zero to one. Afterwards there is a momentum of mitzvos and then the inertia compounds with each ensuing choice and reconfirmation.

Life is lived or lost in the millions of decisions we make or default

on daily. While all creatures and entities in the universe are compelled to obey the will of their Creator only a human being has the option to experience Mount Sinai; wedding the ordinary to the sublime at each moment of life with a unique and profound ability to choose to choose.

Good Shabbos!

For a free tape of Rabbi Lam on Developing trust in G-d, Parenting, Happiness, or Belief in G-d, call Foundations at 800-700-9577.  
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From: Jeffrey Gross[SMTP:jgross@torah.org] Reply To: neustadt@torah.org;jgross@torah.org;genesis@torah.org  
WEEKLY-HALACHA FOR 5760 SELECTED HALACHOS RELATING TO PARSHAS MISHPATIM  
BY RABBI DONIEL NEUSTADT

A discussion of Halachic topics related to the Parsha of the week.  
For final rulings, consult your Rav.

Dear Subscribers: I would like to acknowledge all those subscribers who sent in Shabbos questions for Rabbi Neustadt. Those of you who still have questions that are relevant to Shabbos, please e-mail them to me and they will be forwarded to Rabbi Neustadt. Once again thanks for your support and continued interest. A Gutten Shabbos Jeffrey Gross

COMMON HILCHOS SHABBOS QUESTIONS and ANSWERS  
-PART 4

QUESTION: ARE THERE ANY COSMETICS THAT A WOMAN IS PERMITTED TO USE ON SHABBOS?

DISCUSSION: There are two forbidden Shabbos Labors which may be transgressed when using makeup; one is memareiach, smoothing, and the other is tzoveia, coloring(1).

All poskim, without exception or debate, agree to the following: Any cream makeup, liquid makeup, lipstick(2), or makeup of any sort which contain cream or oil is strictly prohibited to use. These forms of makeup may not be applied even on top of existing makeup to touch up. etc.

When it comes, however, to face powder or powdery substances which have no cream or oil base, such as certain brands of blush and eye shadow, there is some unclarity among contemporary authorities. The basis for the confusion is a responsum written by Harav M. Feinstein in 1957(3) in which he writes that "to throw (sprinkle) across the face white powder which does not last at all is not a violation of the prohibition of coloring". Some interpreted his words to mean that all powders which do not contain cream or oil may be used since they do not cling to the skin for long(4). But it remains highly doubtful if that is what Rabbi Feinstein meant. In a subsequent responsum, written in 1984(5), he clarifies that in his original responsum he was referring to "simple white powder called talc which is made without oil and does not last"(6). He also writes that "most of the powders which are sold as makeup are oil-based, and that some of them last temporarily, and therefore using most of them is a QUESTION of Coloring". It is stretching things, therefore, to attribute to Harav Feinstein a blanket heter to use any powdery makeup on Shabbos.

While Harav Feinstein's view remains somewhat unclear(7), Harav S.Z. Auerbach leaves no room as to his opinion on this QUESTION. He writes that "so long as the purpose is to color [the skin], even if it lasts only a short while, there is no basis to be lenient, especially when the powder was intended for makeup and women color their faces in this manner, we find no source to be lenient(8)."

There are yet other poskim who prohibit using any tinted powder but permit using white powder(9).

Based on all of the above, the practical Halachah is as follows: As a rule, women should not apply any makeup on Shabbos. But since not wearing makeup is a personal issue which could, under certain

circumstances, affect relationships, etc.(10), it is recommended that those who find themselves in such a situation consult a rav for guidance.

QUESTION: IS IT PERMITTED TO BRUSH ONE'S TEETH ON SHABBOS, WITH OR WITHOUT TOOTHPASTE?

DISCUSSION: The consensus of contemporary poskim is that it is forbidden to use toothpaste on Shabbos(11). Their main concern is that putting toothpaste on the teeth or the brush could result in a transgression of the prohibited Shabbos Labor of memareiach, smoothing.

Brushing without toothpaste is permitted, provided that the following conditions are met:

Use a toothbrush that is designated for Shabbos use only(12). Some poskim require that the Shabbos toothbrush also look different from the weekday one, e.g., a different color or style(13).

Use a soft brush so as not to irritate the gums and cause bleeding. [People with extremely sensitive gums who bleed whenever they brush their teeth may not use a tooth brush at all.]

To avoid the prohibition of sechitah, squeezing, a dry toothbrush should be used. It is, however, permitted to rinse the mouth with cold water first and then use the toothbrush(14).

The tooth brush may not be rinsed off after it is used unless it is going to be used again on that same Shabbos(15). ....

FOOTNOTES: 1In this case, where the coloring is being done to a person's skin, the prohibition is Rabbinical in nature; Mishnah Berurah 303:79. See Shulchan Shelomo 303:16 that using nail polish may be Biblically forbidden. 2Colored or colorless. 3Igras Moshe O.C. 1:114. 4See Yechaveh Da'as 4:28 who infers from this responsum that all non-oil-based makeup is temporary and does not last. See also Ketzos ha-Shulchan 146:20 who writes that as long as the color does not become "attached" to the face it is not considered Coloring. But even according to this lenient interpretation, it remains unclear if the makeup powders available today, who adhere to the skin for a long time when applied normally, are permitted. 5Igras Moshe O.C. 5:27. 6Even when powder is permitted to be used, it must be in powder form before the onset of Shabbos; ibid. 7In addition to the written responsa, there are several unsubstantiated and unclear understood oral rulings reported by individuals who discussed this matter with Harav Feinstein. 8Shemiras Shabbos K'hilchasah 14:59 and Tikumim U'miluim. See also Teshuvos Beis Yisrael 56 who prohibits all powdered makeup. 9M'haram Brisk 1:23; Be'er Moshe 8:25; Shevet ha-Levi 1:97;6:33. 10See Teshuvos Ra'avan 354. See also O.C. 613:10. . 11Igras Moshe O.C. 1:112; Minchas Yitzchak 3:48; Shevet ha-Levi 5:45; Tzitz Eliezer 7:30. A minority opinion permits using toothpaste when in distress, see Ketzos ha-Shulchan 138:31. 12Based on Mishnah Berurah 327:10. 13Minchas Yitzchak 3:50. 14Igras Moshe, ibid.; Shevet ha-Levi, ibid. 15Igras Moshe, ibid.

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From: RABBI LIPMAN PODOLSKY [SMTP:podolsky@hakotel.edu]  
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Go the Distance!

"Distance yourself from a false word... (Shmos 23:7)." Why does the Torah implore us to distance ourselves? What's wrong with: Thou shalt not lie? Since when is the Torah concerned with geographic proximity?

A quick perusal through our literature reveals a firm abhorrence for untruth. "In the midst of My house shall not dwell a practitioner of deceit; one who tells lies shall not be established before My eyes (Tehillim 101:7)." "Lips of falsehood are an abomination to Hashem... (Mishlei 12:22)." "He who tells a lie is considered as an idolator (Sanhedrin 92a)." "Woe to people who allow false words to escape their mouths; it would have been better had they not come into this world (Zohar)." "The remnant of Yisrael will not commit corruption, they will not speak falsehood, and a deceitful tongue will not be found in their mouth... (Tzefania 3:13)."

But let's be real. What's so bad about lying?

Truth is the seal of Hashem (Shabbos 55a). Just as there is only one G-d, so there is only one Truth. Truth cannot be approximated. The slightest deviation from the whole truth renders it completely false. An

infinitesimal mutation of Emmes results in pure Shekker. Remove the humble Alef and Emmes becomes Mes -- Death, the ultimate Shekker.

In fact, the more closely Shekker resembles Emmes, the greater is the falsehood, for Shekker actually masquerades as Emmes. Thus, the slightest deviation from Emmes is by far the greatest Shekker.

Consequently, the liar skirts idolatry. There is only one G-d; there is only one truth. Untruths, just as false religions, are unlimited in number.

Furthermore, the lie ultimately crumbles. "Truth stands, Falsehood has no legs (Shabbos 104a)." Look at the Hebrew letters of Emmes and Shekker. You will notice that the letters that comprise Emmes come from the beginning, the middle, and the end of the Alef-Bais, respectively. This provides symbolic stability -- an alphabetical tripod. The three letters comprising Shekker, though, are sequential. It cannot stand.

Moreover, each of the letters spelling the word Emmes has two legs. It stands strong. With Shekker, each letter has only one leg, with the central "Kuf" longer than the others. Shekker falters. "True speech is established forever, but a false tongue is only for a moment (Mishlei 12:19)."

Consequently, the Torah admonishes us not merely to tell the truth, but to stay as far away from falsehood as possible. It is not adequate to tell the truth; one must become Truth.

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The ultimate deception is when a person lies to himself. When others perceive the deception that he himself does not see, when they attempt to correct his distorted self-image and he refuses to heed their objectivity, there is nothing more pathetic.

Herod, the renegade slave who murdered his king and seized the throne, was a classic example. He knew that he wasn't born of royalty. Worse yet, the people knew. In order to cover up for his inherent flaw and enervating inferiority complex, Herod had his slaves train thousands of pigeons to chirp, "My master! my master!" One pigeon refused to comply with the obvious prevarication. Instead, she clucked, "My master is a slave!" She was summarily slaughtered (Chullin 139b). Is there anything more pathetic?

But why point fingers? To a certain extent, we are all a little like that. The Truth -- the Real Me -- is buried. People are reluctant to really know themselves. Instead, they seek status symbols in lieu of self-definition. They jump from one symbol to another, all the while deceiving themselves of the one and only Truth. But in the end, Shekker cannot stand. Ultimately, the illusion dissipates.

Sometimes people wake up while there is still time to change. But usually it's too late.

True, it's an arduous process to dig out the real me. The truth does sometimes hurt. But in the long run, it's worth the price. No pain, no gain!

I should distance myself from Shekker -- the further the better. The Truth that I discover is Me!

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From: RABBI NOSON WEISZ NWeisz@aish.edu Subject: Mayanot - Mishpatim - All In The Family

PARSHAT MISHPATIM "Laws" Exodus 21:1 to 24:18

All in the Family Rabbi Noson Weisz

This week's Torah portion begins as follows: And these are the ordinances that you shall place before them. [Exodus 21:1] Comments Rashi (quoting Mechilta): Wherever the word eleh "these" is used, it disqualifies that which preceded it. But v'eleh, "and these" is a continuation of that which preceded it. [Therefore] just as the preceding words [the Ten Commandments] were received from Sinai, these also were from Sinai. But this comment is somewhat perplexing. According to Jewish tradition all the laws of the Torah were given on Sinai, so why would we think that these were not? There

must be something about the laws of this week's Torah portion that would cause one to think that they did not originate on Sinai which prompted the rabbis to emphasize their Sinaic origin.

NOT MYSTERIOUS BUT OBVIOUS In truth this mysterious factor is quite obvious. The laws of this Torah portion concern matters that are universal to all of mankind and seem not to require special directives from G-d. All societies have laws concerning torts, theft, property and other civil matters. Although these laws vary from time to time and place to place, as long as they are clear and well known, societies function smoothly no matter what the variations might be. Therefore why does G-d concern Himself with this type of law at all? Why not allow people to handle these problems on their own since, as a matter of fact, they do anyway?

Indeed previously, G-d seemed content to give humanity quite a bit of leeway. For example, one of the seven Noachide laws that were issued to all of mankind following the flood, was the obligation to establish judicial systems -- courts and police forces -- in every population center to administrate and enforce the other six Noachide laws, and to establish a body of civil law. [See Maimonides, Yad, Melochim 9:14] But the actual content of the laws was quite broad; the specifics of judicial administration were not proscribed. The important thing was to have a system of justice. So why single out the Jews in this respect? Why do these laws -- known as mishpatim -- have to originate in Sinai?

THE LESSON OF THE CHAZON ISH The Chazon Ish, one of the Torah giants who established Torah learning in Israel following the Holocaust, developed a systematic answer to this question in his work Emuna Ubitochon. He begins his discourse with the following dramatic illustration: A new butcher moves into a community where a butcher has been operating for many years. The new man is much younger, he has some modern ideas about marketing and packaging, and is full of the enthusiasm of youth. A lot of people are naturally drawn to his store, which compares very favorably with the one operated by their old worn-out butcher, and the older man's livelihood begins to be threatened. Some people in town come to the aid of the old butcher, driven by a sense of moral outrage. The old butcher is an honest merchant who has served the community faithfully and well for many years and does not deserve to have his livelihood stolen from him just as he is nearing the age of retirement. They organize a boycott against the new store, they dig up every negative fact they can about the new man's character, they ostracize his wife and children. In short they do all they can to chase him out of town. Now imagine the identical story, except substitute school for butcher. What is at stake is a new modern school that is out to replace the traditional community school and put its teachers out of their jobs. The human emotions stirred up are identical. If anything, there is even a greater sense of moral outrage at the attempt to injure the livelihood of old teachers to whom many people in town are emotionally attached from the years when they were their pupils, and who tend to be idealistic, intelligent human beings, who are often much admired in the community. The human sense of justice would rule identically in both cases of the new butcher and the new school. Yet the Torah considers them radically different from one another. In the case of the two butchers, the Torah considers the opening of the new store an act of hasogas gvul, an unlawful invasion of another person's territory and rules in favor of the old butcher. Whoever defends him is doing a mitvah. The organization of the boycott, the broadcasting of negative character traits, the ostracizing of the family are all justifiable acts taken to protect the victim against the aggressor. Anyone who helps the old butcher will thus be rewarded by G-d. In the case of the schools, the Torah favors competition. That Talmud states: ! The jealousy between the wise leads to greater wisdom.) [Baba basra, 21a] And wisdom is a supreme value in the eyes of the Torah. Whoever attacks the new school and its staff is engaged in an evil act. The identical activities undertaken for the identical motives now become evil deeds. The boycott is theft, the broadcasting of negative character traits is the worst form of lashon hara, the ostracizing of the family an act akin to murder. All those engaged in any of these activities will be punished by G-d.

Our innate sense of justice and sense of right and wrong are false guides. If we follow them we end up causing terrible injury to others and destroying ourselves morally. Knowing this about us, G-d gave us the laws of mishpatim.

THE CHILDREN OF GOD You are children to G-d, your Elokim.

Deuteronomy 14:1] So says G-d, ! My first born son is Israel.) [Exodus 4:22]

G-d calls us Jews His children. But in what way can this relationship express itself? Certainly not in the fact that G-d is our creator, for He is that for everyone. Certainly not in that He gives us commandments. Masters issue commands to their servants, not fathers to their children (at least not in my house).

What makes a child mine is that he or she shares my inner world. We live together and communicate our opinions and ideas to each other. Over the course of years of close interaction, my children will internalize my values, my judgments and my priorities about the important aspects of life. They will pick up my attitude

towards marriage and the importance of relationships. They will imitate the way I deal with people and the world.

Indeed, one of the greatest problems of our modern world is that this type of parental interaction is no longer a part of it. Today's children learn more from their teachers, peers and the media than from their parents, because many parents no longer spend much quality time with their kids. Modern society is a culture of orphans. Nevertheless, our ideal remains the close knit nuclear family that transmits its values from generation to generation.

But if this is what it takes to be described as a true child, how can we people have such an interaction with G-d? It was to solve this problem that G-d gave us mishpatim.

**A FATHER'S INSTRUCTIONS** It was through this portion of the Torah that G-d, Our Father, shared with us His judgments, values and opinions. He explained in detail His views on marriage, filial obligations and the correct way to interact with society. He gave us these laws to instill in us His sense of right and wrong -- something which cannot be conveyed through commandments and rituals or prayers. It can only be understood through discussion and the sharing of opinions.

And this is what we continue to do -- discuss G-d's sense of right and wrong so that we can follow it faithfully. Go into the study hall of any typical yeshiva. You will encounter young people learning together in groups, engaged in heated discussion over the lessons of the Talmud. The topics they are discussing are precisely the ones mentioned. They are going through the laws of marriage, of property, how to make deals, when they are final, how much one is bound by his word and so on. Over the centuries, many people, including some Jews, have dismissed this type of learning as so much irrelevant Talmudic hair splitting.

They can understand that the learning of halacha is necessary to someone who is interested in keeping the ritual law. They can understand that the study of Jewish philosophy or mysticism (Kabbalah) is beneficial to someone who has an interest in getting closer to G-d. But they do not see the usefulness of studying the Talmud intensively, mastering the minutiae of a legal system that is no longer in effect and has not been so for two thousand years since the Jewish kingdom fell to the Romans. They fail to appreciate the genius of G-d or the Jewish people.

**INTERNALIZING GOD'S WORLDVIEW** Only by studying the Talmud have we Jews remained G-d's children. Every heated discussion of a Talmudic topic involves the internalization of G-d's worldview about some aspect of human life. A person who spends the bulk of his day learning the Talmud is soaking up the atmosphere and culture of G-d's house. The head of the Talmudic scholar is stuffed with G-d's opinions about all the issues of human life. He has successfully internalized G-d's worldview. He is G-d's child. It should be quite obvious that the Jewish people could not have survived two thousand years of exile and persecution if our attachment to G-d had been based solely on ritual and theology.

Even when we are not in exile, the foundation of our relationship with G-d is always Torah learning. The Sages teach us: The importance of Talmud Torah, "the mitzvah of Torah study," outweighs the importance of all the other commandments combined.) [Peah 1:1] It is the study of the laws of mishpatim that keeps our relationship with G-d vibrant and young. By becoming His children and sharing His worldview and His sense of right and wrong through the study of the Talmud, we are armed with His answers when we face any problem in life.

When we pray to Him, we are not contacting some remote stranger, but someone very familiar. When we carry out the dictates of the ritual law, we are not engaged in solemn ceremony. We are spending some time in our Father's house where there are naturally different modes of behavior than those that prevail in the mundane world we live in.

**MEASURING UP** We all have emotions and desires that fuel the motivations that direct all our activities. We feel ambition, love, hate, anger, generosity and so on, and every situation we face in life calls forth some of these feelings. But these emotions must be screened. For example, someone makes a cutting remark at your expense. Everyone laughs and you are insulted. You are consumed by rage and overcome by a desire for revenge. Rather than act on these feelings, you step back and say to yourself, ! Yes, he really should not have said that, it really wounded me. But to express my anger would be out of place. His behavior is perfectly acceptable social conduct in this society, and I have sometimes behaved in similar fashion myself.) The mind must always weigh and measure the emotional response that fits each situation. In Hebrew, this ability to size up the situation and respond appropriately is called mida (plural midos). This concept has no exact equivalent in English, though often mistranslated as "character trait/s." But, in fact, the word mida means "measure." It stands for the ability to instinctively "measure" with our minds the appropriateness of our emotions.

Good midos (this is where the translation of "character traits" comes in) are indicative of the person who measures accurately. Bad midos are indicative of a person who has not worked out a system to do this well. Developing good midos is not only a commandment, but one that is with us at all times.

**FOLLOWING GOD'S WAYS** To appreciate the significance of this we must look at the commandment of veholachta bidrocho, to "follow in G-d's ways."

We are commanded to model ourselves after G-d to the extent of our abilities, as it is written: Follow in His ways " [Deuteronomy 28:9]. Just as He is described as gracious, so should you be gracious. Just as He is called merciful, so should you be merciful. Another way to put this: Imitate His good deeds and the noble midos by which He is described in the Torah. [Talmud, Sota 14a; Maimonides, Book of Mitvoth, Aseh 8]

It is the learning of the Talmud that enables us to internalize G-d's attitudes. The events and relationships of our lives enable us to translate these acquired attitudes into good midos. Our lives are arranged by Divine Providence so as to present us with precisely those situations we require to face in order to be able to express the knowledge we have acquired through Torah learning. According to the Gaon of Vilna, this translation of Torah attitudes into every day life is the purpose of our sojourn in this world. G-d gave each of us a body and a soul. Each one of these is preprogrammed by Him and pulls us in certain pre-set directions. G-d also determines the environmental influences that act upon us through a system of hashgacha pratis, or Divine Providence. What then is left for us to fashion? The answer is Torah and midos.

**BALANCE OF BODY AND SOUL** The internalizing of Torah and the development of good midos are the things that are left to man's free choice. All is in the hands of Heaven save the fear of Heaven. [Talmud, Berochoh 33b]

The balance between the mind and the emotions, between the body and the soul is our achievement. This achievement is what we call our midos. And our midos are the garment that we shall wear throughout eternity. [See Even Shlema, Ch. 1.] Another way to explain this is that children represent their parents. Rightly or wrongly, parents are judged by how well or poorly their children turn out. What gives us the ability to be G-d's children is the learning of the laws of mishpatim. The attitudes we internalize through our Torah learning and in our good midos become the reflection we cast back on Our Father.

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From: Mordecai Kornfeld[SMTP:kornfeld@netvision.net.il]  
INSIGHTS INTO THE DAILY DAF brought to you by Kollel Iyun  
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Yevamos 61 HALACHAH: "TUM'AH" AND THE GRAVES OF NOCHRIM OPINIONS: The Gemara cites a Machlokes Tana'im regarding whether or not the graves of Nochrin are Metamei with Tum'as Ohel. Rabbi Shimon maintains that they are not Metamei b'Ohel, and the Chachamim maintain that they are. The Gemara concludes that even if they are not Metamei b'Ohel, like Rabbi Shimon, they are nevertheless Metamei with Tum'as Maga u'Masa (by touching or carrying).

This Gemara is Halachically pertinent today for Kohanim, who are prohibited to be Metamei with Tum'as Mes. What Halachic conclusions emerge from this Gemara with regard to Kohanim walking over graves of Nochrin or in a cemetery of Nochrin?

(a) As far as the specific Halachah of our Sugya is concerned, the RAMBAM (Hilchos Tum'as Mes 1:13) rules that graves of Nochrin are not Metamei b'Ohel, like Rabbi Shimon. (The Rambam in Teshuvos (PE'ER HA'DOR #57) seems to have understood that even according to the \*Chachamim\*, graves of Nochrin are not Metamei b'Ohel, but are only Metamei b'Maga u'Masa. According to Rabbi Shimon they are not Metamei even b'Maga u'Masa. This also seems to be the view of the YERE'IM (#322). According to this understanding of the Gemara, the Rambam is ruling like the Chachamim when he says that graves of Nochrin are not Metamei b'Ohel but only b'Maga u'Masa.)

However, TOSFOS (DH mi'Maga) and the other Rishonim here, as well as the ROSH (Teshuvos 30:1), understand the Gemara in the straightforward sense and rule like the Chachamim that graves of Nochrin are Metamei b'Ohel. For this reason, the SHULCHAN ARUCH and REMA (YD 372:2) write that a person should be stringent and not to walk over graves of Nochrin. (Teshuvos V'SHAV HA'KOHEN #75 rules even more stringently and says that it is not just a stringency not to walk over graves of Nochrin, but it is the letter of the law, since the majority of Poskim rule that graves of Nochrin are Metamei b'Ohel.)

(b) However, there is another issue that affects the practical ramifications of this Halachah. The RA'AVAD (Hilchos Nezirus 5:16) rules that if a Kohen or Nazir is already Tamei with Tum'as Mes, he is not punished for touching a Mes again. (The ROSH (in Hilchos Tum'as Kohanim #6) cites RABEINU TAM who rules, similarly, that if a Kohen touched a Mes on a certain day, and then he touched a Mes again on the \*same day\*, he is not punished for touching the second Mes -- since it does not lengthen the amount of days that he must remain Tameh before Haza'ah.) The CHASAM SOFER (YD 339) points out that this appears to be the opinion of RASHI in Nazir as well. The RA'AVAD concludes by remarking that because of this, since Kohanim today are all Tamei with Tum'as Mes, they are not Chayav for becoming Tamei to a Mes again.

Even though the Rambam and Tosfos disagree and say that a Kohen who is Tamei is still obligated to observe the Isur of becoming Tamei, the MISHNEH L'MELECH (Hilchos Avel 3:5) suggests that a Kohen should be permitted to be lenient and walk atop graves of Nochrin

because of a S'fek S'feika. The first Safek is that some Poskim rule that a Nochri is not Metamei b'Ohel, and second, even if a Nochri is Metamei b'Ohel, some Poskim rule that a Kohen is not obligated today to guard himself from becoming Tamei today. The DAGUL MERA'VEVAH (YD 372) cites this view as the Halachah. However, in a note added later, the Dagul Mera'evah retracts this opinion, saying that even the Ra'avad does not \*permit\* a Kohen Tamei to touch a Mes; he merely says that there is no Chiyuv (Malkus) for doing so. The Chasam Sofer (ibid.), though, disagrees with this and says that, at worst, the Isur according to the Ra'avad would be an Isur d'Rabanan, and therefore there \*is\* a S'fek S'feika to permit a Kohen to walk into a cemetery of Nochrim.

(c) Another point that is important to note is the Chidush of the VILNA GAON (in ADERES ELIYAHU, Parshas Chukas) as cited by the OR SAME'ACH (Hilchos Tum'as Mes 1:13). The Vilna Gaon says that even if the grave of a Nochri is not Metamei b'Ohel, it is Metamei b'Maga not only if touched directly, but even if someone merely touches the gravestone or any object that is resting directly above the Mes. The reason for this is as follows.

There is a Halachah in the laws of Tum'as Ohel that if an object comes within less than a Tefach above the Mes, the Tum'ah of the Mes penetrates the object and goes out the other side. (This is called "Tum'ah Retzutzah"). The Vilna Gaon rules that touching the object through which the Tum'ah is penetrating is the same as touching the source of the Tum'ah (the Mes) itself. Therefore, walking over (and touching) the grave of a Nochri would be like touching the Mes itself (unless, of course, there is a Tefach of space between the top of the Mes and the roof of the coffin or object above the Mes). According to this, it is Asur for a Kohen to touch the grave of a Nochri.

The OR SAME'ACH points out that this answers a number of problematic statements in the Gemara. For example, the YERUSHALMI (cited by TOSFOS 12a, DH Sh'Iber) states that one time in the Beis ha'Mikdash, all of the Kohanim became Tamei because the skull of a Nochri (Aravnah ha'Yevusi, the previous owner of the land on which the Mizbe'ach was erected) was found underneath the Mizbe'ach. The MISHNEH L'MELECH (Hilchos Beis ha'Bechirah 1:13) asks that according to those who rule like Rebbi Shimon, the skull should not have made anyone Tamei, because no one touched it and it is not Metamei b'Ohel! According to the Vilna Gaon, though, it may easily be understood why it was Metamei b'Ohel: They touched the Mizbe'ach which rested on top of the Nochri's skull, and thus they became Tamei with Tum'as Maga.

The Or Same'ach concludes, based on the view of the Vilna Gaon, that a Kohen who is a Yerei Shamayim should be careful not to touch even the top of the grave of a Nochri for this reason. (The Rogatchover Gaon, in Teshuvos TZAFNAS PANE'ACH (Warsaw) #256, also discusses this matter and concludes that Tum'ah Retzutzah does not apply to the grave of a Nochri.)

63 BEN AZAI'S CONDUCT HALACHAH: Ben Azai states that one who does not involve himself in the Mitzvah of Piryah v'Rivyah is both considered to be a murderer and reduces the "heavenly form." Nevertheless, Ben Azai himself never married and did not fulfill the Mitzvah of Piryah v'Rivyah. (The Gemara in Sotah (4b) cites different opinions regarding whether or not Ben Azai ever had a wife. According to one opinion, he once had a wife but he separated from her, but according to other opinions, he never was married.)

The Gemara here relates that the other Tana'im asked Ben Azai how he could go without fulfilling the Mitzvah of Piryah v'Rivyah, and he answered, "What can I do? My soul yearns for Torah!"

The RAMBAM (Ishus 15:3) expands on this and says that "if someone's soul yearns for Torah and he constantly thinks about it like Ben Azai and he is attached to it all of his days, and [because of this] he does not marry a wife, he has no sin in his hands (Ein b'Yado Avon)." What does this mean? What permits a person to abstain from fulfilling the Mitzvas Aseh of the Torah to have children?

ANSWERS: (a) The ME'IRI and the TAZ (EH 1:3) explain that it is not permitted for a person to refrain from marrying l'Chatchilah because he is so immersed in his Torah learning. There is a Mitzvah to marry, and he is obligated to fulfill the Mitzvah like everyone else. However, sometimes a person can become so immersed in his learning that he has feelings as though he is incapable of having a wife. His desire for Torah is so strong that to a certain degree he loses control and \*cannot\* marry ("Ones"). In such a case, even though refraining from marrying might not be proper, Hashem forgives him because it is, in a sense, beyond his control. That is what the Rambam means when he says, "Ein b'Yado Avon" (see also RAV ELCHANAN WASSERMAN in KOVETZ HE'OROS, Hosafos #1).

(b) The RITVA appears to understand that the Rambam permits a person like Ben Azai not to marry l'Chatchilah, because of his tremendous yearning for the Torah. The Rambam is continuing what he says in the previous Halachah, that if a person was busy learning Torah and did not want to get married so that he not have to take time away from his learning to provide for a family, it is permissible to delay getting married, because of the principle that "one who is involved in one Mitzvah is exempt from another." According to the Ritva, a person like Ben Azai could delay getting married indefinitely, because he is involved in the Mitzvah of learning Torah.

Rav Elchanan (loc. cit.) questions the Ritva's explanation from the Gemara in Mo'ed Katan (9b) that says that when a person is faced with the opportunity to do one of two Mitzvos -- to learn Torah or to do another Mitzvah -- then if the other Mitzvah is one that another person can do, then one should let another person do it instead of being Mevatel his own Torah learning, and if the other Mitzvah is one which only he can do, then he must be Mevatel his learning in order to do it.

The ROGATCHAVER GA'ON in TZAFNAS PANE'ACH suggests that the Mitzvah of Piryah v'Rivyah might be considered a Mitzvah that may be done by others. When the Gemara says that one should continue learning and let others do a Mitzvah that can be done by others, it means that the outcome, the consequence, of the Mitzvah can be brought about by others. The outcome of Piryah v'Rivyah is to populate the world, and thus it is considered to be a Mitzvah

that others can do. Only if the outcome cannot be accomplished by others, must one be Mevatel from learning Torah in order to do the Mitzvah.

Of course, this applies only if a person has no Hirhurim, wrongful thoughts. The Rambam concludes that if a person has Hirhurim, then he is obligated to marry a wife regardless of whether he has children or not (see Rambam, ibid.). Only if he is like Ben Azai who is so deeply and completely involved in learning Torah and does not have any Hirhurim may he refrain from getting married.

YEVAMOS 64 CHILDLESS, OUTSIDE OF ISRAEL QUESTION: The Mishnah states that if a man and woman are married for ten years without having children, he should divorce her and marry another woman in order to fulfill the Mitzvah of Piryah v'Rivyah. The Gemara derives the ten-year period from Avraham Avinu, who took a second wife after ten years. The Gemara points out that he married his second wife ten years after arriving in Eretz Yisrael; he was actually married to Sarah Imeinu for more than ten years when he took a second wife. The Gemara says that those years are not counted because Avraham Avinu was in Chutz la'Aretz during those years, and thus perhaps it was the fault of living in Chutz la'Aretz that caused him not to have children.

Does this mean that anyone who is in Chutz la'Aretz has no grounds on which to divorce his wife if they do not have children for ten years, and it is assumed that it is the fault of living in Chutz la'Aretz that prevents them from having children? We see that many people in Chutz la'Aretz do have children, so how can it be that living in Chutz la'Aretz causes a particular couple not to have children?

ANSWERS: (a) The RASHBA cites RASHI (to Bereishis 16:3) who explains that the reason Avraham Avinu had to wait ten years after coming to Eretz Yisrael is because Hashem only promised him, "I will make you a great nation," after Avraham fulfilled the commandment to go to Eretz Yisrael ("Lech Lecha..."). Hence, it was only Avraham Avinu for whom the years of living in Chutz la'Aretz did not count. Avraham was physically unable to have children, and Hashem promised him that his nature would change and he would have children only after coming to Eretz Yisrael. Therefore, there was no point in counting the years during which he lived in Chutz la'Aretz. Those years did not count because he was physically unable to have children there, and not because of the misdeed of living in Chutz la'Aretz.

(b) The ROSH (6:12) explains that we find that Avraham was in Eretz Yisrael at the time of Bris Bein ha'Besarim, when he was 70 years old (as Rashi says in Shemos 12:40). At the time that he moved to Eretz Yisrael with his family, however, he was 75 years old (Rashi, Bereishis 12:4). How could he be traveling to Eretz Yisrael when he was 75 if he was already there when he was 70? The answer is that Avraham made a "pilot trip" at age 70, without the rest of his family. Five years later he returned with his family in fulfillment of Hashem's command to him. Hence, we find that Avraham delayed the fulfillment of Hashem's command for five years, and that is why he did not merit to have a child in Chutz la'Aretz. He was punished for staying in Chutz la'Aretz because of his delaying of Hashem's specific command to him to go to Eretz Yisrael. Other people, though, do not have such a specific command, and thus they do count the years that they live in Chutz la'Aretz towards the ten years of marriage with no children.

In addition, the ROSH and RA'AVAD (cited by the RASHBA) point out that after his first trip, Avraham left Eretz Yisrael to go to Chutz la'Aretz. \*Leaving\* Eretz Yisrael to go to Chutz la'Aretz is considered a misdeed that can cause a person not to have children, and that is why Avraham did not count the years that he lived in Chutz la'Aretz. In contrast, one who always lived in Chutz la'Aretz and who did not leave Eretz Yisrael to go there is not held accountable and does count the years that he lives in Chutz la'Aretz, childless.

(c) The RAMBAN explains that perhaps a person is required to divorce and remarry after ten years in Chutz la'Aretz. However, if he goes to Eretz Yisrael after ten years the count starts anew, because perhaps the \*Zechus\* of Eretz Yisrael will enable him to have children (and not the \*sin\* of living in Chutz la'Aretz prevents him from having children).

(d) The HAGAHOS MAIMONIYOS (Hilchos Ishus 15:4) cites a number of Rishonim (Tosfos, Semag, Ra'avyah) who indeed say that a person in Chutz la'Aretz cannot be forced to divorce his wife, because it might be the sin of Chutz la'Aretz that is preventing him from having children, and thus it will not help to marry another wife. That this Halachah applies to anyone living in Chutz la'Aretz is also implied by Rashi (DH Miketz) in our Sugya. (For the current day practice regarding this matter, see next Insight.)

64b HALACHAH: GETTING DIVORCED AFTER TEN YEARS OF CHILDLESSNESS OPINIONS: The Gemara concludes that even nowadays, the law of the Mishnah remains in force. If a couple have not had children after being married for a full ten years, then they should get divorced and the man should marry a new wife in order to have children.

Does this Halachah require that Beis Din force a man to divorce his wife after ten years, or is it merely an obligation upon the husband himself to divorce her on his own accord, and Beis Din does not get involved? This question is debated among the Amora'im in Kesuvos (77a) and it is also the topic of discussion among the Rishonim in our Sugya.

(a) RASHI (65b, DH Hu and DH Hi) says that Beis Din forces a man to divorce his wife. This is also the ruling of the RIF and the RAMBAM (Hilchos Ishus 15:7). They write that Beis Din forces him to divorce her, even if it means that they must use physical force, in order to have him fulfill the Mitzvah of Piryah v'Rivyah. (The ROSH (6:15-16) adds that this means that Beis Din also forces him to marry another wife; otherwise there would be no point in divorcing the first one. Similarly, he adds, Beis Din is enjoined to force, at a certain point, a bachelor who refuses to get married.)

(b) TOSFOS (DH Yotzi) and RABEINU CHANANEL rule, based on the YERUSHALMI (Kesuvos 11:7), that Beis Din does not force the man to divorce his wife. Rather, Beis Din tells him that he is obligated to divorce his wife and that if he does not, it will be permitted to call him a sinner.

HALACHAH: (a) As far as \*who\* is enjoined to remarry after ten years:

1. The Poskim cite the YERUSHALMI which states that the Halachah of our Sugya

applies not only to someone who did not have children or who had stillborns, but even to a person who had children who died and he no longer has any living children (or grandchildren) -- he must divorce his wife if ten years go by and they do not have any more children.

2. The Mishnah says that this applies if ten years pass "without giving birth." The RAMBAN and other Rishonim infer from here that if a man's wife bore him a single child, he does not have to divorce her (even though he has not fulfilled the Mitzvah of Piryah v'Rivyah with the birth of but a single child). The REMA cites this ruling. The PISCHEI TESHUVAH adds, quoting the MEIL TZEDAKAH (#93), that even if the wife is no longer capable of having children and they will never have a second child, Beis Din still does not force him to marry another wife.

(b) As far as the actual current practice on this issue:

1. The SHULCHAN ARUCH (EH 154:10) cites the RIF and the RAMBAM who rule that Beis Din forces the man to get divorced after ten years. However, others limit, or entirely do away with, this practice for a number of reasons:

2. A number of Rishonim (RASHI, HAGAHOS MAIMONI; see previous Insight) rule that this applies only in Eretz Yisrael and not in Chutz la'Aretz.

3. The Hagahos Maimoni (Hilchos Ishus 15:4) adds in the name of the AVTASAF that nowadays, even in Eretz Yisrael Beis Din does not force a person to divorce after ten years, because the Gemara in Bava Basra (60b) states that the Chachamim wanted to make a Gezeirah prohibiting marriage from the time that the nations started persecuting the Jewish people, on the grounds that it is better for us to refrain from having children and cause our own end than for our enemies to destroy us, but the Chachamim could not make such a stringent Gezeirah on the people. Nevertheless, the proposition of such a Gezeirah teaches us that it is enough that Beis Din not force a person to fulfill the Mitzvah of Piryah v'Rivyah.

4. The REMA (EH 154:10) concludes that nowadays, it is not the practice of Beis Din to use force (in such matters of Ishus in general).

Regarding whether the person himself should divorce his wife l'Chatchilah, even though Beis Din does not force him to, the PISCHEI TESHUVAH cites the SEFER BIGDEI KEHUNAH (#1) who rules that if a man's wife is a G-d-fearing woman and they are happily married, then they may remain married even l'Chatchilah, because of the opinions which maintain that in Chutz la'Aretz one does not need to divorce his wife, and because of the logic that one can never know for sure that the source of the problem is not his own inability to have children (and thus divorcing her and marrying someone else will not help). Therefore, he should remain with his wife.

This has been seen to be the practice of many great Talmidei Chachamim who, Rachmana Litzlan, did not have children, as mentioned by RAV MOSHE STERNBUCH, shlit'a, in TESHUVOS V'HANHAGOS (1:790). Rav Sternbuch adds that even if the couple are living in Eretz Yisrael, nowadays we are all so sullied with sin that we cannot be sure that it is not one's sins causing him not to have children. (In his Teshuvah, Rav Sternbuch describes some interesting Segulos that he recommends for couples trying to have children.)

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From: Ohr Somayach[SMTP:ohr@virtual.co.il]

Subject: The Weekly Daf - #312

Yevamot 62 - 68 Issue # 312 Parshat Mishpatim

By RABBI MENDEL WEINBACH, Dean, Ohr Somayach Institutions

WHEN A WHITE LIE IS A RIGHT LIE

Right after the death of their father Yaakov, Yosef's brothers sent a message to Yosef that before his passing, Yaakov had asked them to implore Yosef in his name to forgive them for the evil they had done him. Yaakov, of course, had never made such a request, and from this, Rabbi Elazar the son of Shimon concludes that one may divert from the truth in order to maintain peaceful relations.

But indeed, why did Yaakov not anticipate the resentment Yosef might feel towards his brother and make such a request of him during his lifetime?

Ramban (Bereishet 45:27) contends that Yaakov never became aware that Yosef had been sold into captivity by his brothers. Yaakov always assumed that Yosef had been picked up by slave dealers while wandering in the fields and sold by them to the Egyptians. The brothers never told him because of their fear that he might become outraged and curse them as he did Reuven, Shimon and Levi for their sins in other matters. Yosef, for his part, was too moral to divulge such a matter to his father.

Rashi, in his commentary on Chumash, takes a different approach. Yaakov was a ware, but he did not suspect his righteous son Yosef of harboring feelings of resentment which might lead to a vendetta, and therefore saw no need for asking him to forgive them. The question arises, however, as to why the brothers did suspect him and found it necessary to tell their "white lie?"

Maharsha suggests that the suspicion arose only after the death of Yaakov, so there was no need for them to seek their father's intervention while he was alive. The Midrash (Rabbah 100:8) mentions two things that happened which aroused their suspicion because they misconstrued Yosef's intentions. One was the fact that Yosef stopped inviting them to dine with him because he did not wish to continue the seating arrangement instituted by their father which placed him ahead of Yehuda the king, who was the forefather of the kings of the Jewish Nation, and ahead of Reuven the firstborn. Yet he was also unable to place them ahead of him because of his royal status in Egypt, and therefore decided to stop inviting them altogether. Another incident occurred when Yosef returned from his father's funeral and looked into the pit where his brothers had placed him. Yosef did this in order to offer a blessing of thanks to Heaven for his miraculous rescue from death. Although his motives in both cases were

praiseworthy, they aroused his brothers' suspicions that animosity suppressed in their father's lifetime had now surfaced, forcing them to lie in order to keep the peace. Yevamot 65b

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