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ON **MISHPATIM** - 5767

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Rav Soloveitchik ZT"L Notes (Volume 3)

Notice These are unapproved unedited notes [of R.Y.?] of classes given by Rav Soloveitchik. ... [Thanks to David Isaac for typing these notes]

Lecture delivered by Rabbi Soloveitchik Saturday evening, February 24, 1979

"Yisro" Last week, we discussed the link between Yisro's assignment with "Matan Torah". Tonight, I would like to continue in this vein by calling attention to the comments of Rashi and Rambam. Yisro basically asks Moshe two questions (chapter 18, line 14). A) "What is this thing that you do unto the people? It is obvious that although Yisro embraced Judaism, he didn't fully comprehend the Jewish way. "People come in droves to you from morning till night! What do you do? What is your function? What do you accomplish?" He couldn't understand it.

B) "Why don't you distribute and delegate power? Why don't you organize and delegate a hierarchy of power?" Yisro couldn't understand that a Rav has to do it. Moshe gave one answer to their two questions. "Vayomer Moshe L'Chosno" (And Moshe answered his father-in-law) "Because they come to me to inquire of G-d. When they have a problem they come to me and I judge between one man and his neighbor and I make known the statutes of G-d and His Law." He told him what a Rav is supposed to do amongst his people. As to the second question, apparently the answer is not here. Where can it be found? There is one slight distinction. He didn't quite implement Yisro's program. Yisro indicated that Moshe should handle only the important cases, but I'll return to it and show why Moshe did not implement all Yisro advised.

What is Moshe's first task? "They come to me to inquire of G-d!" Onkelos in targum declares, "They come to me to inquire knowledge of G-d." Thus, the first task of the Rav is to teach. It is the best task! It is the best as far as effectiveness is concerned and the best regard of heartaches. (When I first came to Boston I became involved in Jewish politics and quickly discerned that one can sink spiritually to become involved in political problems. One is drawn away from Torah, forgets Torah and there is no reward of L'Olam Habah for political activity.)

The first task of the Rav is to study (without studying he obviously cannot teach) and to learn. The task of the King of Israel was to study and to teach. It was not to exercise political power. It was the same task as the Kohanim and the Leviim, homely teaching. The Prophet Moshe had the same power as a king -- to teach. This is Onkelo's interpretation and Rashi sanctions it. The Rav asks enlightenment from "Pi Hagvorah" (Alm-ghty).

Rambam's interpretation is a little different. Rambam says, "Moshe explained that the people come to me for many reasons. "Mispalel Al Chalayhem". I should pray to Hashem for the sick." In Hebrew, this praying is "Lidrosh Hashem". It is employed in Sedra Toldos. Rivka went "LiDrosh Hashem" -- to pray. Shlomo Hamelech defines "tefila" under the varied terms "sickness, exile, many crises with which man is confronted. This is what Rambam says Moshe answered, "Bikur Cholim" (visiting the sick). Many times the only recourse is to pray to G-d.

"Bikur Cholim" has three distinct aspects. A) 'Tefilah'. In Tehilim we have the "posek" - "G-d will nurse me!" The first thing which the sick person wants to achieve is "help". A "talmud" of Rabbi Akivah had a severe infectious disease and all refused to come close to ehlp him, except Rabbi Akivah himself. The Rabbi nursed the sick person and brought him to health so that the person proclaimed taht his life was spared only through Akivah's work.

B) Allay the feeling of loneliness. There is no lonelier person than the sick man and this has nothing to do with his family. Sickness generates loneliness. It is the job of the one who visits to show interest. The feeling of loneliness is, "I am not needed anymore." Thus he is told by the "M'vaker Chole" (the visitor), "How much he is needed."

C) The sick person desires that the visitor shall pray for him. "He shares in his distress, in his misery." Chazal says, "One should take sick in an imaginary manner and to understand a person's suffering." If you help the person suffer by suffering with him, one is entitled to say a prayer for him. Otherwise, the "mish'barach" is very limited in effectiveness. Thus Rashi and Onkelos stree, "Teach". Rambam stresses "Bikur Cholim" in all its aspects. Is there a common denominator between Rashi and Rambam? Both are good and semantically alright. Is it different or the same, the teacher and the one who prays? They both must care for the person! They must possess the ability to love the "Talmidim" (students). A teacher cannot fool the "Talmud". The "Talmud" will discover the weakness of the teacher very quickly. If the "Talmud" feels the teacher loves him there are no limits to the accomplishments. Otherwise, the greatest teacher will accomplish zero. The same is the one who prays, "I must suffer and co-suffer." Thus Moshe had both roles, the great teacher and the greatest one to ask for salvation. That he was a great teacher we know for we call him, "Moshe Rabeynu". How do we know that he loved the people?

"V'hispalalti" (and I prayed for you) - He was ready to sacrifice himself for his people. He possessed both qualities - to pray and to teach. He had a supernatural passion for his people. Chazal says that Moshe not only prayed at the time of the golden calf for the forgiveness of the people but he "took hold of G-d's garment" so as to speak. "Take leave of me," said the Almighty to Moshe. Thus this became the day of Yom Kippur, the day of forgiveness and of love. It all evolves about "Ahavas Yisroel" - love of Israel.

A) The next function which Moshe felt he should discharge was the implementation of justice! He was a judge and it was his function to perform. It is interesting that when Rambam discusses the function of a king, the first function of the "Melech" is study. The real mitzvah of study is first learn and then pass on the knowledge. Of course, if you don't study you cannot pass it on. This is no mitzvah of plain study! Instead, it is "study and pass it on".

The next is "fill the world with righteousness and twist the arm of the "Chatoyim" - the sinners. Moshe was the greatest of all kings. If there is conflict and controversy, they come to me and I judge between one and another.

B) Next according to Rambam is teaching. According to Rashi, you start with teaching and go to justice. According to Rambam, it's prayer, justice, and Talmud Torah. It seems to be a duplication and would appear to be redundant.

Many mitzvot were given to Moshe with which he came and enlightened the people. If was not their request but he was the "Sheliach Hashem" and he had to pass it on to them. (On some mitzvot he had to make inquiry; it

wasn't told to him. In this category we have "Pesach Sheni" and the daughters of Zelophchod (regarding inheritance). He had to inquire himself. Then there are some which the Torah doesn't even mention and have to be evolved from the scripture. Even now in Talmud Torah there are different aspects. I satisfy my own curiosity on my own problem -- searching in depth, analyzing for the answer. Now we do not have the privilege of "Going to Hashem". Thus the people are curious I have students who distinguish themselves by curiosity. There is another part of Talmud Torah - to know the known, to find out for myself that which is already known. Thus we have A) to be inquisitive; B) to know that which is known -- available.

Interesting is a laughable thing. In our own history since antiquity, since Abraham, Jewish people have developed three-fold leadership: The "Rav or Dayan" (rabbi or judge) - the "Rosh Yeshivah" (Rambam calls Moshe, Rosh Yeshivah) - the "Chassidiser Rebbe" - the Bal Shem Tov. If you define the task of the three, why is the Rav or Dayan necessary? His job is to resolve "Din Torah" (litigation of the Torah). I remember in Europe when people didn't go to court. There were no lawyers and they weren't missed. If two people quarreled or had a legal problem, they were brought to the Rav, a fair, honest, sympathetic judge. The Rab may not have been worldly but was extremely honest. There is a story which transpired in Brisk involving my grandfather which illustrates the honesty and impartiality. There was a man who gave a great deal of money to Reb Chaim for charitable purposes. Reb Chaim would not even count the money but place it in his pocket and embrace the philanthropist. It happened that this person died and on the very same day a poor woman, the wife of a shoemaker died. The Halacha is that the Tahara for a woman must take precedence. However, due to the respect which the philanthropist enjoyed, the officials went to his house to attend to his body first. Reb Chaim went to the house of his dear friend and forced them to stop the Tahara until they had completed it for the woman, despite knowing the feelings of his family. This illustrates the justice of the Rav. In my own father's case, he would spend the entire day on the judgment of one case.

Another illustration! There was a man who had a maid servant and she owned an expensive bracelet. Once on an occasion the wife of the master asked the maid if she could borrow the bracelet for an affair. Later, when the mistress came home (before she could return it) the bracelet was gone, stolen. So ordinarily, the man would have to pay the assessed amount of the jewelry. However, the law of Torah is that the employer is relieved of duty to the employee. This is a "Chok" (ordinance) of Torah and we cannot understand it. However, the parties came before the Rav and he asked both to touch the handkerchief, a legal gesture which now allows the Rav to make any decision as he deems correct. Once you touch the kerchief you are at the legal mercy of the Rav and the man refused - demanding strict "Din Torah" (literal interpretation). However, the Rav coerced him to touch and the decision was 90% for the maid, 10% for the master. Considering the litigant parties, it took great courage for the Rav to do this.

There was a time in Czarist history where young Jewish children were actually conscripted into the Russian army for 25 years service. In effect they were kidnapped, sent far away and converted to Christianity. The rich bought their way out, the poor couldn't afford to. But with their strict sense of justice many a rabbi fought heroically with the rich over the issue, thereby often losing his job.

The job of the Rosh Yeshivah was simply to talk Torah. But there was no one to pray, to talk for the poor. This institution was begun by the Chassidiser Rebbe. The Rebbe took those who became sick and prayed for them. So we have the Dayan (justice), Rosh Yeshivah (teacher), and Rebbe (the person who prays). This is the three-fold mission which Moshe described to Yisro. The son of Rabbi Yochanan Ben Zakai became very sick and he asked Rabbi Chanina Ben Dosa to pray for him. Rabbi Yochanan's wife asked him, "Why ask him? Aren't you surely as great or greater?" He answered, "I am the prime minister before G-d. Rabbi Chanina is the butler. A prime minister needs an invitation to go before a

king. A butler can go in and out at will!" This was Moshe's explanation to Yisro.

"Zdakah is mishpat." (I settled mishpat among them.) Now, the second question: Why didn't Moshe institute the judicial system? Of course, it did occur to Moshe, however, he felt it was wrong. Why was it necessary for Yisro to introduce such a simple plan? I believe that Moshe had a different approach to the hierarchy of justice. It rests on the assumption that a big claim needs special attention. In other words, a small amount in litigation needs smaller attention; a higher amount needs greater attention. This is what Yisro implicated. "A million dollars needs a greater court!" This halacha does not exist. All requirements of justice -- large amount of money is applicable to a small amount. Corruption of a million dollars is the same as corruption of ten dollars. In Jewish law, the amount plays no role. It is not the amount, it can be insignificant. According to Yisro, the assignment was not to be brought to Moshe unless it involved a lot. It is not the amount, it is the complexity. Moshe's reply is, "This cannot be answered. This must be determined by Moshe. If according to Yisro it is the amount, he is right. Small litigation to small judges, large amounts to Moshe. But if it is the complexity, the substance, then the clerk cannot assign the court. It must be only Moshe. Therefore, all cases must first be brought to Moshe for disposition. Also, once you have already brought it to him for disposition, he'll settle it also.

To determine what is complex you must be a great scholar. I say that often I am presented with cases which the party thinks is minor and apologize even for calling. In reality it is so complex that in olden times it would have involved Sanhedrin a long time. On the other hand, often what a party thinks is complex can be answered in minutes.

Basically, it remained as Moshe felt. But "Yahadus" (providence) feared that one man should sin and say, "Guilty - not guilty!", even if that one person were Moshe. If so it would be paradoxical. No man is worthy to hold Damocles' sword over another man's head.

Man is weak. Man is frail. To say that man has no place in the world to judge is to turn the world into a state of anarchy. Thus, when Moshe came with Yisro's plan, G-d answered, "You are right!" But it is a concession to human nature which cannot institute perfect justice. Therefore, you must accept his advice. This is a concession which Torah made to human beings knowing his frailties and weaknesses.

Are we superior to the animal so that we are worthy to slay it and eat its meat. Actually not! But is a concession of G-d to man. Therefore, Yisro's plan, a concession to man was partly accepted.

<http://www.jlaw.com/Commentary/animal.html>

Animal Trials by Nosson Slifkin

In 1386 a trial was held in Falaise on account of a child who had been injured in the face and arms. The accused, wearing a waistcoat, breeches, and white gloves, was sentenced to being mangled and maimed in the head and arms before being garroted and hanged at the village scaffold. The torture and punishment in itself is not so odd, considering the year; the peculiarity of the case is that the accused was a pig, in the literal sense of the term.

This is but one of the numerous cases described in Jan Bondeson's essay *Animal Trials* in his intriguing book, *The Feejee Mermaid and Other Essays in Natural and Unnatural History* (New York: Cornell University Press 1999). Not all cases involved capital punishment. In 1559, the Saxon vicar Daniel Greysser excommunicated the sparrows that infested his church. In seventeenth century Russia, a goat butted a child down a flight of stairs, and was sentenced to one year in a prison camp in Siberia. In 1734, the Franciscan friars in the province of Riedade no Maranhão, Brazil, brought a suit against the termites that were damaging their houses. The brilliant defense attorney, however, spoke of the industriousness of the termites, and pointed out that they lived in Brazil before the monks. The court resolved it

by ordering the monks to provide the termites with a reservation, and ordering the termites to leave the monastery and to live only within the reservation.

Edward Payson Evans, in *The Criminal Prosecution and Capital Punishment of Animals* (London 1906) theorized that the Church instigated such trials in order to unite the parishioners and inspire confidence in the authority and power of the church. There is likely to be some truth in this, but it should be noted that such trials were not restricted to the Middle Ages. In 1926, a stray German Shepherd in Kentucky was charged with the attempted murder of a small child; it was sentenced to death and executed in the electric chair. In 1974, a judge in Tanzania sentenced a goat that had grazed on a private lawn to four days in jail. And in 1991, an Argentinean dog killed a child and was sentenced to lifetime imprisonment.

The philosopher J.J. Finkelstein (*Transactions of the American Philosophical Society* 71/2 [1981]) believed that animal trials were based on the Biblical laws concerning the execution of a murderous ox. There may be a glimmering of truth in that. Let us analyze classical Jewish approaches to animal crimes, based on those Biblical laws.

“If an ox gores a man or a woman, that they die; then the ox shall be stoned, and his flesh shall not be eaten; but the owner of the ox shall be acquitted.” (Shemos 21:28).

Why is the animal killed? Is it being punished for a moral crime? That would seem to be impossible. Animals do not have free will to choose between good and evil; they possess only an evil inclination, states the Gemara in Berachos 61a (according to the explanation of the Maharsha). This would appear to be referring to their being governed by the simple instincts of hunger and so on (as opposed to a desire to act evilly; see the final essay in my book *Focus* for a full discussion of this distinction.) If they have committed no moral crime, it would seem unreasonable for the execution to be a punishment.

We know that there is no concept of retribution for animal crimes from the Midrash: “An animal that dies is at rest; but people who transgress God’s commandments and anger Him with their unbecoming deeds and die unrepentant are stood in judgment...” (Tanna D’vei Eliyahu Zuta 24). There is no Heaven and Hell for animals; they have no moral choices to make. Why, then, is the goring ox stoned to death?

Rabbeinu Bechaya (see too Rambam, *Moreh Nevuchim* 3:40) states that it is simply a way of financially punishing the owner: “The killing of the ox is not done to exact judgment from the ox, but rather to exact judgment from its owner, such that he should be more careful in looking after it. And if he does not take care of it, he now knows that he will lose his property. This is the simple explanation.”

It is interesting that Rabbeinu Bechaya qualifies his explanation by noting that it is only the simplest level of explanation, for his answer leaves several difficulties unresolved. Ramban (to Bereishis 9:5) points out one reason why financial punishment cannot be the explanation for the ruling: “The stoning is not in order to financially punish the owner, for even a wild ox is subject to the death penalty, and the commandment applies equally to non-Jews as to Jews.” (Although we do not actually rule that an ownerless ox is put to death, in accordance with Rabbi Yehudah’s view in *Bava Kama* 44b, the Rashba, in *Teshuvos* 1:114, explains that since such an opinion nevertheless exists, it cannot be that financial punishment is the reason for the mitzvah.)

Another difficulty with the explanation of financial punishment is provided by the work Margaliyos Hayam (to Sanhedrin). He notes that the ox is not merely put to death; it actually undergoes a trial, in the presence of twenty-three judges of the Sanhedrin, and a sentencing procedure. Furthermore, its body may not be eaten; if its execution was a financial punishment, one would expect that the flesh would be given to the victim’s family, or at least to the public or Beth Din coffers. The entire procedure seems extremely similar to a human trial.

The Margaliyos Hayam therefore proposes a novel explanation. He states that a murderous animal houses the reincarnated spirit of a person. Thus, it is really the human spirit inside the animal that is being punished, rather than an ordinary animal.

Although the explanation of the Margaliyos Hayam solves many of the difficulties, some will nevertheless find it difficult to accept. Furthermore, there is a powerful question to be asked on this explanation. If animals that commit harmful acts are really the reincarnated spirits of people, then why are animals not punished for injuring people, only for killing them?

Actually, it is not only for taking a human life that an animal is killed. The Torah also rules that if a man or woman engage in bestial relations with an animal, they are both stoned to death. The Mishnah (Sanhedrin 54a) raises our question: “If the person has sinned, how has the animal sinned?” It is interesting to note that the Jews explicitly rejected the idea that an animal can be morally accountable for its actions, including sexual sins, over two thousand years ago, while centuries later, the non-Jewish world was still confused over the issue. From the fourteenth through to the eighteenth centuries, both people and animals involved in bestiality were not merely executed; they were tortured and burned alive. In France, a person who had relations with a Jew suffered the same fate, as a Jew was considered to be no superior to an animal.

Going back many centuries to the Mishnah, the “inferior” Jews were explaining why an animal used for bestiality, although not morally accountable, is nevertheless executed: “Since the person came to harm due to it, the Torah said that it should be stoned. Another explanation: So that the animal should not pass through the streets and people say, ‘This is the animal on account of which so-and-so was stoned.’”

The latter explanation accounts for why the animal is removed from the picture; after all, unlike a goring ox, this animal poses no threat to society. But the first explanation seeks to account for the whole business of the stoning. Yet it is somewhat cryptic: “Since the person came to harm due to it, the Torah said that it should be stoned.” What does this mean?

If we return to the lethal animals, and to the words of the Ramban, we seem to find the key to the whole topic. Ramban’s explanation occurs in the context of God’s decrees to Noach regarding the new order in the post-Flood era: “I shall demand your blood, your lives; I shall demand it from all the animals” (Bereishis 9:5). On this verse, Ramban raises our question: “I wonder: If this ‘seeking’ is in the simple sense of the term, that He shall punish animals for this in the same way as humans — surely an animal does not possess an intellect, that it should be punished or receive reward!” Ramban proceeds to give an explanation that is very similar to the Mishnah’s explanation for the stoning of the animal used for bestiality: “But perhaps such is the case only for the blood of man, that any animal which kills him should itself be killed, as a decree of the King. This is the reason behind, ‘The ox shall be stoned, and its flesh shall not be eaten’ (Shemos 21:28).”

Ramban is noting that there is no general concept of reward and punishment for animals, for there is no moral accountability on their part. Rather, their trial and execution is demanded “only for the blood of man,” and for bestiality. The point in these cases is not that the animal is being held accountable for its actions. The trial and execution is not based on the animal at all. Rather, it is based on the human participant. The procedure is designed, as a decree of the King, to uphold the dignity of His servant, man.

Upholding the dignity of man — something that had been lost in the pre-Flood morass of immorality. Upholding the dignity of man — something that necessitated the post-Flood generation being permitted to eat meat, in order to establish their position in the world, higher than that of animals. Upholding the dignity of man — something that requires animals who have negated this to be tried and executed in the same manner as human offenders.

There is another, intriguing explanation of animal trials, that is broader in application. For there are many instances where G-d punishes animals, and there are even cases of reward.

The Exodus is the prime source of such accounts. We are told that the frogs which performed the self-sacrifice of entering the ovens in the Egyptian plague were rewarded by being allowed to return to the water; the other frogs were killed. The dogs in Egypt did not attack the Jews, and we are therefore commanded to give them any meat which is unfit for human consumption. The donkeys carried the spoils out of Egypt and they were rewarded with the laws of redeeming their firstborn. And the horses of the Egyptians were killed in the Red Sea because they chased after the Jews.

It is not only animals that receive reward and punishment. The Midrash (Koheles Rabbah 8:12) states that even a tree, the wood of which is used to make a weapon, ultimately faces retribution for this. This is astonishing! It is abundantly clear that not only do trees have no free will; they have no will at all. How can they undergo retribution?

The explanation of this cryptic concept is profound (and I have attempted to explain it at greater length in my essay *The Pan-Dimensional Operating System*, parashas Bechukosai, in *Second Focus*). It is easier to understand if we consider the concept that everything in the physical world is a reflection of higher spiritual realities. The physical can therefore be used as a parable for understanding the metaphysical. It is no bizarre coincidence that when you stub your toe on a rock, the rock inflicts pain on precisely the part of your body that you used to inflict force on it. To every action there is an equal and opposite reaction. It doesn't matter whether you intended to stub your toe on the rock or not. There are certain laws of nature, and all actions have consequences.

The same is true of the reward and punishment being discussed here. They are no mere arbitrary whims of the Creator. Rather, they are innate consequences of the actions that take place, according to the scientific laws of the metaphysical reality. The animal is not being punished for a moral wrongdoing; it is undergoing recompense, the inevitable consequences of its actions.

Although broad in application, this explanation might be too mystical for some readers' tastes. Perhaps the most straightforward explanation is of the Sefer HaChinnuch (mitzvah 52). It states that an animal's actions are comparable to the inadvertent actions of a human being, since both are done without da'as, true awareness. We kill the animal and even prohibit its meat to show how a sin such as killing a person causes one to become an object of disdain and disgust in the eyes of Heaven. From the animal trial, a person will learn to take particular care to distance himself from such sins. The laws of animal trials exist to make an impression on people and thereby influence human behavior.

Along similar lines, Rabbi Mordecai Kornfeld, shlita, pointed out to me that there is another instance where there was a rule that an animal stood in trial before a court of twenty-three judges and was executed: an animal that wandered onto Mount Sinai. Rabbi Kornfeld therefore suggested that the Sanhedrin are required because of the severity of man deciding to take the life of an animal. Slaughtering an animal for food is something for which we have already been granted a free license from Hashem. But killing animals for other reasons is a grave matter. To stress the severity of this matter, a court of twenty-three judges is required.

With these explanations, the death sentence of the animal and the trial serve to teach lessons to us about the evil of sin and about the severity of taking a life. Rabbi Kornfeld also pointed out that the three crimes for which animals are put to death correspond to the three cardinal sins of idolatry, murder and sexual immorality, which are so severe that we are required to forfeit our lives rather than transgress them. The animal that wanders onto Sinai parallels the sin of idolatry, in that it shows disregard for the Creator's authority. The ox that kills a man parallels the sin of murder. The animal that is used for bestial purposes parallels the sin of sexual immorality. Since these are the three crimes for which animals are put to death, it further hammers home the severity of such sins.

Whichever explanation for animal punishment is ultimately the correct one – and they may all be correct – there is certainly a considerable difference between Jewish animal trials and those of the non-Jewish world. Although

sometimes there were similar lines of reasoning to those that we have presented – occasionally animals were believed to be reincarnated souls, and often there was simple obedience to Biblical law – in most cases the animal was considered morally accountable for its actions, and thus deserving of torture and hideous forms of execution. We never administer such forms of punishment, and we also know that animals are not morally accountable for their actions.

And we don't dress them up in clothes, either.

This essay is extracted from the ongoing publication of the Torah Universe series of books (available at <http://www.feldheim.com>), which explore how the lessons of the Torah are manifest in the natural world. Already published is the book "Seasons of Life," which shows how the Jewish year is reflected in the seasons and the life cycles of animals and plants. Awaiting publication is "Nature's Song," which explains the ancient Midrash of Perek Shirah that details the philosophical and ethical lessons manifest in the natural world; and "Creature Chorus," a collection of essays on Torah and the animal kingdom. The author, Nosson Slifkin, studies at the Mirrer Yeshivah and teaches at Ohr Somayach Institutions. He also leads Torah education projects at the Jerusalem Biblical Zoo and at other zoos worldwide, described at <http://www.zootorah.com>, and can be reached at zoorabbi@zootorah.com.

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Covenant & Conversation

Thoughts on the Weekly Parsha from

Sir Jonathan Sacks

Chief Rabbi of the United Hebrew Congregations of the British Commonwealth [From 3 years ago 5764]

<http://www.chiefrabbi.org/tt-index.html>

Mishpatim

THERE ARE COMMANDS THAT LEAP OFF THE PAGE by their sheer moral power. So it is in the case of the social legislation in Mishpatim. Amid the complex laws relating to the treatment of slaves, personal injury and property, one command in particular stands out, by virtue of [a] its repetition (it appears twice in a single passage), and [b] the historical-psychological reasoning that lies behind it:

Do not ill-treat a stranger or oppress him, for you were strangers in Egypt.

Do not oppress a stranger; you yourselves know how it feels to be a stranger [literally, "you know the soul of a stranger"], because you were strangers in Egypt. Mishpatim contains many laws of social justice - against taking advantage of a widow or orphan, for example, or taking interest on a loan to a fellow member of the covenant community, holding on to an object (a poor person's cloak) taken as security against a loan, against bribery and injustice, and so on. The first and last of these laws, however, is the repeated command against harming a stranger. Clearly something fundamental is at stake in the Torah's vision of a just and gracious social order.

Before asking why, let us first listen to the classic sources.

One of the questions the sages asked was about the difference between "ill-treatment" and "oppression." "Oppression," they concluded, meant monetary wrongdoing, taking financial advantage by robbery or overcharging. "Ill-treatment" referred to verbal abuse - reminding the stranger of his or her origins:

Just as there is overreaching in buying and selling, so there is wrong done by words . . . If a person was a son of proselytes, one must not taunt him by saying, "Remember the deeds of your ancestors," because it is written "Do not ill-treat a stranger or oppress him."

Rabbi Johanan said in the name of Rabbi Shimon bar Yohai: verbal wrongdoing is worse than monetary wrongdoing, because of the first it is written "And you shall fear your God" but not of the second. Rabbi Eleazar said: one affects the person, the other only his money. Rabbi Samuel bar Nahmani said: for one restoration is possible, but not for the other. This

emphasis on verbal abuse is typical of the sages in their sensitivity to language as the creator or destroyer of social bonds. As Rabbi Eleazar notes, harsh or derogatory speech touches on self-image and self-respect in a way that other wrongs do not. What is more, as Rabbi Samuel bar Nahmani makes clear, financial wrongdoing can be rectified in a way that wounding speech cannot. Even after apology, the pain (and the damage to reputation) remains. A stranger, in particular, is sensitive to his or her status within society. He or she is an outsider. Strangers do not share with the native born a memory, a past, a sense of belonging. They are conscious of their vulnerability. Therefore we must be especially careful not to wound them by reminding them that they are not “one of us.”

The second thing the sages noted was the repeated emphasis on the stranger in biblical law. According to Rabbi Eliezer in the Talmud (Baba Metsia 59b) the Torah “warns against the wronging of a ger in thirty-six places; other say, in forty-six places.”

Whatever the precise number, the repetition throughout the Mosaic books is remarkable. Sometimes the stranger is mentioned along with the poor; at others, with the widow and orphan. On several occasions the Torah specifies: “You shall have the same law for the stranger as for the native-born.” Not only must the stranger not be wronged; he or she must be included in the positive welfare provisions of Israelite/Jewish society. But the law goes beyond this: the stranger must be loved:

When a stranger lives with you in your land, do not mistreat him. The stranger living with you must be treated as one of your native-born. Love him as yourself, for you were strangers in Egypt. I am the LORD your God. This provision appears in the same chapter in Vayikra as the command, “You shall love your neighbour as yourself.” Later, in the book of Devarim, Moses makes it clear that this is the attribute of G-d himself:

For the LORD your G-d is G-d of gods and Lord of lords, the great God, mighty and awesome, who shows no partiality and accepts no bribes. He defends the cause of the fatherless and the widow, and loves the stranger, giving him food and clothing. And you are to love those who are strangers, for you yourselves were strangers in Egypt. What is the logic of the command? The most profound commentary is that given by Nachmanides:

The correct interpretation appears to me to be that He is saying: do not wrong a stranger or oppress him, thinking as you might that none can deliver him out of your hand; for you know that you were strangers in the land of Egypt and I saw the oppression with which the Egyptian oppressed you, and I avenged your cause on them, because I behold the tears of such who are oppressed and have no comforter, and on the side of their oppressors there is power, and I deliver each one from him that is too strong for him. Likewise you shall not afflict the widow and the orphan for I will hear their cry, for all these people do not rely upon themselves but trust in Me.

And in another verse he added this reason: for you know what it feels like to be a stranger, because you were strangers in the land of Egypt. That is to say, you know that every stranger feels depressed, and is always sighing and crying, and his eyes are always directed towards G-d, therefore He will have mercy upon him even as He showed mercy to you, as it is written, and the children of Israel sighed by reason of the bondage, and they cried, and their cry came up to G-d by reason of the bondage, meaning that He had mercy on them, not because of their merits but only on account of the bondage [and likewise He has mercy on all who are oppressed.] According to Nachmanides the command has two dimensions. The first is the relative powerlessness of the stranger. He or she is not surrounded by family, friends, neighbours, a community of those ready to come to their defence. Therefore the Torah warns against wronging them because G-d has made himself protector of those who have no one else to protect them. This is the political dimension of the command.

The second reason, as we have already noted, is the psychological vulnerability of the stranger (we recall Moses’ own words at the birth of his first son: “I am a stranger in a strange land”). The stranger is one who lives outside the normal securities of home and belonging. He or she is, or feels,

alone - and, throughout the Torah, G-d is especially sensitive to the sigh of the oppressed, the feelings of the rejected, the cry of the unheard. That is the emotive dimension of the command.

Rabbi Hayyim ibn Attar (Ohr ha-Hayyim) adds a further fascinating insight. It may be, he says, that the very sanctity that Israelites feel as children of the covenant may lead them to look down on those who lack a similar lineage. Therefore they are commanded not to feel superior to the ger, but instead to remember the degradation their ancestors experienced in Egypt. As such, it becomes a command of humility in the face of strangers.

The term ger itself is undefined in the Torah. There are other words for stranger, namely zar and nochri, both of which have a stronger sense of “alien” or “foreigner,” a visitor from elsewhere. The word ger, by contrast, signifies one who is not an Israelite by birth but who has come to live, on a long term basis, within Israelite society. The oral tradition accordingly identified two forms of the ger: the ger tzedek, or convert (Ruth is the classic example), and the ger toshav, a “resident alien” who has chosen to live in Israel without converting to Judaism but instead agreeing to keep the seven Noahide laws mandatory on all mankind. Ger toshav legislation represents the biblical form of minority rights.

Whichever way we look at it, however, there is something striking about this almost endlessly iterated concern for the stranger - together with the historical reminder that “you yourselves were slaves in Egypt.” It is as if, in this series of laws, we were nearing the core of the mystery of Jewish existence itself. What is the Torah implying?

Concern for social justice was not unique to Israel. What we sense, however, throughout the early biblical narrative, is the lack of basic rights to which outsiders could appeal. Not by accident is the fate of Sodom and the cities of the plain sealed when they attempt to assault Lot’s two visitors. Nor can we fail to feel the risk to which Abraham and Isaac believe they are exposed when they are forced to leave home and take refuge in Egypt or the land of the Philistines. In each of the three episodes (Bereishith 12, 20, 26) they are convinced that their life is at stake; that they may be murdered so that their wives can be taken into the royal harem.

Jacob’s daughter Dina is raped and abducted when she wanders into the territory of Shechem. There are repeated implications, in the course of the Joseph story, that in Egypt, Israelites are regarded as pariahs (the word “Hebrew,” like the term hapiru found in the non-Israelite literature of the period, seems to have a strong negative connotation). One verse in particular - when the brothers visit Joseph a second time - indicates the distaste with which they were regarded:

They served him [Joseph] by himself, the brothers by themselves, and the Egyptians who ate with him by themselves, because Egyptians could not eat with Hebrews, for that is detestable to Egyptians. So it was in the ancient world. Hatred of the foreigner is the oldest of passions, going back to tribalism and the prehistory of civilisation. The Greeks called strangers “barbarians” because of their (as it seemed to them) outlandish speech that sounded like the bleating of sheep. The Romans were equally dismissive of non-Hellenistic races. The pages of history are stained with blood spilled in the name of racial or ethnic conflict. It was precisely this to which the Enlightenment, the new “age of reason,” promised an end. It did not happen. In revolutionary France as the Rights of Man were being pronounced, in 1789, riots broke out against the Jewish community in Alsace. Hatred against English and German immigrant workers persisted throughout the nineteenth century. In 1881 in Marseilles a crowd of 10,000 went on a rampage attacking Italians and their property. Dislike of the unlike is as old as mankind.

This fact lies at the very heart of the Jewish experience. It is no coincidence that Judaism was born in two journeys away from the two greatest civilizations of the ancient world: Abraham’s from Mesopotamia, Moses’ and the Israelites’ from Pharaonic Egypt. The Torah is the world’s great protest against empires and imperialism. There are many dimensions to this protest. One is the attempt to justify social hierarchy and the absolute power of rulers in the name of religion. Another is the subordination of the

mass to the state - epitomized by the vast building projects, first of Babel, then of Egypt, and the enslavement they entailed. A third is the brutality of nations in the course of war (the subject of Amos' oracles against the nations). Undoubtedly, though, the most serious offence - for the prophets as well as the Mosaic books - was the use of power against the powerless: the widow, the orphan and, above all, the stranger.

To be a Jew is to be a stranger. It is hard to avoid the conclusion that this is why Abraham is commanded to leave land, home and father's house; why, long before Joseph was born, Abraham was already told that his descendants would be "strangers in a land not their own"; why Moses had to suffer personal exile before assuming leadership of the people; why the Israelites underwent persecution before inheriting their own land; and why the Torah is so insistent that this experience - the retelling of the story on Pesach, along with the never-forgotten taste of the bread of affliction and the bitter herbs of slavery - should become a permanent part of their collective memory.

Enlightenment thought is marked by two great attempts to ground ethics in something other than tradition. One belonged to the Scottish enlightenment - David Hume and Adam Smith - who sought it in emotion: the natural sympathy of human beings for one another. The other was constructed by Immanuel Kant on the basis of reason. It was illogical to prescribe one ethical rule for some people and another for others. Reason is universal, argued Kant; therefore an ethic of reason would provide for universal respect ("Treat each person as an end in himself").

Neither succeeded. Villages and townships where Jews had lived for almost a thousand years witnessed their mass murder or deportation to the extermination camps with little or no protest. Neither Kantian reason nor Humean emotion were strong enough to inoculate Europe against genocide. Centuries of (religiously inspired) hate came together with pseudo-scientific theories of race and social Darwinism ("the survival of the fittest" as Herbert Spencer put it) to relegate whole populations - above all, the Jews - to the category of the subhuman.

It is terrifying in retrospect to grasp how seriously the Torah took the phenomenon of xenophobia, hatred of the stranger. It is as if the Torah were saying with the utmost clarity: reason is insufficient. Sympathy is inadequate. Only the force of history and memory is strong enough to form a counterweight to hate.

Why should you not hate the stranger? - asks the Torah. Because you once stood where he stands now. You know the heart of the stranger because you were once a stranger in the land of Egypt. If you are human, so is he. If he is less than human, so are you. You must fight the hatred in your heart as I once fought the greatest ruler and the strongest empire in the ancient world on your behalf. I made you into the world's archetypal strangers so that you would fight for the rights of strangers - for your own and those of others, wherever they are, whoever they are, whatever the colour of their skin or the nature of their culture, because though they are not in your image - says G-d - they are nonetheless in Mine. There is only one reply strong enough to answer the question: Why should I not hate the stranger? Because the stranger is me.

**Rabbi Michael Rosensweig –
Naaseh ve-Nishma: The Cultivation of a Torah Personality**

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Rabbi Michael Rosensweig Naaseh ve-Nishma: The Cultivation of a Torah Personality

In parshat Mishpatim, we read of Klal Yisrael's monumental acceptance of the Torah with the epic declaration "naaseh ve-nishma" (Shemot 24:7). Chazal register the significance of this statement which denotes both a commitment to enact the norms or laws of the Torah (naaseh), as well as to adopt its objectives or values (nishma). They particularly accentuate the importance of naaseh's priority in this formula. According to the Pesikta

Rabbati (ch. 41) this formulation was so transformative that it actually uprooted the yetzer hara (inclination to sin) from the nation! The Midrash Rabbah (Vayikra 18:3) reports that this phrase initiated Bnai Yisrael's status as "banim la-Makom" (children of Hashem), putting their fate outside the reach of routine natural forces. The Tanchuma (Vayishlach) conveys that the intense dedication encapsulated in these historic words establish that "gedolim tzaddikim yoter mi-malachei ha-sharet" (the righteous are superior to the ministering angels).

The intense faith and absolute trust in Hashem implied by the priority of naaseh to nishma considerably accounts for the transcendent significance that Chazal ascribe to this proclamation. A blind and unqualified commitment demonstrates total devotion to Hashem and to the system of halachic life which elevates the Jewish nation.

However, Chazal also link this declaration to the special quality of halachic law and life. The midrash (Midrash Rabba, Shemot 30:9) attributes the singular character of Jewish law ("Maggid devarav le-Yaakov chukav u-mishpatav le-Yisrael lo asah chein le-kol goy u-mishpatim bal yedaum halellukah") to the priority of naaseh ve-nishma. In Avot de-Rav Nassan (22-1), Klal Yisrael's paradigm of naaseh ve-nishma is cited as the basis for the conclusion that "kol she-maasav merubin me-chochmato, chachmato mitkayemet" (the wisdom of one whose deeds are more numerous is enduring). It appears that the quality of the nishma is enhanced by the priority of the naaseh.

An enigmatic gemara (Shabbat 88a) may further illuminate the intriguing relationship between naaseh and nishma. The gemara reports that when the nation articulated naaseh ve-nishma, 600,000 angels descended to award 2 crowns each to every individual. However, once Bnai Yisrael sinned in the episode of the egel ha-zahav (golden calf), they lost the right to retain these crowns. The process of confiscation, however, required double the number of angels, as each angel departed with only a single crown. The gemara is particularly puzzling as Chazal generally project the view that angels are capable of undertaking only a single mission.

Perhaps the gemara intends to encapsulate the profound innovation and impact of the naaseh ve-nishmah declaration. In man-made legal systems, the principles and objectives of the law are necessarily articulated first and there is a clear distinction between the spirit and letter of the law. Actual norms either serve some pragmatic social function or broadly reflect the implementation of a basic value, but they are not immutable nor do they attain intrinsic value. Klal Yisrael, however, demonstrated remarkable insight as they embraced halachic life, discerning that the Divine Torah was unique. They intuited that the Divine imprimatur and the immutability of mitzvot reflect inherent sanctity. Moreover, they understood that implementing and assimilating the details of halachah constituted the most effective method to cultivate a halachic personality in which individual sensibilities and the collective national will would be shaped and defined by Torah values. The charge of the mishnah in Avot - "bateil retzonchah mipnei retzono - bend your will to Hashem's Will" is achieved by a total immersion in the minutiae of halachic life. By living, breathing, and studying these norms, one becomes attuned to the total system and attached to the broader values embodied by specific halachot. A nishma that is anchored as well as concretely expressed in naaseh is a powerful transformative force for cultivating a total halachic world view. It is noteworthy that the aseret ha-dibrot reflects this pattern of priority, as well. Introduced by the Divine character of halachic life- Anochi Hashem Elokecha -, the list focuses on specific actions-norms before culminating with lo tachmod-titaveh, reflecting the demand for internalizing halachic values based upon the mitzvot. [See previous TorahWeb article on Lo Tachmod : The Perfect Culmination of the Aseret Hadibrot]

The fact that a single angel was able to bestow two crowns in recognition of Klal Yisrael's achievement indicates that the significance of the dual declaration with the priority of naaseh to nishma lies precisely in the integration of value and action, with the former firmly anchored in the latter. Tragically, the full implications of this profound dual commitment to

a life of halachic values were short lived, ignored in the panic over Moshe's absence. When subjective initiatives overruled halachic direction Klal Yisrael succumbed to the sin of the egel ha-zahav. By abandoning their absolute faith in Hashem and by initiating a course of action that was not rooted in halachic details or principles, they adopted an approach that was completely antithetical to the naaseh ve-nishma declaration. As a result, they breached the unity of the two crowns. Chazal signify this breach when they recount that it required twice as many angels to strip them of the symbol of naaseh ve-nishma as it did to bestow it. Chazal perceive the sin of egel ha-zahav as a cataclysmic setback for Klal Yisrael's destiny as a mamlechet kohanim ve-goy kadosh anchored in the ideal priority-unity of naaseh ve-nishma.

In any case, it is this ideal approach of naaseh ve-nishma when truly internalized that allows for the vanquishing of the yetzer hara and that establishes Klal Yisrael's status as "banim la-Makom" who are elevated beyond the angels. Furthermore, the singular character of halachic law, in contrast to other legal systems ("lo asah chein le-kol goy") can be traced specifically to naaseh ve-nishma. Chazal indicate that the introductory words of the parsha - "ve-eilah ha-mishpatim" link even Jewish civil law with the event of mattan Torah and integrate the branch of halachah seemingly most common to other legal systems with the courtyard of the Beit haMikdash. Indeed, the naaseh ve-nishma-anchored "mishpatim" are "lo yedaum"-incomparable to secular law. We can now better appreciate the words of Avot de-Rabbi Natan- that the priority of naaseh to nishma demonstrates that wisdom that is accompanied with an even greater commitment to good deeds is truly enduring. Halachic wisdom that stems from striving to internalize halachic values requires the anchor and concrete application of mitzvot.

As a community and as individuals we face many challenges as we struggle to live a maximal halachic life in a world which exerts diverse pressures and influences, many of which are incompatible with our commitment. We also live in an era of great opportunity in which certain social, technological and economic forces may be particularly conducive to spiritual growth. It is important that we seek halachic and hashkafic guidance to determine how and when to integrate the world around us. Immersion in mitzvot and the internalization of its values is the vehicle that will provide us with direction. It is vitally important that we recognize that the formula of naaseh ve-nishma was not only a historical declaration articulated by Klal Yisrael at a particularly crucial moment. This timeless proclamation remains the foundation for spiritual growth as individuals and as a community.

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Abortion in Jewish Law by Daniel Eisenberg, M.D.

As abortion resurfaces as a political issue in the upcoming U.S. presidential election, it is worthwhile to investigate the Jewish approach to the issue. The traditional Jewish view of abortion does not fit conveniently into any of the major "camps" in the current American abortion debate. We neither ban abortion completely, nor do we allow indiscriminate abortion "on demand."

A woman may feel that until the fetus is born, it is a part of her body, and therefore she retains the right to abort an unwanted pregnancy. Does Judaism recognize a right to "choose" abortion? In what situations does Jewish law sanction abortion?

To gain a clear understanding of when abortion is permitted (or even required) and when it is forbidden requires an appreciation of certain nuances of halacha (Jewish law) which govern the status of the fetus.¹

The easiest way to conceptualize a fetus in halacha is to imagine it as a full-fledged human being -- but not quite.² In most circumstances, the fetus is treated like any other "person." Generally, one may not deliberately harm a fetus. But while it would seem obvious that Judaism holds accountable one who purposefully causes a woman to miscarry, sanctions are even placed upon one who strikes a pregnant woman causing an unintentional miscarriage.³ That is not to say that all rabbinical

authorities consider abortion to be murder. The fact that the Torah requires a monetary payment for causing a miscarriage is interpreted by some Rabbis to indicate that abortion is not a capital crime⁴ and by others as merely indicating that one is not executed for performing an abortion, even though it is a type of murder.⁵ There is even disagreement regarding whether the prohibition of abortion is Biblical or Rabbinic. Nevertheless, it is universally agreed that the fetus will become a full-fledged human being and there must be a very compelling reason to allow for abortion.

As a general rule, abortion in Judaism is permitted only if there is a direct threat to the life of the mother by carrying the fetus to term or through the act of childbirth. In such a circumstance, the baby is considered tantamount to a rodef, a pursuer⁶ after the mother with the intent to kill her. Nevertheless, as explained in the Mishna,⁷ if it would be possible to save the mother by maiming the fetus, such as by amputating a limb, abortion would be forbidden. Despite the classification of the fetus as a pursuer, once the baby's head or most of its body has been delivered, the baby's life is considered equal to the mother's, and we may not choose one life over another, because it is considered as though they are both pursuing each other.

It is important to point out that the reason that the life of the fetus is subordinate to the mother is because the fetus is the cause of the mother's life-threatening condition, whether directly (e.g. due to toxemia, placenta previa, or breach position) or indirectly (e.g. exacerbation of underlying diabetes, kidney disease, or hypertension).⁸ A fetus may not be aborted to save the life of any other person whose life is not directly threatened by the fetus, such as use of fetal organs for transplant.

Judaism recognizes psychiatric as well as physical factors in evaluating the potential threat that the fetus poses to the mother. However, the danger posed by the fetus (whether physical or emotional) must be both probable and substantial to justify abortion.⁹ The degree of mental illness that must be present to justify termination of a pregnancy has been widely debated by rabbinic scholars,¹⁰ without a clear consensus of opinion regarding the exact criteria for permitting abortion in such instances.¹¹ Nevertheless, all agree that were a pregnancy to cause a woman to become truly suicidal, there would be grounds for abortion.¹² However, several modern rabbinical experts ruled that since pregnancy-induced and post-partum depressions are treatable, abortion is not warranted.¹³

As a rule, Jewish law does not assign relative values to different lives. Therefore, almost most major poskim (Rabbis qualified to decide matters of Jewish law) forbid abortion in cases of abnormalities or deformities found in a fetus. Rabbi Moshe Feinstein, one of the greatest poskim of the past century, rules that even amniocentesis is forbidden if it is performed only to evaluate for birth defects for which the parents might request an abortion. Nevertheless, a test may be performed if a permitted action may result, such as performance of amniocentesis or drawing alpha-fetoprotein levels for improved peripartum or postpartum medical management.

While most poskim forbid abortion for "defective" fetuses, Rabbi Eliezar Yehuda Waldenberg is a notable exception. Rabbi Waldenberg allows first trimester abortion of a fetus that would be born with a deformity that would cause it to suffer, and termination of a fetus with a lethal fetal defect such as Tay Sachs up to the seventh month of gestation.¹⁴ The rabbinic experts also discuss the permissibility of abortion for mothers with German measles and babies with prenatal confirmed Down syndrome.

There is a difference of opinion regarding abortion for adultery or in other cases of impregnation from a relationship with someone Biblically forbidden. In cases of rape and incest, a key issue would be the emotional toll exacted from the mother in carrying the fetus to term. In cases of rape, Rabbi Shlomo Zalman Aurbach allows the woman to use methods which prevent pregnancy after intercourse.¹⁵ The same analysis used in other cases of emotional harm might be applied here. Cases of adultery interject additional considerations into the debate, with rulings ranging from prohibition to it being a mitzvah to abort.¹⁶

I have attempted to distill the essence of the traditional Jewish approach to abortion. Nevertheless, every woman's case is unique and special, and the parameters determining the permissibility of abortion within halacha are subtle and complex. It is crucial to remember that when faced with an actual patient, a competent halachic authority must be consulted in every case.

1 While there is debate among the Rabbis whether abortion is a Biblical or Rabbinical prohibition, all agree on the fundamental concept that fundamentally, abortion is only permitted to protect the life of the mother or in other extraordinary situations. Jewish law does not sanction abortion on demand without a pressing reason. 2 Igros Moshe, Choshen Mishpat II: 69B. 3 Shulchan Aruch, Choshen Mishpat, 423:1 4 Ashkenazi, Rabbi Yehuda, Be'er Hetiv, Choshen Mishpat 425:2 5 Igros Moshe, ibid 6 Maimonides, Mishneh Torah, Laws of Murder 1:9; Talmud Sanhedrin 72B 7 Oholot 7:6 8 See Steinberg, Dr. Abraham; Encyclopedia of Jewish Medical Ethics, "Abortion and Miscarriage," for an extensive discussion of the maternal indications for abortion. 9 Igros Moshe, ibid 10 See Encyclopedia of Jewish Medical Ethics, P. 10, for references. 11 See Spero, Moshe, Judaism and Psychology, pp. 168-180. 12 Zilberstein, Rabbi Yitzchak, Emek Halacha, Assia,

Vol. 1, 1986, pp. 205-209. 13 Rabbi Shlomo Zalman Aurbach and Rabbi Yehoshua Neuwirth cited in English Nishmat Avraham, Choshen Mishpat, 425:11, p. 288. 14 Tzitz Eliezer, Volume 13:102. 15 Rabbi Shlomo Zalman Aurbach and Rabbi Yehoshua Neuwirth cited in English Nishmat Avraham, Choshen Mishpat, 425:23, p. 294. 16 See excellent chapter in English Nishmat Avraham, Choshen Mishpat, 425 by Dr. Abraham Abraham, particularly p. 293.

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From: **R' Yoni Posnick** YoniM17@aol.com

Date: Tue, 13 Feb 2007 22:24:54

Subject: Fwd: Parshas Mishpatim / Shabbos Shekalim
"The 'Little Things'"

Last week's parsha ended with Klal Yisrael at the foot of Har Sinai, at the highest pinnacle of kedusha, having just received the Torah from the voice of G-d Himself. We come to this week's parsha which discusses the mishpatim - the halachos governing people's relationships and property. This seems somewhat anticlimactic. We would have expected that right after Matan Torah and the awesome experience of Maamad Har Sinai, the Torah would speak about some lofty concept or mitzva, maybe Shema Yisrael, perhaps Ahavas or Yiras Hashem, or shemiras haMitzvos in general. But no. The Torah immediately turns its attention to the relatively mundane halachos of damages and people's property. What exactly is the meaning of this seemingly strange followup to Matan Torah? We go from Ma'amad Har Sinai to mishpatim? This is the transition?

Horav Yerucham Levovitz z'l, explains that in fact this is the perfect follow-up from last week's parsha and the experience of Ma'amad Har Sinai. A person can have an exhilarating or inspirational experience and as a result have lofty thoughts and aspirations. It is easy to carry out the so called "big mitzvos," the ones that are well known and publicized or that carry great honor and recognition. It is much more difficult, however, to maintain the same hislahavus for the day to day, so called "mundane mitzvos," those that aren't so well known or practiced; those that people tend to overlook or tread upon. What will a person do, how will they act and conduct their lives, when the spotlight is turned off and they are going about their daily routines? The truth is, however, that it is these very mitzvos and actions that provide true measure of a person's commitment and appreciation to Torah and Avodas Hashem. These are the mishpatim - the halachos which deal with and govern the everyday practices of people - lending money, working in the fields, watchmen, damages. They are not the prestigious mitzvos, such as Shabbos or Tefilla, but rather the "nitty gritty" actions - getting down in the mud to help load a friend's donkey; making sure to go out of one's way to return a lost object; the laws of dealing with widows, converts, slaves and maidservants. It is precisely these mitzvos the Torah emphasized and placed right after Matan Torah.

It is easy to experience a grand revelation or be greatly inspired and then use that high to fulfill those mitzvos which keep that feeling going. The true measure of greatness, however, is to be able to fulfill and appreciate the value in living a Torah lifestyle and fulfilling all of the mitzvos - to see the beauty in each and every action a Jew performs. Continuing on this thought, we point out that if we look through the parsha we find that most of the mitzvos are those that deal with bain adam l'chaveiro, one's interpersonal relationships - with his servants, parents, and fellow Jews. The Torah did not follow up Matan Torah with the greatness of HaKadosh Baruch Hu; it did not focus on mitzvos bein adam laMakom - our relationship with G-d. Rather it immediately transitioned to the halachos which deal with our relationships with other people. This teaches us the importance of our relationships and dealings with other people, and how careful we must be to act correctly and in a Torah true manner. It is easy to go to shul and daven three times a day, to sit in the Beis Medrash and learn every Shabbos, and to perform other mitzvos which enhance and strengthen our relationship with HaKadosh Baruch Hu. It is also easy, however, to overlook the bain adam l'chaveiro aspect of this relationship. We tend to focus on those actions directed to Hashem, which gives us that inspirational high, while not being quite as careful in our day to day dealings with those around us. Right after Matan Torah and the Har Sinai experience, the Torah made sure to emphasize the importance of our interpersonal dealings and jumped right in to the mishpatim, the halachos which govern our relationships with others.

It is easy in any relationship be it with spouses, parents, friends, or those closest to us, to focus in on the "big things," - the lavish presents, the happy celebrations. Ask anyone in a happy and satisfying relationship, however, and they will tell you that the main fulfillment and joy comes not from those "big things," but from the "little things," the day to day interactions and shows of caring and concern. Speak to a happily married couple and the wife will tell you the "little" note of love and encouragement left on the table when she was down meant immeasurably more than the expensive bracelet she received from her husband. Ask two close friends and inevitably one will tell a story of the other performing some "small" or "little" deed as proof of the other's friendship. It is the "little things," the day to day, nitty gritty details, that show one's true investment and sincerity of effort, of caring, of connection to the other.

The same applies to our relationship with the Ribbono Shel Olam. It is not the grand displays of mitzvos that provide a real measure of one's commitment, but rather the out of the spotlight day to day attitudes and actions, which show one's true standing in that all important relationship. As the first Rashi of our parsha tells us, the parsha begins with the conjunctive letter "vav" teaching us "Just as these (the Aseres HaDibros) were given at Sinai, so too these (the mishpatim) were given at Sinai." The Torah itself connects these two sections, teaching us that the way to demonstrate one's true connection and closeness to the Almighty, the way of showing our true and real love and caring for Him, is through our day to day mitzvos, those "little" things and actions we take for His sake, to strengthen our keshar to the One that matters most to us in our lives.

What emerges from this Rashi is that the laws of one ox goring another, of digging a hole in the public domain, or paying workers on time, all the mundane intricacies of life, have the same status and were given at the same time as the Aseres HaDibros. Is this not truly incredible! In the same breath that Hashem spoke "Anochi Hashem Elokecha - I am Hashem your G-d," the very foundation of Judaism, He also told us about our responsibilities when we borrow our neighbor's car? Why does Parshas Mishpatim rate on the same level as "Anochi Hashem?"

Horav Moshe Feinstein z'l, powerfully stated that this comes to teach us that if a person does not keep the Mishpatim, monetary laws, day to day mitzvos, he doesn't believe in "Anochi Hashem" either. What a compelling thought! "I am Hashem your G-d" is the theory - one says "Yes, I believe." But the practice is, how does one truly act back in one's tent, house, car, work? Do you take shortcuts in Shemiras haMitzvos? Do you cheat in your business? If you cheat in your business, you do not believe in "I am Hashem your G-d." If you cut corners in your mitzva performance and Avodas Hashem than you do not believe He is important and that Torah translated means Instructions for Living. Not just living in shul or in front of Har Sinai but living everyday of one's life. One cannot in good conscious say "Ani Maamin b'Emuna shlaima" in "Anochi Hashem," and at the same time trample on the Mishpatim, or fail to carry out those "little" "mundane" mitzvos and nitty gritty actions. Rav Moshe continues, if a person believes in G-d with more than lip service, then the person believes that G-d provides him with a livelihood. If a person believes that G-d provides the livelihood, then what reason is there to cheat? Anyone who cheats, does not truly believe it. That is why "Anochi Hashem" is grouped together with the law of how to pay one's workers.

Horav Yissochar Frand shlita, relates that a few years back there was a meeting in New York of the Association of Jewish Certified Public Accountants; an organization appropriately called Cheshbon. Horav Shimon Schwab z'l was asked to speak and told this group that a person who is dishonest in business is a Kofer b'lkar, one who denies G-d. For if a person really believed, he would not need to cheat. One cheats because he thinks -- "this will get me the parnasa". Cheating indicates that he does not believe that G-d will take care of him. Then Rav Schwab continued by saying the following. "You will ask me that we see people who cheat a tremendous amount and are nonetheless, successful. Now if parnassa comes from G-d, how can that be?" Rav Schwab went on to say that no good will ever come out of the money that comes from the "Kochos HaTumah," powers of impurity, in the world. He or his children or someone down the line will never see nachas from that money.

The 'test' of earning a livelihood, the test of our day to day lives, is not only a test of telling the truth, of not stealing, of fulfilling the "big label" mitzvos. It is a test of 'Anochi Hashem Elokecha - I am Hashem'. Daily, we are put to the 'test' of whether or not we really believe. If we really, really believe, then there is never a reason to be less than totally honest in our dealings with other people and most importantly with ourselves! This is the Torah's message of mishpatim. It is not a parsha of nitty gritty details and laws, but the key to an honest, real, and fulfilling relationship with Hashem Yisborach. How true is the saying, "It's the little things that count and make all the difference!"

"The Best Doctor"

The passuk in our Parsha tells us that if one harms another individual, he must make reparations, which include medical bills incurred as a result of his damage. From here, Chazal learn "permission was given for doctors to heal." This is the

source for the allowance of a Jew to seek medical attention from doctors. Even though all illness and bodily sickness come not from physical factors, but from the One Above, one is still required to take care of his physical guf and seek a doctor's treatment when appropriate.

The Torah Temimah, in his Tosefes Bracha, comments that we say in the bracha of "Refa' ainu," the bracha in Shmone Esrei which asks Hashem for health and healing, "ki Kail melech rofei neeman v'rachaman Atah - For You are a faithful and merciful Doctor." Why is it, asks the Tosefes Bracha, that we say praise G-d saying He is "faithful and merciful?" Aren't there also human doctors who are faithful to their professions and compassionate caring doctors as well?

The answer given is a resounding no! A human doctor can be "faithful" and he can be "merciful," but he cannot be both together at the same instance. If a surgeon decides a patient needs a life-saving operation, which will mean months of pain and discomfort for the patient, there is not much that the surgeon of flesh and blood can do. Painkillers can be administered and medicine can be given, but the surgeon will "faithfully" do what he knows must be done. If treatment is vitally required but the doctor decides he does not wish to cause the patient any pain, then he is indeed "merciful" but certainly not "faithful!" This is downright foolishness! The patient requires treatment! By a mortal doctor, "neeman" and "rachaman" cannot exist in sync.

By the "Kail melech neeman v'rachaman," Almighty Doctor, however, it is indeed possible for these two middos to co-exist. Hashem can bestow health and heal illness faithfully - but in a merciful way - without pain and physical punishment. This is indeed what we daven for, three times on a daily basis: "Please, Hashem, the True, Faithful, and Merciful Doctor, keep us healthy and heal all those who are sick from our nation, faithfully and with Your abundant mercy! - for only You can accomplish such a miraculous occurrence in Your kindness!"

We should add, that we must realize that in truth all of Hashem's actions towards us are in line with these poignant words - "neeman v'rachaman." Even when it seems as if Hashem is acting towards us solely with His midah of "neemanus, faithfulness," - solely in line with our actions (or lack thereof), everything that occurs is with the utmost "rachmanus, mercy." Hashem, like a Father, only acts towards His children with caring, compassion, and mercy. Even the punishments and the pain, are there to elevate us and bring us closer to Him. Even when the "potch" is life-threateningly necessary, the medicine is already prepared. (As we read in the Purim story, Hashem prepared the "refuah lifnei hamakah," appointing Esther before Haman's rise to power). May we have the utmost kavanah and appreciation for this beautiful bracha composed by our wise Sages, and thereby merit good health, and a refuas hanefesh u'refuas haguf, for all Cholei Yisrael!

"Better Not to Build the Beis HaMikdash!"

One who steals livestock and either sells or slaughters it must pay five times the value of the ox and four times the value of the sheep. Rashi cites the opinion of Rabbi Yochanan ben Zakai in Bava Kama, who states the reason for the lesser fine for stealing a sheep is due to the embarrassment which the thief suffered when he carried the sheep on his shoulders as he escaped, unlike one who steals an ox and leads in through the marketplace, drawing less attention and suspicion to his sinful act. Due to this added shame, the Torah lessened the fine of the "sheep-thief," and only requirement him to pay back four times, instead of five. The Gemara adds that if the humiliation of a common thief evokes Hashem's pity, how much more so should we be concerned with the feelings of innocent people.

This parsha is a remarkable lesson demonstrating the Torah's concern for the feelings of every individual - even a common thief, who himself disregarded the concern of the one he stole from. After all, the shame and embarrassment of having to make a quick get-away and carrying the sheep on his shoulders did not stop him from committing the crime! Nevertheless, remarkably, his punishment is reduced by the Torah. The Message is quite clear: The Torah takes the feelings of a person most seriously. It is easy for us to be quick and say that this does not apply to us for we do not look to hurt other people. While it is true, no one would purposely hurt another person, all too often our thoughtlessness inadvertently causes unnecessary pain to others. At times our insatiable ego provokes us to act in a manner which, albeit unconscious, can have a detrimental effect on those around us.

We see just a few short parshios ago, that Hashem came to Moshe to go to Mitzrayim and begin the process of Geula, of taking the Jewish nation out of their slavery. What happens? Moshe delays, thinking himself unworthy and asking Hashem to send his older brother Aharon in his place. The pesukim and meforshim tell us that for a full week Hashem and Moshe went 'back and forth,' not budging from that spot. It is only after Hashem fully assures Moshe that Aharon will not only be ok but he will be joyfully come out to greet Moshe, that Moshe finally accepts his Divine mission and goes to Mitzrayim.

Is this not incredible?! Moshe Rabbeinu delayed going to Paroh for seven days, because he feared that his older brother, Aharon, would be hurt. Imagine, Moshe knew that Klal Yisrael's liberation hinged solely on him, and yet - yet, he refrained

from going because he did not want to hurt another individual. This is one more reason why he was worthy of the mantle of leadership. This is the mark of a leader and a gadol.

Horav Sholom Schwadron zl, the legendary Maggid of Yerushalayim, was a dynamic speaker. His words could penetrate the most obstinate heart and move the most hardened person. He related that he was once asked to substitute for a mashgiach in one of the yeshivos. The mashgiach had to go fundraising for an extended period of time, and the talmidim of the yeshiva asked Rav Sholom to come speak to them and deliver shmussen, words of mussar, which was one of the functions of the mashgiach. Rav Sholom was unsure what to do. On the one hand, he was asked to act as a mashgiach in the sense that he would speak to and motivate the talmidim. If Rav Sholom's words would make a powerful impact, as was usually the case, then word would get back to the mashgiach, and it might make him feel bad. On the other hand, did he have the right to impede the students' spiritual development if he had the ability and the charisma to reach out to them? He decided to ask Horav Yechezkel Levinstein z'l, himself the mashgiach in Ponevezh at the time, for his opinion regarding the matter. Rav Chatzkel responded, "We have an accepted rule that if the opportunity to build the Bais HaMikdash avails itself, but, simultaneously, this might cause someone to feel bad, it is better not to build!" Needless to say, Rav Sholom did not give the shmussen.

Even the building of Hashem's house, is pushed off out of concern for another human being's feelings! The Binyan Beis HaMikdash itself does not override Kavod HaBriyos, proper care and concern for each and every Jew's feelings. This is the message of all of Parshas Mishpatim, and why it was placed right next to the Aseres HaDibros and Matan Torah. This is the message Hashem emphasized immediately after giving us the Torah, for this is the Torah's overriding concern. It may seem as if the Geulah was delayed and pushed off by Moshe. The reality, however is just the opposite! It ended up being carried out through Moshe Rabeinu, specifically because he had that mida of greatness to care about each individual. This is what allowed him to carry out his mission, to enable Yitzias Mitzrayim and all of its wondrous nissim, and to be Hashem's messenger to bring us the Torah, which bares his name - "Toras Moshe." It is certainly this appreciation for everyone around us that will be the cause of our Geula as well!

"A Piece of the Whole"

This Shabbos we read Parshas Shekalim, the first of the "Arba Parshios," four special readings leading up to Pesach. We read Hashem's command for each Jew to bring a "machtzis hashekel," half shekel coin, for a census taken by Moshe Rabeinu. Chazal teach that three half shekels were collected from each eligible individual to be used for different holy communal purposes - to buy korbanos for the coming year in the Mishkan and later Beis HaMikdash. It is truly fitting that Parshas Shekalim, the first reading, falls out around this Shabbos and our parsha. The pesukim tell us that each Jew had to bring a half-shekel, no matter what his financial situation was - the rich could not give more and the poor could not give less. This teaches us that every individual is of importance and value in Hashem's eyes. We do not know the worth of any person, only Hashem does. Each and every person, however, is entitled to be treated with respect and dignity, a major theme of our parsha, which discusses the mishpatim - interpersonal halachos.

Chazal ask, why did each individual have to give a half-shekel and not a whole? The Alshich z'l, explains that Hashem was giving each Jew the message that a person cannot stand by himself. A Jew alone is not complete; only when he joins with others can he maximize his potential. (Rabbi Reymond Beyda shlita, gives the example that nine people alone cannot make a minyan. If a tenth person walks in, however, they can daven as one. It doesn't matter how rich, smart, or strong he is - the tenth person makes the minyan. He makes it happen). We find this idea as a common theme throughout the upcoming stories of Purim and Pesach, which Parshas Shekalim introduces. It is only because the nation came together davening, together turning to Hashem, doing teshuva, and acts of kindness with each other, that they merited to be saved.

We must realize that we cannot live in a vacuum, alone, or by ourselves. Everyone needs other people at some point in their lives. None of us would have survived to grow up and make it to where we are without our parents who cared for us when we were helpless infants, and throughout the course of our lives, we've needed others to help us get to where we are or get us through a time of need - be it a friend, spouse, or even random stranger. (In a masterful shmues, Rav Chaim Shmulevitz z'l, explains that this is the meaning behind the Gemara which states that "Four individuals are considered like dead - 'chashuv k' meis:' one who is blind, one who is poor, a metzora, and one who has no children." The common factor is that these four people are severely limited in their ability to give and interact with other people, and therefore are not considered "alive" in the fullest sense of the word.) Every living breathing human being needs other people. For this reason alone, we should seek to deepen our appreciation for others, especially those we interact with on a daily basis. Once again we find the link to our Parsha, whose theme is that of Kavod HaBriyos,

of caring and concern in all our relationships, ultimately leading to a deeper love and affection for He who revealed Himself in His love at Har Sinai and gave us His precious and holy Torah, our Avinu Malkeinu - HaKadosh Baruch Hu!

As we read Parshas Shekalim and joyfully usher in Adar, we enter the season of Purim and Pesach. This Shabbos gives us the first taste of those incredible days and this zman of increased kedusha, simcha, and closeness to Hashem. May we be zoche to fulfill the 'big' and 'little' things in our Avodas Hashem, and in all our relationships, thereby strengthening each other and Hashem's presence in our lives! May we merit this year to taste the Korban Pesach and the Geula Shlaima, when we will together build Hashem's holy house, the Third and Final Beis HaMikdash!

Peninim on the Torah by Rabbi A. Leib Scheinbaum

- Parshas Mishpotim

Shema Yisrael Torah Network <shemalist@shemaisrael.com> to Peninim show details 3:08 pm (8 hours ago)

PARSHAS MISHPATIM And these are the ordinances that you shall place before them. (21:1) Parshas Mishpatim addresses civil and tort law. Interestingly, it follows closely after the Aseres HaDibros, Ten Commandments. Surely, there must be a message in this juxtaposition. Simply, Hashem is telling us that religion applies to all areas of life. Parshas Mishpatim and the Ten Commandments were both delivered at Har Sinai, prior to the forty-day period during which Moshe Rabbeinu received the entire Torah. Clearly, we see that the laws involving one's relationship with his fellow man are no different than the Ten Commandments. Thus, during the same session in which Hashem taught Moshe the most fundamental mitzvos, such as the unity of G-d, he also taught him the laws of damages incurred by one's cow. How are we to understand this?

Horav Moshe Feinstein, zl, derives from here that one who feels he is above the mishpatim, ordinances, that regulate civil and tort law, is indicating that he has a similar attitude concerning his belief in Hashem. The two beliefs accompany one another. One who believes in Hashem believes that his annual livelihood is decided on Rosh Hashanah. If he resorts to cheating and other forms of irreputable behavior in business, he demonstrates that he does not believe that Hashem provides for him. One who internalizes the idea that Hashem provides whatever he needs does not have to resort to behavior that is unbecoming a Jew. To distinguish between mitzvos is to deny their Source.

If you buy a Jewish bondsman. If he has nothing, he shall be sold for his theft. (22:2)

Chazal teach us that the eved Ivri, Jewish bondsman, was a thief who was sold to pay back his debt. We must endeavor to understand why the Torah chose to begin this parsha specifically with the laws of eved Ivri. Horav Yaakov Neiman, zl, gives the following analogy to explain this. A man is blessed with two sons. One son is very successful, an absolute pleasure in school. He just soaks up everything that he is taught. Discipline is never an issue with him. As time progresses, he grows into an exceptional talmid chacham, Torah scholar. Eventually, he assumes a position as a rosh yeshiva, disseminating Torah to the masses. It goes without saying that he has been a tremendous source of nachas, satisfaction, to his parents. Their other son was quite different. School was an experience that did not agree with him. He could not get along with his rebbeim, and they could not get along with him. Torah study just did not turn him on. In an effort to satisfy his growing boredom, he gravitated to places that were not conducive to his spiritual or moral growth. His social base coincided with his negative lifestyle, attracting friends from the dregs of society. He had every opportunity for spiritual growth, but he ignored it, until he ended up on the other side of the law.

Now, asks Rav Neiman, about whom does the loving father constantly worry: his son who is a rosh yeshiva, disseminating Torah to hundreds of students; or the son that is either on the street or spending time in jail? Obviously, the first son, from whom he derives much nachas, is not on his mind. It is his second son that preoccupies most of his waking hours with worry. What will he do next? Where will he end up tonight? Is he safe or is he hurt? These questions are the father's daily companion.

Hashem also worries about this son. The son who steals and does not have the money to pay back his debt is the son that "occupies" Hashem's time. Therefore, when the Torah begins the parsha that addresses the relationships between man and his fellowman, Hashem wants us to know what and who His priorities are. He notifies us that the son who steals and is a problem, who is always in trouble, he is Hashem's concern. How can he be brought back to a positive lifestyle, to a life of Torah? If this is Hashem's concern, it certainly should also be ours. This is the message that the Torah is conveying with its placement of eved Ivri at the forefront of the parsha.

A similar idea is to be gleaned from the Torah's drawing a distinction between the payment for one who steals an ox or sheep, either selling or slaughtering the animal.

He must pay five times the value of the ox or four times the value of the sheep. The difference between the two species is attributed by Chazal to the embarrassment that the thief sustains when he must carry the sheep on his shoulders in order to make his escape. This embarrassment is considered by the Torah as sufficient reason for reducing the payment for a stolen sheep. Once again, we see Hashem's love and concern for His errant son. Hashem does not punish like an unfeeling judge whose need for objectivity can, at times, cloud the punishment he must decree against the thief. He is not allowed to take extenuating or mitigating circumstances into account. He must address the law in black and white. In contrast, Hashem has room for grey. He punishes as a loving Father, taking into consideration all of the aspects of His son's behavior.

The parsha concerning the eved Ivri is a parsha of chinuch, education. The Torah is teaching us how to respond to a person who resorts to stealing as a means of a livelihood. He is sold into servitude to a kind and benevolent master who must do everything possible to make the servant feel comfortable and at home. He must treat him with the utmost respect and do nothing that will in any way impinge on his dignity. When he leaves, the master must give him gifts as they part ways. All of this is to send a message to the thief: We care about you. We have not given up hope on you. We look forward to welcoming you back into a life of Torah and mitzvos. When the thief sees that there is still hope for him, that the door to his return has not been shut, he has a positive attitude towards returning and adopting a new lifestyle of commitment to Torah and mitzvos.

Interestingly, this approach should work in all areas of chinuch, with all types of students. One should not wait until a student falls prey to a negative lifestyle before he acts toward him in a positive and caring manner. The best and most effective therapy is pre-emptive.

And the master shall bore through his ear with an awl, and he shall serve him forever. (21:6)

A person is sold as an eved Ivri, Hebrew servant, serves his six years, and now refuses to leave. He wants to continue his servitude, claiming that he likes his master and the situation that he is in. Can he stay? The Torah frowns on such an appeal, but permits it under certain circumstances in which the eved goes through an induction process. His ear is bored with an awl and he is then allowed to continue as a servant until the Yovel, Jubilee year, after which he goes free. Chazal view the ritual of boring his ear as a form of punishment. "The ear that heard at Har Sinai, 'Bnei Yisrael are My servants - and not servants to servants (other people). This man acquired a new master for himself. Let his ear be bored.'" Clearly, Chazal do not paint a laudatory picture of the eved who desires to continue his servitude. What is really wrong with his request? Life in the "outside" world is fraught with challenges. Why not opt for a secure job, three meals a day and a home with a family? Is that so bad?

This is a recurrent theme throughout rabbinic literature: the ability to choose between two opposing opportunities or ideas. Hashem has granted us the ability to choose: between right and wrong; between life and death; between positive and negative. There is always a competition between these two poles, each opting to win our approval. Hashem says, "Life and death I have given (before) you, blessing and curse, and you should choose life" (Devarim 30:19).

We are endowed with seichel, common sense. We are provided with an education. Hashem wants us to make use of our G-d-given talents and abilities to employ our education and make the correct choice. At least, we should not shy away from our responsibility to confront the situation head on and make a viable choice.

Life is filled with challenges, fraught with dilemmas. We must decide who to marry, which field of endeavor to enter, how to educate our children, and to which school we send them. The list goes on and, as it continues, we become bogged down with decision-making to the point that it takes its toll on our health and welfare. How often do we muse, "I wish someone else would make the decision for me!?" After all is said and done, however, we all know that the "buck stops here." We must decide, and we must live with our decision. That is life. For some, this is the excitement of life. For others, this is what they fear. They would rather bury their heads in the ground than face the challenge of making a decision.

What we do not understand, explains Horav Chananya Malkah, Shlita, is that making a decision is not a challenge, but a responsibility. Shirking responsibility is the defining character trait of a weak person. An eved is someone who has stolen money in order to support himself. He has no way of paying back what he has stolen, so the court sells him as a servant to a benevolent master who will pay off his debt and support him for six years. He should then leave. This particular servant, however, has fallen in love with the easy lifestyle of servitude. He receives his three meals without having to fend for himself in the public workplace. His family is provided for. His children's education is addressed. Basically, he does not have any worries: no competition; no decisions; no aggravation. For what more can a person ask? Why should he not love his master? He now has the opportunity to escape from

the reality of life with its constant struggles and decisions. What does he have to lose?

He loses himself, his individuality. A servant is content to have someone else take care of making his decisions for him, limiting his choices. He would rather defer his individuality to another person than confront making a decision and living with the consequences of deciding between different options. It is too much competition for his mind to handle. This attitude runs counter to everything the Torah teaches us. One must take responsibility, "step up to the plate," and personally make a decision. Someone else cannot live my life - I must live my life. When an eved says, "I love my master. I want to continue on as a slave," he is shirking his responsibility as a Jew. In fact, he denigrates himself as a human being.

Those who find fulfillment in life are those who change what should and can be changed - or, at least, they make a reasonable attempt to do so. They accept what cannot be changed, and they continue from there. They do not run away and hide. Each individual's life is a large block of stone. He, himself, is the sculptor. His ideas, ideals and talents are his tools. With his will, he can create anything. With a lack of will, he is left with a block of stone.

People do have choices in life and action. It is these choices that define greatness, heroism and freedom. Through choice, one preserves his independence, suppresses his irritability with life, overcomes apathy and elevates his spirituality. People who have survived the concentration camps remember the men and women who walked through the barracks comforting others, even giving away their last piece of bread. As a noted psychologist once wrote, "These people may have been few in number, but they offer sufficient proof that everything can be taken from man, but one thing: the last of the human freedoms, to choose one's attitude in any given circumstance."

The eved shirks this freedom and hides from this responsibility. This is the root of his sin. Hashem granted him abilities, and he eschewed them. It is one thing to do this temporarily for six years, but to settle for such a lifestyle for life - is sinful. Chazal teach us that there is no free man like the individual who studies Torah. One who devotes himself to Torah transforms himself into an intelligent, thinking individual. He thinks, hence, he understands. Learning clarifies the individual's relationship to all areas of life and avails him the opportunity to make a realistic, cogent decision. It gives one a hashkofas ha'chaim, perspective on life, based on a heritage from the past that has been tempered in self-sacrifice.

The word intelligence is a derivation of two Latin words: "inter" and "legere." "Inter" means between, and "legere" means to choose. Intelligence is the capacity to choose between two alternative courses of action and to make moral decisions. This ability is called bechirah chafshis, a basic tenet of our religion. True freedom is the ability to dominate over our own feelings and to prevail over impulses and thoughts. The Torah gives us this ability. The eved runs from life's opportunities, because he would rather serve than prevail. He refuses to accept the responsibility that comes with making a choice.

To the elders he said, "Wait for us here... Behold! Aharon and Chur are with you; whoever has a grievance should approach them." (24:14)

As Moshe Rabbeinu was about to leave for his ascension upon Har Sinai, he instructed the elders to remain behind and take charge of the leadership of the people. He added that primary responsibility of managing the nation would be in the hands of Aharon and Chur. Regrettably, at the most critical time in the nation's history, they did not follow these instructions. They did not consult with their elders. The Torah in Vayikra 9:1 writes: "It was on the eighth day, Moshe summoned Aharon and his sons, and the elders of Yisrael." The Torah continues with the two offerings that were to be brought: Aharon brought a young-bull for a Sin offering, accompanied by a ram for an Elevation offering; the people were to bring a he-goat for a Sin offering, accompanied by a sheep for an Elevation offering. Toras Kohanim explains that Aharon's young bull atoned for the sin of the Golden Calf, while the people's he-goat atoned for the sin of the mechiras Yosef, sale of Yosef, by his brothers, when they slaughtered a he-goat and dipped Yosef's multi-colored cloak in its blood. These two sins stand at the forefront and are archetypical of sin in general. The mechiras Yosef is the source for all sins which are bein adam l'chaveiro, between man and his fellow man. The sin of the Golden Calf serves as the source for all sins that fall under the category of bein adam l'Makom, between man and G-d.

Horav Yosef Zundel Salant, zl, asserts that these sins had a common failing which brought about their ignoble consequence: they did not consult with their elders, their gedolim, spiritual leadership. When the Jews sinned with the Golden Calf, they ignored Aharon and Chur, whom Moshe had designated as his surrogates during his absence. They should have approached these leaders to seek their counsel. They did not and, therefore, they sinned. Likewise, before Yaakov's sons decided to act against Yosef, they should have sought advice from the zakan ha'dor, elder of the generation, Yaakov Avinu. They did not, hence, they sinned. Now, when they are bringing korbanos, sacrifices, to atone for their misdeeds, it is critical that the zekeinim, elders, be there as atonement. Their presence sends a message: no longer will we act without direction from our spiritual leadership.

Horav Matisyahu Solomon, Shlita, points out that we recite in the tefillas Shemoneh Esrai: Al hatzadikim, "On the righteous, on the devout, on the elders of Your People, the family of Israel." We are praying for our spiritual leadership without whom we cannot lead our lives in accordance with the letter and spirit of the law. This tefillah is to be recited with the same level of kavanah, concentration and devotion, as the other berachos of Shemoneh Esrai, because we realize that our elders are indispensable to our spiritual welfare.

Our nation is different from other nations in that we cannot survive without the institution of zekeinim, elders. Other nations can exist without being led by sages or elders. We are unique in the fact that our zekeinim are a necessity, not merely a luxury. Rabbi Akiva compares Klal Yisrael to a bird. Just as a bird cannot fly without wings, so, too, are we helpless without our elders. Horav Chaim Shmuelevitz, zl, explains that a bird without wings has even less capabilities than any other creature/animal that had never possessed wings in the first place. Without wings, the bird is a helpless, pitiful creature. We are similar to that bird. Without our leadership, we are helpless and pitiful. Our zekeinim are the sine quo non of our survival. To usurp the power of the elders is tantamount to striking a fatal blow at the life force of the Jewish nation.

Rav Matisyahu relates that he heard a more penetrating perspective from Rav Chaim. A generation that has lost its spiritual leadership is referred to as a dor yasom, an orphaned generation. Rav Chaim explained that an orphan seems to have someone to address his needs. There is either a surrogate, a guardian or an orphanage. There is someone who cares about him and who will continue to take care of him. A yasom, however, is a person whose needs are not really known to us. Even the individual that cares for him has no clue as to what the orphan's needs actually are. Only a father and mother know what their child needs. Only parents fight with mesiras nefesh, self-sacrifice, to see to it that their child's needs are provided for. They know, and they provide. When a child becomes orphaned, he loses the people who understand his needs. A generation who has lost its elders has lost the individuals who had been acutely aware of its needs. The elders are Klal Yisrael's guardians, who understand their character and the true nature of their needs. A simple person provides; a gadol knows what to provide.

L'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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[From last year]

From: Yeshivat Har Etzion Office [office@etzion.org.il] Sent: Tuesday, February 01, 2005 8:47 AM To: yhe-parsha@etzion.org.il Subject: PARSHA65 -18: Parashat Mishpatim

YESHIVAT HAR ETZION ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM) PARASHAT HASHAVUA This parasha series is dedicated in memory of Michael Jotkowitz, z"l.

The htm version of this shiur is available at: <http://vbm-torah.org/archive/parsha65/18-65mishpatim.htm>

PARASHAT MISHPATIM This shiur is dedicated in memory of Nathan (Naftali Chaim ben Akiva) Wadler z"l, whose yahrzeit will be observed on the twenty-ninth of Shevat. Please pray for a refuah sheleimah for Chaya Chanina bat Marcel.

Murdering with Guile By Rav Yaakov Medan

"He who strikes a person such that he dies, shall surely be put to death. But if he did not lie in wait for him, only G-d made it happen, then I will appoint you a place to where he shall flee. And if a person comes brazenly upon his neighbor to kill him with guile - you shall take him from My altar to die." (21:12-14) Halakha generally recognizes two types of murderers: one who murders knowingly and with premeditation and one who kills unwittingly. But from the above verses a third type arises: one who kills "with guile". In the simple understanding of the halakha, the special law of "You shall take him from My altar to die" is applied to any intentional murderer, but the sources apply it specifically and exclusively to the person who murders with guile. This will be the subject of our shiur. There are two types of murder "with guile": a. A person may deceive his neighbor into trusting him and letting down his guard, thus enabling him to carry out the murder without having to contend with any self-defense on the part of the victim. Concerning this type of deceit Yirmiyahu declares (9:7-8): "... He speaks peaceably to his neighbor with his mouth, while in his heart he lies in wait for him. Shall I not punish them for these things, says God? Shall My soul not be avenged for such a nation?" (Yirmiyahu 9:7-8) A perfect biblical example of this sin is presented in the story of the murder of Gedalia ben Achikam by

Yishmael ben Netanya - a murder which led to the downfall of the last remnant of Yehuda:

"It was in the seventh month that Yishmael ben Netanya ben Elishama, of royal lineage, and the chief officers of the king, and ten men with him, came to Gedalia ben Achikam at Mitzpa. They ate bread together there at Mitzpa. Then Yishmael ben Netanya and the ten men who were with him arose and struck Gedalia ben Achikam ben Shafan by the sword, killing the one whom the King of Babylon had appointed governor over the land. And Yishmael slew all the Jews who were with him, with Gedalia at Mitzpa, as well as the Kasdim who were there, and the men of war... Then Yishmael ben Netanya came out from Mitzpa towards them, walking and weeping as he went. When he met them he said to them: Come to Gedalia ben Achikam. But when they entered the city, Yishmael ben Netanya slew them [and cast them] into the pit - he and the men who were with him." (Yirmiyahu 41:1-7)

This interpretation of "murder with guile" does not sit well with the order of the verses in our parasha. One would think that this murder is even more abhorrent than regular premeditated murder. The order of the verses should progress either from the most severe to the least severe or vice versa. How are we to understand the order as it appears in the text: first a premeditated murder, then homicide, and then murder with guile? Moreover, what is the nature of the special punishment reserved for one who murders with guile - that he is taken to die [even] from the holy altar?

b. The first type of murderer we discussed is concerned about the victim's potential of self-defense. A second type of murderer "with guile" is worried about the punishment that a *beit din* will mete out to him because of the blood that he has spilled. There are two subcategories here: one does everything in his power to cover up any trace of his involvement with the murder; the other claims that he acted unwittingly or lawfully.

The murderer who seeks to erase all traces of his deed will follow the example of the first murderer - Kayin, who killed his brother Hevel: "G-d said to Kayin: Where is Hevel, your brother? And he said: I do not know; am I then my brother's keeper?!" (Bereishit 4:9) Perhaps G-d revealed Himself to Kayin while he was offering his sacrifice - as is the case in many other revelations in Tanakh. Kayin killed his brother in order to "force" God, as it were, to accept his own sacrifice rather than that of Hevel. Perhaps, following the murder, Kayin went off to achieve his aim and to offer his sacrifice to God. And as he offers it, he protests his innocence, claiming to have no knowledge of where his brother is. While performing the very service at the altar, Kayin attempts to deceive the Receiver of his sacrifice. G-d does not accept Kayin's sacrifice; on the contrary, He banishes him from the altar. Further on in the interchange, G-d grants Kayin a "stay of execution." He cancels the death sentence that the murderer deserves, but does not forgive the attempt to erase the traces of the sin by hiding the spilled blood in the ground: "He said - What have you done? The voice of your brother's blood calls to Me from the ground. Now you are cursed from the ground that opened its mouth to accept your brother's blood from your hand: when you work the land, it shall no longer give its strength to you; a fugitive and wanderer shall you be in the land." (Bereishit 4:10-12)

In other words, even when G-d cancels Kayin's punishment for willful murder, He does not forego the punishment for murder with guile. Kayin is immediately banished from the ground which he used in order to hide his act. Another parasha that emphasizes this point is that of the "egla arufa." Here the Torah describes a situation where the murderer has succeeded in erasing all traces leading to him, as though the earth had "swallowed him up" - just as the earth swallowed up all traces of Hevel after Kayin murders him. [THIS IS NOT CLEAR: IN THE CASE OF THE EGLA ARUFA THE VICTIM'S BODY IS FOUND, BUT THE MURDERER HIMSELF IS NOT.] The heifer whose neck is broken in the ravine is the complete opposite of a sacrifice slaughtered upon the altar. Its purpose is to signify that G-d will accept no sacrifice as atonement for the murder, nor for the guilt of the community as a whole - for the fact that the murderer goes about freely. On the simplest level, the ravine where the heifer's neck is broken is the site of the murder, and therefore it shall neither be tilled nor sown. This ground is cursed because it opened its mouth and swallowed the footsteps of the murderer - just as the ground cursed Kayin after it hid Hevel's murder. The elders of the *beit din* of the closest city must declare that they were not party to the hiding of the crime, that there has been no situation in which they came upon the murderer but guilefully took no notice of his crime. The other type of guileful murderer seeking to avoid punishment but unable to cover up his actions, tries to camouflage his intent and to present his act as either a mistake or something that was justified and permissible. "If a man hates his neighbor, and he lies in wait for him and comes upon him to strike a mortal blow such that he dies, and he flees to one of these cities, then the elders of his city shall send and take him from there, and give him into the hand of the avenger of blood, that he may die. You shall not look upon him with mercy; you shall rid yourself of the innocent blood of Israel, that it may be well with you." (Devarim 19:11-13)

This parasha is juxtaposed to the command concerning the cities of refuge, in order to protect those who shed blood by mistake. A willful

murderer may not escape to a city of refuge, and therefore this parasha speaks about a person who murders with guile, seeking the protection of the elders of the *beit din* in his city against the sword of the avenger of blood. The altar, in this instance, is interpreted - contrary to the previous case, where it implied the place of Divine worship - as the place of refuge from the avenger's anger. The avenger, so the murderer believes, will never dare enter "God's altar" with a sword. Therefore the Torah commands us, "You shall take him from My altar to die". This would appear to explain the order of the murderers listed in our parasha. The first is the willful murderer; he is sentenced to death. The second is someone who did not "lie in wait"; the Torah sets aside a place for him to flee to. At this stage the cities of refuge had not yet been established; the command to build them is to be fulfilled only upon reaching Eretz Yisrael. Therefore the expression, "I shall make for you A PLACE to where he shall flee" would seem to imply that the word 'makom' (place) is used here in the same way that it is used in many other places in the Torah:

"To the PLACE of the altar which he had made there originally; and there Avram called out in God's Name" (Bereishit 13:4) "On the third day, Avraham raised his eyes and saw THE PLACE from afar" (Bereishit 22:4) "He came to THE PLACE and prepared to sleep there for the sun was setting; He took some of the stones of THE PLACE and placed them for his head, and he lay down at that place" (Bereishit 28:11)

In other words - 'makom' means an altar, or another site devoted to Divine worship. It is to such a place that the murderer flees. According to our interpretation, the third type of murderer is a composite of the first two types. He murders intentionally, but pretends to have done so unknowingly. It is concerning this murderer that the Torah commands that he be removed from the place of his refuge, from the 'altar,' and put to death. (This also includes the murderer who justifies his act as being permissible; we shall discuss this further below.)

* It would seem that the biblical character who best epitomizes the concept of murdering "with guile" is Yoav ben Tzeruya, the commander of David's army. Yoav kills three people, either directly or indirectly: Avner ben Ner, Uriya ha-Chitti, and Amasa ben Yeter. Let us examine the murder of Avner: "Yoav, and all the soldiers that were with him, came, and it was told to Yoav saying: 'Avner ben Ner came to the king, and he sent him off, and he went in peace.' So Yoav came to the king and said: 'What have you done? Behold, Avner came to you - why did you then send him, so he is gone away? You know Avner ben Ner, that he came to seduce you, and to know your going out and your coming in, and to know all that you are doing!' And Yoav went out from David and sent messengers after Avner, and they brought him back from the well of Sira, but David did not know of it. So Avner returned to Chevron, and Yoav took him aside inside the gate to speak to him in private, and he struck him there in the belly, and he died, for the blood of Asa'el his brother." (Shemuel II 3:23-27) Yoav decides to kill Avner. It is possible that he does this because he suspects that Avner will seduce David and spy against him; perhaps he does it to avenge the blood of Asa'el his brother. Perhaps he kills him for a different reason, which is not mentioned in the verses: the concern that Avner will take over his position as chief of the army as part of the agreement concerning the unification of the kingdom that is to be drawn up with David.

How does Yoav kill Avner? First, he takes him aside at the gate in order to speak with him. Avner does not suspect Yoav of any scheming against him and fails to protect himself; Yoav exploits this and deals him a mortal blow. The Midrash and Rashi describe the scene in more visual terms: "He asked him, guilefully: 'A widowed woman who frees her brother-in-law of the obligation to marry her (yevama) - if she is a dwarf, how does she perform the 'chalitza' (a ritual performed with the man's shoe)?' He began telling him and showing him: 'She takes his shoe thus, with her teeth...' - and he drew his sword and killed him." (Rashi Sanhedrin 49a according to the Midrash ha-Gadol, Shemot 21:14).

While involved in discussing an halakhic question, Avner lowers his guard and does not protect himself. Yoav exploits this to kill him, in a way that is neither fair nor honorable. This is the way of guile. But this was not the only guileful aspect of Yoav's act. "Yoav drew him aside inside the gate, to speak with him in private" - Rabbi Yochanan said: they adjudicated the case. He (Yoav) said to him (Avner): - Why did you kill Asa'ek? - Asa'el was a rodef. - You could have saved him with one of his limbs only wounded him! - No, I could not. - You aimed precisely at his fifth rib, you couldn't have managed one of his limbs?" (Sanhedrin 49a) Yoav judges Avner in accordance with Torah law, as a murderer, and he punishes him in accordance with the law of an avenger. Apparently, everything here is in order. But David, in his eulogy for Avner and in his will, treats Yoav as a murderer: "David heard afterwards, and he said: 'I and my kingdom are guiltless before G-d forever for the blood of Avner ben Ner. It shall rest upon the head of Yoav and all of his father's household. May Yoav's house never lack a 'zav,' a 'metzora,' one who walks with crutches, one who falls by the sword, and one who lacks bread.'"

(Shemuel II 3:28-29) "You, too, know all that Yoav ben Tzeruya did to me - what he did to the two officers of the hosts of Israel, to Avner ben Ner and to Amasa ben Yeter, that he killed them, and shed the blood of war in peace, and put the blood of war upon his belt that was around his loins, and in his shoes that were on his feet. Act according to your wisdom, and do not let him die a peaceful death of old age." (Melakhim I 2:5-6) Apparently, a person may judge his fellow in accordance with Torah law and still be considered a murderer, deserving of death. David knew that it was not the avenging of blood that motivated Yoav to kill Avner, but rather his concern that he would lose his own position as chief of the army. This is guile of the second variety. The murderer is wary not only of the victim's self-defense, but also of his own punishment at the hands of the beit din. Therefore, he produces explanations and excuses that are not true, so as to satisfy the judges and assure their protection. Yoav acts in a similar way when he kills Amasa: "Yoav said to Amasa: Are you well, my brother? And Yoav grasped Amasa's beard with his right hand, to kiss him. And Amasa took no heed of the sword in Yoav's hand, and he smote him with it in the belly, spilling his bowels to the ground; he did not strike him again, but he died..." (Shemuel II 20:9-10) There was guile involved in killing him, but in this case, too, there was seemingly a solid halakhic justification for Yoav's act:

"He said to him: 'For what reason did you kill Amasa? He answered: Amasa rebelled against the king...' (Sanhedrin 49a) Despite this justification, Yoav is judged as a murderer for killing Amasa. This shows that the justification was no more than an excuse to get rid of Amasa, who was appointed as commander of the army instead of Yoav after Yoav killed Avshalom, and because David wanted to make peace with the commander of his army. The excuse, then, was nothing more than guile. Was there truly a justification for killing Uriah ha-Chitti, or was the supposed justification again just an excuse? The scope of this shiur does not allow for discussion at length on this subject. In any event, the prophet Natan rebukes him severely. But here we are discussing not David, whose motivations and state of mind we may perhaps at least understand. Rather, we are discussing his accomplice - Yoav, who fulfilled David's orders. Fulfilling the order of the king of Israel is clearly demanded by halakha, but Yoav did not make any effort to know the limits of the law of obeying the king: "'G-d will return his blood upon his head for striking two men more righteous and better than he': 'Better' - because they understood the limitations [of their duty to obey: they did not kill the priests of Nov despite Shaul's explicit order to do so], while he did not understand. 'More righteous' - because they received their [immoral] orders directly, verbally, and they did not carry them out, while he received his orders [only] in a letter, but he [still] fulfilled them." (Sanhedrin 49a) The fact that Yoav was not blindly obedient towards David in other areas gives rise to serious questions as to his true intentions in the matter of Uriya.

The way in which Yoav killed Uriya was also guileful; it exploited military camaraderie and self-sacrifice in order to stab a comrade-in-arms in the back: "He wrote in the letter, saying: Bring Uriya to the frontlines of the fiercest fighting, and draw back from behind him so that he will be struck and will die. And it was, when Yoav besieged the city, he assigned Uriya to the place where he knew that the warriors were. When the men of the city came out to do battle with Yoav, some of David's servants fell - and Uriya ha-Chitti died also. Then Yoav sent and told David all about the battle. He instructed the messenger, saying: When you finish telling the king all about the battle, then if the king's anger is aroused and he says, 'Why did you come close to the city to fight? Did you not know that they would shoot from atop the wall? Who struck Avimelekh ben Yerubeshet; did a woman not throw a millstone upon him from atop the wall, such that he died in Tevetz? Why did you approach the wall?' Then you shall say: Your servant Uriya ha-Chitti is also dead." (Shemuel II 11:15-16)

* Yoav's punishment is appropriate, as is fitting for one who murders with guile, concerning whom it is written, "You shall take him from My altar to die": "Then news came to Yoav - for Yoav had followed after Adoniya, but he had not followed Avshalom - and Yoav fled to God's Tent and he grasped the corners of the altar. It was told to King Shelomo that Yoav had fled to God's Tent, and that behold, he was by the altar. Shelomo sent Benayahu ben Yehoyada saying; 'Go, attack him.' Benayahu came to God's tent and said to him: 'So says the king: Come out.' But he said, 'No, for I shall die here.' Benayahu brought word back to the king, saying: 'Thus said Yoav, and thus I answered him.' The king said to him: 'Do as he said; strike him, and bury him, thereby removing the innocent blood spilled by Yoav from upon me and from upon my father's house. May G-d return his blood upon his head for killing two men more righteous and better than he; for he killed them by the sword, and my father David did not know: Avner ben Ner, officer of the host of Israel, and Amasa ben Yeter, officer of the host of Yehuda. May their blood return to the head of Yoav and the head of his descendants forever, and may there be peace for David and for his descendants and for his household

and for his throne from G-d forever.' Then Benayahu ben Yehoyada went up and attacked him and slew him, and he was buried in his house in the wilderness." (Melakhim I 2:28-34) The Gemara in Sanhedrin and the Rambam (Laws of a Murderer, 5:14) elaborate at length on the two death sentences that Yoav deserves. The one was for rebelling against the king because he supported Adoniyahu. For this sin the altar protected him, and Benayahu was unable to kill him. The second death sentence was for spilling the blood of Avner and Amasa (the Midrash in the Gemara adds Uriya to this list). For this Benayahu took him from the altar and killed him. *

Yoav's personality is too rich and complex to discuss fully in such a short space. Let us review just a tiny sample of the sources that balance the negative picture that emerges from the discussion above: "Rabbi Abba bar Kahana said: Were it not for David, Yoav would not have done battle, and were it not for Yoav, David would not have engaged in Torah. As it is written, 'David performed justice and righteousness for all his people, and Yoav ben Tzeruya was in charge of the army.' What does it mean that 'David performed justice and righteousness for all his people?' [He was able to,] because Yoav was taking care of the army. And what is the meaning of 'Yoav was in charge of the army?' So that David could perform justice and righteousness for all his people... 'And he was buried in his house in the wilderness' - Was his house then in the wilderness? Rav Yehuda said in the name of Rav: It was like a wilderness. Just as the wilderness is open to all, so Yoav's home was open to all (Rashi: to the poor, who were sustained by his household). Another opinion: Like a wilderness - just as a wilderness is clean of theft and immorality, so Yoav's house was clean of theft and immorality." (Sanhedrin 49a) On the other hand, in this shiur we addressed only one aspect of Yoav: his sin of murdering with guile, and the severity of this sin and its punishment.

Translated by Kaeren Fish

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