

Weekly Internet Parsha Sheet

תש"ס - תש"ע

משנכנס אדר מרבנים בשמחה

Jerusalem Post :: Friday, February 12, 2010

IT IS COLD OUTSIDE :: Rabbi Berel Wein

On my current trip through the Midwestern part of the United States it has become abundantly clear to me that it is very cold outside in this part of the world in February. Having become accustomed to the moderate winters that we enjoy in Israel I wonder at the hardness of those who continue to reside in such an intemperate winter climate.

I can assure you that global warming has not as yet reached this part of the United States, all rumors to the contrary notwithstanding. Freezing temperatures, considerable snow accumulations and dreary skies are apparently the norm here this winter. The US government in Washington DC was shut down for a number of days because of a massive snowstorm. The good news is that apparently hardly anyone seemed to notice.

Walking to the synagogue on Shabat, all bundled up and trudging through snow underfoot reminded me of my younger days in Chicago and later in Monsey, New York. I enjoyed the experience then in a much greater degree than I do now. But everyone deals with whatever the conditions of life and weather are. The synagogue was crowded and to my surprise almost no one commented to me about the cold weather.

After Shabat ended people dutifully attacked the snow on their driveways and sidewalks, also apparently without much comment or complaint. It was only sixteen degrees Fahrenheit outside but it seemed not to matter at all to the hardy natives. After all, winter is winter and winter in that part of the world means snow and frigid temperatures.

But I noticed a different type of cold present in the Jewish communities that I visited. In Yiddish there was a pithy phrase that stated a guest for a while sees for a mile. Maybe I am not accurate in my assessment of the situation but I sensed that there is a subliminal sense of unease that has taken hold of the American Jew, at least among those who retain their Jewish connections and way of life.

This sense of unease is traceable to a number of factors. The financial downturn and the attendant high rate of unemployment have affected the Jewish community strongly. People who have lost their jobs are losing their houses and have difficulty meeting any of their financial commitments such as school tuition for their children. The local yeshivot and schools are financially strapped and many have been unable to meet their payroll obligations on a sustained basis.

There is a general feeling that this situation is going to be with them for quite a while and the heady days or relatively easy money are not likely to make a quick return. While it is quite easy to raise one's standard of living when times are good going downwards is much more difficult. People somehow feel unfulfilled and even unworthy if they cannot spend as freely as they once did.

The bloated charges for attending women's seminaries here in Israel are undoubtedly on the way to being lowered – the economic law of supply and demand applies to Torah institutions as well. Times are changing and a chill wind is blowing through many a Jewish home and community.

There is also an unease regarding President Obama and US relations with Israel. It seems fairly obvious to all that the United States is not going to do anything meaningful to stop Iran's atomic bomb from becoming a reality. America is engaged in a so far unsuccessful war in Afghanistan and has not been able to extricate itself from Iraq either. It apparently lacks the resources and military manpower to take on Iran as well.

The US policy is to somehow frantically cover this dilemma with the fig leaf of "progress" on the Israeli-Palestinian front. Obama made the error of indicating early on to the Moslem world that he would deliver Israel into

their benevolent hands without their having to make any major concessions on their impractical and unreasonable demands.

American Jews in the main are frightened of Obama's Middle East policies. They see it as a retreat from previous presidential support of Israel. Netanyahu's one sided concessions also have no resonance here. And there is no doubt that Jews here feel less comfortable than they did a decade ago.

A more militant and vocal Moslem population, Jewish scandals- financial and otherwise, and a shrinking Jewish population resulting from assimilation and intermarriage continue to run rampant. This all leads to the chill in the air. Let us all hope that springtime and warmth are on the way soon.

Shabat shalom.

Weekly :: Parsha MISHPATIM :: Rabbi Berel Wein

Jewish civil law is a most complicated subject. The subjects that are most discussed, argued over and analyzed in Talmudic and rabbinic literature concern themselves with Jewish civil law – torts, contracts, evidence, real estate, inheritance, civil procedure, etc.

Almost every Jewish child will cut his first tooth in Talmudic studies in matters related to Jewish civil law. As important as observance and knowledge of ritual is in Jewish life and continuity, it is the understanding of Jewish civil law that forms the basic structure of the value system and lifestyle of Judaism. Therefore there is a strong admonition that Jews should not allow themselves to judge their civil disputes in non-Jewish courts or on the basis of non-Jewish law and ordinances.

It is not the laws alone that may differ – it is the moral underpinning of the legal decisions that are different. People are naturally very zealous about protecting their property rights. But seen in isolation from a general moral code of behavior and its important relationship to the welfare of the society as a whole, the primacy of property rights alone can destroy a nation and its society.

Jewish civil law is predicated on the idea that there must always be a balance between the welfare of society generally and the property rights of the individual personally. All of Jewish civil law and its attendant values attempt to strike this balance in a fair and practical manner. This is the skeleton of understanding that lies beneath the surface of all the detailed decisions and opinions that form Jewish Talmudic and rabbinic legal decisions.

The Torah provides the necessary wiggle room to decide exceptional cases and disputes on a more moral and correct basis than the strict interpretation of the law itself would indicate. This concept is called "lifnim meshurat hadin" – an almost extra-legal mechanism that goes "beyond the measure of the law itself" and empowers the Jewish court to decide matters with ultimate justice without being restricted by the pure letter of the law itself.

Naturally, such an extraordinary legal mechanism can only be used sparingly and most wisely, for otherwise it presages the destruction of the entire stability of the law and the legal system of Judaism itself. Nevertheless, the existence of such a mechanism itself is testimony to the balance and general considerations of society that are required in Jewish judicial decisions.

Therefore such difficult decisions regarding the right of governmental eminent domain, the displacement of human workers by advancing new technology and sophisticated money and investment schemes are all part of the scope of Jewish law. Jewish law is equipped to deal with all possible questions and problems of human society.

I think that is what Justice Minister Yaakov Neeman meant when he stated that the basic principles of Israeli law should be based on the principles of

Jewish law as derived from the Torah, the Talmud and the millennia-long challenges met by the rabbis of Israel to create a just legal system for the Jewish people. This is inherent in the opening words of this week's parsha: "And these are the laws that you shall place before them" – these laws and not other laws and legal systems.
Shabat shalom.

Ohr Somayach :: Torah Weekly :: Parshat Mishpatim
For the week ending 13 February 2010 / 28 Shevat 5770
by Rabbi Yaakov Asher Sinclair - www.seasonsofthemoon.com

Overview

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

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

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

Insights

Surface Tension

"We will do and we will obey." (24:7)

The Midrash tells us that before the Jewish People accepted the Torah, G-d offered it to all the other nations one by one and they rejected it. He offered it to the nation of Esav. Esav asked what was in it. G-d said "You mustn't murder." "We live by our sword", was their reply. G-d offered it to Yishmael. They too asked G-d what was in it. "Don't commit adultery." So Yishmael also turned it down; it wasn't congruent with their lifestyle. Finally G-d offered the Torah to the Jewish People and they said, "We'll do and we'll hear."

There's something about this Midrash that is hard to understand. All those nations who rejected the Torah now have laws against murder, adultery and many other of the Torah's societal laws. If those very nations incorporated these statutes into their legal systems, why was the Torah so difficult for them to accept? Seemingly, the Torah required no more of them than that to which they subsequently committed themselves.

The Talmud tells us that when we embarrass someone it's as though we killed him. This is evidenced by the blood draining from his face. The Talmud also tells us that staring at a woman with lustful intent is in itself an act of gross indecency.

Behind the surface of each commandment, there is a subtlety and depth that demands a great deal of a person. For the Torah is not just a dry legal system — it's the handbook of holiness in this world.

That's what these nations couldn't accept. When they realized that the Torah connoted infinitely more than its surface appearance, they turned it down.

•Source: Rabbi Yitzchak Ruderman, heard from Rabbi Reuven Buckler. May this Torah thought bring merit to the soul of Yaakov Yisrael ben Reuven Buckler, zatzal, who passed away tragically this week.
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Peninim on the Torah by Rabbi A. Leib Scheinbaum - Parshas Mishpatim

And these are the ordinances that you shall place before them. (21:1)

Chazal sense that the word lifneihem, "before them," alludes to a novel halachah. Obviously, the ordinances should be placed before "them." Before whom else should Torah be placed? Chazal derive a number of halachos from this pasuk. For example, they say that disputes between Jews should be decided by lifneihem, "them," a Jewish court of law. It is forbidden, except under specific circumstances, to settle a dispute in a secular court of law. Horav Avigdor HaLevi Nebentzhal, Shlita, suggests a novel approach to understanding the significance of lifneihem. We have to bear in mind the circumstances under which Moshe Rabbeinu received the Torah. He spent forty days and nights learning Torah from Hashem. He delved into its innermost secrets; its deepest esoteric meanings were revealed to him. Moshe was able to perceive emes, truth, l'amito, in its most absolute, pristine form. Tzedek, justice, had an altogether different meaning to him. Our quintessential rebbe was privy to Heavenly law, which we will see is quite different from the Torah law that we, in this world of human limitation, understand and adjudicate.

After Moshe completed his Heavenly studies, Hashem told him, "I have revealed to you the meaning of Heavenly justice. Now you are returning to a world in which Torah law must address the needs, personalities, inclinations and perceptions of the people about whom and for whom these laws were written. When you descend with the law, you must place it lifneihem, before them. They cannot possibly adjudicate according to the level of truth which is to be found in Heaven. Heavenly justice is too perfect and precise for human society. Man is incapable of carrying out the law to such a sublime plateau." The question is asked: What will happen to Heavenly justice? Are we to ignore consummate truth and justice just because we are human? The answer, claims Rav Nebentzhal, is simple: Heaven will fill in the blanks. Those areas in which a defendant is freed without appropriate punishment, due to the constraints imposed by halachah - Heaven will intervene and see to it that justice is executed. This is the underlying meaning of the halachah of Patur midinei adam v'chayav b'dinei Shomayim, He is not liable according to the laws of man, but he is liable according to the laws of Heaven. This means that the Heavenly Tribunal will see to it that retribution is exacted for the offense that was committed. A Jew who commits an offense does not get away scot-free. He will ultimately pay - regardless of the lack of liability imposed on him by a court of his peers.

A number of differences exist between the Heavenly Shulchan Aruch, Code of Jewish Law, and the one used by man. We will identify just a few: The Heavenly Tribunal needs neither the testimony of witnesses, nor hasraah, warning, issued by the witness. The purpose of this warning is to determine the offenders' culpability with regard to intent. Heaven does not require this determination. Hashem knows everything. Other aspects of this warning are clearly not applicable in the Heavenly Court. These ordinances are necessary lifneihem, earthly courts.

Rav Nebentzhal notes another significant difference between the courts of man and Heaven: collateral damage. Man cannot take into consideration the effect the punishment has on the offender's family. The most caring and sensitive judge has no way to calculate the heavy toll this punishment might take on the individual's wife and children. The Heavenly Tribunal considers everything and everybody - present and future. Indeed, at times, the punishment of the individual who is liable and should be punished will be delayed or even modified, so that the innocent others connected to him will not suffer needlessly.

The earthly court does not view one's background as a factor in his liability. For instance, consider two people who desecrate Shabbos, which is one of the capital transgressions. One of them had an observant upbringing, the finest Torah schools, yeshivos - the works. The other one was raised in a non-observant home, where Shabbos had little or no significance. Clearly, the behavior of the latter does not represent a rebellion against Hashem in comparison with that of the former. This idea may also be extended to individuals whose home life leaves something to be desired. The offender has had to contend with serious familial and social issues which cloud his mind concerning religion.

The list goes on. In some situations, the earthly court must allow an individual to go free, although new evidence ascertaining his guilt has been entered. Since *bais din*, the court, has already issued a verdict of innocent, however, we may not retry him. Hashem responds with *Ki lo atzdik rasha*, "I will not exonerate a wicked person" (ibid 23:7).

Understandably, a believing Jew's focus and concern should be on what the Heavenly court thinks of him and his behavior, because His decision matters most. We might be able to extricate ourselves out of a negative judgment in this world, but this does not mean that the Heavenly Court will affirm this decision. Hashem knows our true attitude, our real intentions, what was coursing through our minds when we transgressed. That is what matters. Rav Nebentzhal cites Rabbeinu Yonah in his preface to his magnum opus, *Shaarei Teshuvah*, who says, "One should not look at the "insignificance" of the transgression, but rather at the One who exhorted us concerning it." The slightest sin pales in contrast with Hashem. Man has no way of determining the effrontery of one who sins.

The punishment extends to future generations. Avraham Avinu asked Bama eida ki irashenu, "Whereby shall I know that I am to inherit it (Eretz Yisrael)?" (Bereishis 15:8) This query catalyzed shibud Mitzrayim, the Egyptian bondage. Chazal explain these and many such instances throughout history as reversion to the spiritual infirmity of an ancestor. We have, however, one glimmer of hope. Once we are able to grasp the depth of sin and the spiritual blemish it creates, we can begin to perceive the awesome reward in store for every mitzvah and good deed. This is a flipside, which should be heartening. Just as Hashem is particular concerning every transgression, regardless of its significance, likewise, He will reward us commensurately for every positive spiritual endeavor. Our motivation, attitude, devotion, and the immediate and far-reaching effect it has on others will all be tallied and reattributed. Nothing goes unrequited.

You shall not cause pain to any widow or orphan. If you (dare to) cause him pain... for if he shall cry out to Me, I shall surely hear his outcry. (22:21,22)

The Torah admonishes us in the strongest terms to be sensitive to the feelings of the underprivileged, the weak and the helpless. Although it is prohibited to take advantage of anyone, the Torah underscores the widow and the orphan, because they are the most vulnerable and, hence, the most abused. I have always had difficulty understanding the need for the Torah to even mention such loathsome behavior in connection with the Jewish People. While there are con-men in every generation who prey on the weak, these are usually isolated cases perpetrated by very sick individuals. For the most part, Klal Yisrael is comprised of rachamanim bnei rachamanim, compassionate sons of compassionate fathers. What relationship do we have with such egregious behavior?

I think the answer lies in the word used by the Torah to describe the evil which these rasha'im, wicked persons, perpetuate: *taanun*, *ano*, *saaneh*, all derivatives of the word *ano*, which means to respond or to make dependent. The petitioner depends on the response. A number of other definitions, such as *humble* and *afflict*, are variations of the verb. Some people do not steal or cheat the helpless, but have no problem humbling them or making them feel a sense of dependence. In other words, the Torah is addressing those individuals who are insecure and whose ego is so low that the only way that they can feel some self-worth is by subjecting another person to their scorn. They enjoy taking advantage of the helpless, because this raises their own esteem. They do not cheat - or steal; they

simply make the other person feel more helpless, more weak. The poor man/orphan/widow comes to borrow money to pay the rent. The "benefactor" gives them the money after he has made them wait, squirm, feel like two cents. That is *Lo saaneh*, making someone feel dependent, depriving a person of his self-esteem. This type of behavior is regrettably much more prevalent than we care to admit. At the end of the day, the disadvantaged person goes home and cries to Hashem in the same fashion as the orphan that has been cheated out of his money. Hashem listens to both of the afflicted.

Chazal teach us a powerful lesson. When Rabbi Yishmael and Rabbi Shimon ben Gamliel were being taken out to be executed, Rabbi Yishmael began to cry. R' Shimon said to him, "In another few moments you will be together with the righteous - yet you cry?" R' Yishmael replied, "I cry because we are being punished like common criminals, like murderers." R' Shimon looked at him and said, "Perhaps a woman came to ask you a shailah, halachic question, and your servant said that you were sleeping, thus making her wait for you?" The Mechilta quotes the reply as: "Perhaps someone asked you a question, and you made him wait while you tied your shoe, drank a glass of water, or put on your jacket?" No difference exists between a great affliction and a minor affliction. If you cause another Jew any kind of anguish, Hashem holds you accountable.

The Rambam writes that he would have ill people lined up by his office, waiting to see him. He refused to even grab a bite of food, lest he make them wait one moment longer than necessary. He would be up until all hours of the night caring for his patients with respect and dignity. Yet, many of us have no problem taking advantage of those who are too weak to protest.

The Torah tells us in very clear language that when the orphan cries out to Hashem, He will listen to his lament. Horav Shimshon Pincus, zl, derives a very important lesson from here concerning the efficacy of tefillah, prayer. A person is beset with adversity, whether it be a financial crisis, a serious health issue, or any of the challenges that can entirely devour a person's life. In order to resolve the situation, to see it culminate in a positive, beneficial manner, he tries everything. He goes to tzaddikim, righteous individuals, seeking their blessing; he goes from doctor to doctor in search of the best medical advice; he prays with all his heart and soul, piercing the Heavens for Hashem's positive, merciful response. He is no different from the poor man that goes from door to door in search of alms. Under such circumstances, the halachah is clear; the benefactor is obliged to give him a standard donation.

A similar idea applies to tefillah. When one pursues many endeavors and approaches to ameliorate his challenge, while tefillah is just another one of them, Hashem responds much like the benefactor before whose door a poor person stands. Hashem will likely grant him some favor. Since the person is doing many things to solve his problem - praying to Hashem is another one of these endeavors - Hashem will do something, but not necessarily everything.

When a poor man comes to the door, the would-be benefactor figures that this man is going to many others. He will somehow make it. Therefore, he does not feel compelled to give more than a token donation. Likewise, if we were to question the miser who slammed the door in the poor man's face about why he acted so "nicely," he would likely respond, "Why does he have to go only to me? There are others!"

If, however, there was no one else; if he was the only person who could help; if he was the only physician who could save the patient, the benefactor would act differently, because the poor man/patient would be confronting his only option. When one comes before Hashem with the understanding that only He can help, he davens differently - and he will be answered differently.

Rav Pincus explains that this is referred to as *nipul*, falling completely on Hashem's mercy, manifesting total abnegation that He is the only One Who could help him out of this situation. This is how the commentators understand the entreaty of the orphan and widow. They have no one to whom to turn other than Hashem; therefore, Hashem listens to them. This

is noted from the redundancy of the word tzaok yitzak, he shall cry out. One does not have to cry out to Hashem more than once. He cries - Hashem listens - responds yes, or no. If the response is not in the affirmative, the petitioner tries another approach. The orphan and widow have nowhere else to turn. They come back and cry again. Hence, the double crying. If all of us would daven as if we had nowhere else to turn, we might receive the response for which we have been waiting. After all, we really do not have anywhere else to turn.

Do not delay your fullness-offering or your heave-offering. (22:28)

The fullness-offering is a reference to the Bikurim, first fruits, which are picked after they become full and ripe and are brought to the Kohen. The heave-offering refers to Terumah, a portion of one's crops which is separated and given to the Kohen. The Torah is underscoring the idea that whatever we have is a gift from Hashem, which should be recognized, acknowledged and appreciated. Horav Yosef Tzvi Dushinsky, zl, goes a bit further, offering a homiletic rendering of the pasuk.

Mileiascha, "your fullness" - when Hashem blesses you with abundance; your crops are full and overflowing with goodness - you must demonstrate your appreciation to the Almighty with even greater service. You have been blessed with excess. Respond in kind. Your gratitude should be commensurate with your blessing. In order to do that, one must delve into his blessing to understand how much he has truly benefited from Hashem. Dimaacha, "your tears," (from the word dema, which is a tear). - the demaos shel gil v'simchah, tears of joy and happiness, for your good fortune; lo se'acheir, "do not delay." Express your added praise and gratitude immediately. Do not tarry in proclaiming your thankfulness.

Moreover, do not restrain your weeping in prayer and entreaty to Hashem, because that is why Hashem has blessed you. Your good fortune avails you the opportunity, the peace of mind, the relaxed spirit, so that you can daven with greater fervor, learn Torah with increased enthusiasm, and serve Hashem on a higher spiritual plane. We are quick to accept Hashem's favors, but, often, leisurely in offering our gratitude.

And he took the book of the covenant and he read it in the ears of the nation and they said, "All that G-d has said, we will do and we will listen." (24:7)

The most important occurrence in the history of mankind was Mattan Torah, the Giving of the Torah. It was a cosmic event during which Hashem revealed Himself to the Jewish People at Har Sinai. Chazal attempt to recapture the emotions of our ancestors as they stood at the foot of the mountain and experienced the glory and splendor of that seminal moment. Most of the divrei Chazal, expressions of Chazal in the Talmud and Midrash, give us a favorable impression of the generation that accepted the Torah. Our forefathers are portrayed as being quite enthusiastic to accept the word of Hashem of their own free-will. Their loud declaration of Naase v'nishmah, "We will do and we will listen!" is considered the paradigmatic response of a Jew.

Some other passages do not seem to be as complimentary. Indeed, the following passage from the Talmud Shabbos 88a implies that Klal Yisrael was not willing to accept the yoke of the Torah, to the point that the Almighty had to compel them into consenting to observe the laws of the Torah.

"And they stood at the foot of the mountain" (ibid 19:17).

This teaches us that Hashem held the Torah over them as a cask and said, "If you accept the Torah - good - and, if not, there will be your burial." This does not depict them as eager to accept the Torah. How are we to reconcile the opposing statements of Chazal? Did our ancestors hesitate in accepting the Torah to the point that they needed some outside intervention to motivate them, or did they readily, enthusiastically, of their own free-will, declare their acceptance of the Torah?

Furthermore, the text of the Talmud which relates Hashem's exhortation to the people seems a bit out of order. "If not, there will be your burial." They are standing here beneath the mountain. If they do not accept the Torah, the mountain will come crashing down on their heads, thus burying them here. What is the meaning of "there" will be your burial?

Horav Aharon Soloveitchik, zl, resolves this discrepancy in a novel manner. He cites a Midrash in Shir HaShirim that quotes Hashem as asking our forefathers for guarantees before He relinquishes the Torah to them. Hashem wanted a surety that the Torah would not be neglected, that it would be observed throughout the generations and that it would become the cornerstone of our national existence. The Jewish People responded with the Patriarchs, who were the foundation of our People. Surely, they could serve as guarantors for the Torah. Hashem refused their proposal. They then suggested the Neviim, Prophets, as guarantors. Hashem still did not agree. Finally, they said, "Our children will be sureties for the Torah." Hashem agreed. After all, Torah tzivah lanu Moshe. "The Torah that Moshe commanded us," morashah kehillas Yaakov, "Is the heritage of the congregation of Yaakov" (Devarim 33:4). The Divine gift of the Torah is far too precious to be given to a single generation. It had to be a legacy for generations to come so that all Jews should feel a personal affinity with it. It belongs to all of us throughout the continuum of history.

With this in mind, Rav Aharon explains that the Talmudic passages do not contradict one another. The passage in the Talmud Shabbos which intimates that Klal Yisrael was coerced into accepting the Torah does not contradict the fact that they had declared Naase v'nishmah. Unquestionably, Klal Yisrael eagerly accepted the Torah, and completely committed themselves to its principles. Consequently, they exclaimed in unison and with genuine sincerity, "We will do and we will listen!" But that statement could be made only concerning their personal commitment. They were present, experiencing the Revelation. Of course they would accept! However, with regard to the millions of unborn Jews, the untold future generations, the People who stood at Sinai felt that they could not speak for them.

The generation who had experienced the miraculous exodus from Egypt, who had watched as their Egyptian oppressors drowned in the Red Sea, who had witnessed mind-altering miracles and phenomena - they could commit. They had witnessed what no other generation would ever see. To have been privy to such a revelation of Hashem's glory was unprecedented. How could they speak for future generations who would be inundated with temptations, and missing the weaponry of these initial experiences which would arm them to withstand the extreme pressures of the alien forces, that could pull them away from their convictions? Hashem coerced them on this point. Hashem was not granting the Torah to one generation. The generation that experienced it all had to commit for future generations. They would have to imbue their descendants, infusing them with a passion and a devotion to uphold their commitment.

This is the meaning of "there" will be your burial. Indeed, this is a most accurate term, because wherever and whenever throughout the historical continuum of Judaism a generation would renege the Torah - they - they would meet their tragic end as Jews. Without Torah, we are nothing - certainly not Jews. The Jewish nation stands upon the foundation of Torah commitment. Without this commitment, we are a people, a race, a nation, but we do not represent the Jewish religion. Rav Aharon posits that Chazal's simile that Hashem "held the mountain over their heads as a cask" is also an expression. The most important gift which Hashem has bestowed upon man is the gift of freedom. Regrettably, this gift is also the most misunderstood and abused among all moral values. Freedom must be viewed and utilized as an opportunity for realizing one's potential. It is not an end in and of itself. It is only a means. In the very last Mishnah of Shas, Chazal state: "Hashem did not find a better cask in which blessing can be kept other than peace, for it is written, 'G-d will give strength to His People; G-d will bless His People with shalom, peace'" (Tehillim 29:11).

Shalom bespeaks an absence of conflict and abuse of power. Shalom is synonymous not only with peace, but also with freedom. It is for this reason that shalom is considered by Chazal merely to be the container in which the yeinah shel Torah, "wine of Torah," may be kept. Shalom, like freedom, is an opportunity by which blessing, the fulfillment of man's spiritual and moral potential, may be realized. Peace is a means - not an end unto itself. As long as the wine is held virtually with its opening at the

top, the wine will be preserved. If, however, the wine bottle is turned upside-down, all of the wine will spill out of the inverted opening, to be absorbed in the ground.

Nations yearn for peace; people clamor for freedom. For what? Just so that they can be free of dispute and relax? People want to be free, so that they do not have to answer to anyone, so that they can do what they want. Is this the purpose of freedom? Is this the benefit of peace? These values lay in the groundwork; they are the foundation upon which one can, and should, build his moral and spiritual self. They are opportunities for growth. If abused, they become catalysts for destruction.

Klal Yisrael's relationship with Hashem was originally founded and established upon a covenant, representing the mutual consent of two parties: Hashem and Klal Yisrael. Once we declared Naase v'nishma, our posterity became automatically bound by the covenant, thus committing us to the relationship.

As long as we treat freedom as a means, a container, for the image of G-d which inheres in our souls to be realized, then freedom is a source of blessing. If the cask is overturned, by using freedom as an end unto itself, then the wine of Torah-- the blessing of freedom and opportunity for spiritual/moral growth-- will be lost.

The blessing of freedom has value as long as we do not abuse it. If we utilize it properly, by realizing the image of G-d within us and instilling this message in our children, so that they too grow into committed observant Jews, we have succeeded in protecting the contents of the cask. Hashem demands a lasting commitment, an enduring relationship. This can be realized only when we transmit our heritage to the next generation. Otherwise, the cask is for naught and its contents will leak out and dissipate.

Va'ani Tefillah

Yismach Yisrael b'osav. Let Yisrael exult in its Creator.

This expression presents a difficulty for the reader, since the word *osav*, "its Creator," is written in the plural, rather than *oseihu*, which would have been the appropriate vernacular, in the singular. Horav Shimon Schwab, zl, feels that it is simply the use of the "majestic plural," similar to the "royal we." This was not an uncommon usage for royalty. Horav S.R. Hirsch, zl, quotes the pasuk in Yeshayahu 54:5, *ki boalayich osayich*, "for your Master is your Creator," where the plural form is also utilized. He explains that the formation, or creation of the Jewish nation by Hashem, was not a one-time event. Rather, it has occurred many times throughout history. There was the initial creation during the Egyptian exodus, which was followed up by continued expansion during the world-historic events that have kept us alive as a nation ever since. The culmination and final creation of the Jewish People will take place during Techias HaMeisim, Resurrection of the Dead, when it will have reached its highest possible state of being. Thus, the word *b'osav*, would be "the One Who has - many times - created it."

Donated in memory of Hillel Ben Chaim Aharon Jacobson by his family: David, Susan, Daniel, Breindy, Ephraim, Adeena, Aryeh and Michelle Jacobson and great grandchildren

Parshas Mishpatim: Facing the Enemy

By Rabbi Mordechai Kamenetzky (Matzav.com)

Receiving the Ten Commandments may have been the pinnacle of the Jewish experience, but by no means did Judaism end there. In this week's portion the Torah details a myriad of pecuniary laws, which include torts and damage law, as well as the laws of physical injury and impairment compensation. A nation that has just emerged from a brutal enslavement surely needs a strict code to discipline their freedom. But what bothers me is the order of the laws that are given this week. The first commandments, in a set of more than 50 intricate laws detailing almost every aspect of life's complexities, concern the laws of servitude. Parshas Mishpatim

begins with the words, "when you will acquire a Jewish servant, he shall serve six years and on the seventh he shall go free." (Exodus 16-1)

It is astounding. The Jews just spent the last 210 years as slaves. Why would they even entertain thoughts of taking servants? Shouldn't the first laws dictate compassion for other humans, thus enforcing total equality of an entire, newly liberated nation? Of all the laws dictated to a newly liberated people, shouldn't the concepts of masters and servants be loath to them? Why are those laws given first?

Shalom had never left the small hamlet in Yemen and finally was sent a ticket to Israel by his cousin Moshe. The airplane ride, his first experience with any technology, was absolutely frightening. Not only was it the first time he had seen an airplane, it was the first time he had even seen steps! Upon his arrival at Ben-Gurion airport, the mad rush of taxis truly terrified Shalom, but his cousin Moshe, who lived on a small settlement not far from the Lod train station, eased his fears by sending a driver to pick Shalom up from the airport.

The driver dropped off the dazed immigrant near the train station and gave him directions to the farm. "Walk beside the train tracks for about a mile. You can't miss it," he exclaimed. Shalom, who had never seen train tracks in his life and had never even seen a train, chose to walk right between the two iron tracks. After about five minutes he saw a giant machine bearing down directly upon him.

"Toot toot!" the train whistled. The conductor waved frantically at Shalom as he tried to stop the mammoth machine. Shalom froze as he stood aghast at this marvelous site. "Toot toot!" went the whistle once more. The train could not stop! At the last moment, Shalom quickly jumped out of the way and the train hurtled by, missing him by a hair. Shalom was thrown by the rush of air that accompanied the speeding train. As he picked himself up, all he could see was a enormous black beast fleeing down the track, mocking him with a shrill, "toot toot."

Bruised and shaken he hobbled the rest of the way along the tracks until he arrived at his cousin's farm.

Moshe saw his cousin, Shalom and could not have imagined what happened to him. But Moshe figured, there was time to talk over a glass of hot tea. He put up a shiny black kettle to boil on the stove, but no sooner had the kettle began to whistle when poor Shalom jumped from his chair and began to shout. He grabbed a broom that stood in the corner of the kitchen and swung wildly at the whistling teapot smashing it with all his might.

"Believe me," he yelled, "I know! You have to destroy these monsters while they are still young!"

The Torah understood the Jewish nation's feelings toward its own experience. Slavery is loathsome and reprehensible. The impact of that experience could have shaped an unhealthy attitude toward servitude even in a humane and benevolent environment. Therefore the Torah immediately directed its very humanitarian laws of servitude — clearly and openly. Six years of service and no more. A servant can never be humiliated or degraded. In fact, the rules of Jewish servitude are so humane that the Talmud surmises that "whoever owns a servant has actually acquired a master. If there is only one pillow in the home — the master must to give it to his servant!"

So instead of shirking from the difficult task of detailing the laws of servitude or pushing them to a back-burner, the Torah discusses those laws first — without any apologies.

Because in an imperfect world there are imperfect situations. People steal. They owe money. They must work for others to pay off debt or money they have swindled. But when the problems and injustices of life are dealt with in a Torah way, the imperfect world can get a little closer to perfection.

Matzav.com

Rabbi Yissocher Frand on Parshas Mishpatim

The Metaphor of Coming In and Going Out With His Coat

We are taught with regard to the indentured Hebrew servant (eved ivri) that if "b'gapo yavo" then "b'gapo yeitzei" [Shmos 21:3]. What does this ambiguous term mean?

Rashi translates -- based on Onkelos' rendition -- if he comes in by himself (i.e. -- unmarried) then he will leave by himself. This interpretation fits in smoothly with the continuation of the pasuk [verse] "if he is married (im baal isha hu), his wife goes out with him."

In modern Hebrew, we would use the term "ravak" [bachelor] for a single man and "nasui" for married person. The term "b'gapo" is very peculiar. It does not even appear in Mishnaic Hebrew. How does the word "b'gapo" indicate a person is single? The most common explanation is that it comes from the word "b'gufo" -- meaning "with his body" (and with no one else). Rashi, however cites another derivation for this word. Rashi equates "b'gapo" with "b'knafo", meaning with his garment (i.e. -- the shirt on his back).

According to Rashi, the metaphor for being single is one's garment. The pasuk is saying: If you come in with (only) your coat, you leave with only your coat. What is the connection between a person's garment and being single? The answer is that we define a person who is single as being one whose world ends at the end of this garment. He is a self contained unit. His world ends where he ends.

If the definition of a single person is one whose world ends where his coat ends, then carrying the metaphor one step further, a married person is one whose coat extends over other people as well. A married person's world extends to all others who have to come under his protection.

With this idea, we can understand an old Jewish custom. At both a traditionally Yekkeshe [German Jewry] wedding as well as at a Sephardic wedding, the groom puts on a Tallis and spreads it over himself and his bride. This ritual acts out the very implication of our metaphor. Under the Chuppah, at the moment of his marriage, the Chosson demonstrates that his world has now been extended by spreading his garment over someone else in addition to himself. My coat now has to cover someone else.

The Biblical source for this custom is the Book of Ruth. Ruth tells Boaz, in suggesting that he marry her, "And you shall spread your garment over your maid-servant" [Ruth 3:9]. In other words, "take me into your world." Let your world no longer be the world of a single man that ends where your coat ends, let it be an extended world that includes someone else as well.

This recognition is the hardest adjustment to married life. Until that point, a young man only has to worry about his own coat, his own comfort, his own life. Marriage introduces responsibility for taking care of the needs and comforts of someone else as well.

The Greatest IRA Investment

The laws of Shmitah in Parshas Mishpatim contain an interesting implication: "Six years shall you sow your land and gather in its produce. And in the seventh, you shall leave it untended and unharvested, and the destitute of your people shall eat, and the wildlife of the field shall eat what is left; so shall you do to your vineyard and your olive grove." [Shmos 23:10-11]. The implication of six years you should sow is that just as there is a mitzvah to let the land lie fallow in the seventh year, indeed there is also a mitzvah to work it for the first six years of the shemita cycle.

The Daas Zekeinim m'Baaley haTosofos cite a Medrash: "Even if a person has only a single furrow in his garden, he must toil therein on a daily basis." However, they qualify the ruling. "It appears to Rabbi Moshe that this only applies in the Land of Israel so that there may be an increase in the produce subject to the laws of Terumos and Maasros [Priestly gifts and agricultural tithes].

The Imrei Shammai suggests an alternative interpretation of the pasuk "Six years shall you sow your land..." and of the above cited Medrash. The Medrash, the Imrei Shammai suggests, applies even outside the Land of Israel. The intent of the commandment is not to increase the income of the Priests and Levites, but to keep the landowner busy. The worst thing for a person is to be idle.

Avos D'Rav Nosson [11:1] presents an idea that is totally out of synch with today's mentality. "If a person has nothing to do and he has a little garden, he should go to the garden every day and work the garden, as it is written, "Six years shall you sow your land...". Rabbi Tarfon states: A person dies only out of idleness (m'toch ha'batalah)."

There is a mindset in America: A person works until 65 and then he has reached the moment he has been waiting for -- the greatest thing in the world! Retirement! A person can start drawing (reduced) Social Security already at 62 if he/she retires early. Already at age 50, people begin receiving mail from the AARP (American Association of Retired People). They encourage people to build up a little nest-egg in the stock market and retire at 55, or worst-case at 59!

Finally, a person hits that golden age when he can retire. On the first day of retirement, he asks himself, "So what do I do now?" Most people drive their wives crazy. They go to the grocery store together. What can a person do in retirement? This is one of the tragic myths that have been hoisted upon American society -- that retirement is the greatest blessing. It is not true. It can be the worst curse!

The greatest thing in the world is to keep busy. A person only dies out of idleness. Sociologists and medical professionals can back this idea up with one study after another. People work and work and are productive and have energy. They retire and suddenly they start getting sick and depressed. They do not know what to do with themselves.

This does not mean that a person needs to die on the job. A person does not need to work forever, but must try to remain productive even after leaving his lifetime career. This is why people do themselves a great favor by learning -- at a young age -- how to get intellectual satisfaction (geshmak!) out of Torah study. Beyond all the other benefits and positive factors associated with serious Torah learning, if a person can enjoy such learning -- in whatever sub-category of Torah knowledge it may be -- then he has something to be productive with for the rest of his life.

We have an answer to the ubiquitous dilemma of retired people: What am I going to do today? The answer is -- learn Torah! Let it be Daf 23 (in Talmud) or Siman 23 (in Shulchan Aruch) or Chapter 23 (in Tanach) or anything else. Learning how to appreciate Torah learning when young is the greatest possible IRA investment!

Transcribed by David Twersky Seattle, WA; Technical Assistance by Dovid Hoffman, Baltimore, MD

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Personalized vs. Standardized Observance of Mitzvos

Rabbi Yaakov Neuburger

The TorahWeb Foundation

Reflecting the words of our Sages, our singular and definitive response (Mishpatim 24:7) "kol asher diber Hashem na'aseh venishma" is translated by the Rashbam to proclaim that "all that Hashem has said we will do and all that He will ask of us in the future, we will study and observe". This declaration has long been celebrated for the unconditional commitment and absolute faith that it carries. Yet there is one disturbing feature of this moment which becomes apparent when comparing it to a similar pronouncement of a few days earlier. You see that the moment of "na'aseh venishma" according to Rashi, took place on the Thursday before matan Torah and followed Moshe's public review of our story from creation to Sinai. Just a few days before, on the Monday of that week, we similarly responded to Hashem's invitation to become His people and it is recorded (Yisro, 19:8): "The entire people responded together and they said, "Everything that Hashem has spoken we shall do..."

What do I find troubling? The Torah emphasizes the unity with which we responded on Monday by saying that we answered "yachdov - as one". Yet the Torah drops this specific description of our response on Thursday. Is it possible that in just a few days we already began to unravel? Gone was the unity that descended upon us as we came to Midbar Sinai, so powerful that

we were said to have encamped as one, with one heart and as one person. Gone were the lessons that we thought we had absorbed through our mutual suffering and deliverance.

Even for us, a somewhat discordant group, that is a swift decline and one which is hard to accept. That is why the Chortkover Rebbe, quoted by the Potoker Rov (Beis Aharon) sees something entirely different and favorable here. He suggests that when it comes to performing mitzvos, simply na'aseh, we seem unified and in fact do all the same activities. Yet we differ in the way that we understand the mitzvos and in the manner in which they impact upon us and inspire us. Thus the "na'aseh" of Torah is "yachdov" but the "nishma" of Torah will be as different as our hearts, minds and souls are from each other. The Rebbe suggests that our tefilin communicate this idea as well. The tefilin shel yad envelop several parshiyos in one undivided box to symbolize the similarity of our actions and the unifying force that they project on to us. The same parshiyos when placed near our minds in the tefilin shel rosh are separated into four distinct compartments to represent the varied ways in which we understand our mitzvos and the color that is added to our people, who can then benefit from each other's thoughts and experiences.

Is that really so? Do we really come together as one indivisible group in the performance of our mitzvos? Do we all stand for the same prayers and pray from the same siddur, do we all eat the same kind and amount of matzo, shake the lulav in the same directions, allocate the same amounts of tzedaka to the same needs?

Perhaps there is another idea that is communicated through the omission of the "yachdov" on Thursday, also one that is not indicative of contrariness. In a remarkable passage of the Ohr Sameach (Hilchos Talmud Torah chapter 1) Harav Meir Simcha, the twentieth century giant of Dvinsk, points out that the basic requirements of each mitzvah are indeed identical. Simply picking up the lulav in fact fulfills the mitzvah and the minimal amount of matzo is identical for all. Indeed, the minimal obligations and behaviors of any mitzvah can be a unifying force. However the minimal forms of any mitzvah are rarely practiced and he goes as far as suggesting that for this reason, minimal parameters of mitzvos are relegated to the oral law. We, who embrace mitzvos, each one in our own way and with our own spin, will rarely witness the minimal form of any mitzvah. Once we are committed to the "nishma" and understand the deeper aspects of any mitzvah we will choose favorites to emphasize and choose behaviors that make a mitzvah particularly meaningful to us.

I would suggest that the "yachdov" was lost after we studied the narratives of the distant creation and the not so distant patriarchs and the recent events of Mitzrayim. We then realized how differently we perceived the very same facts, how they touched us distinctively and inspired us idiosyncratically. Through the appreciation of meaningful Torah study we allowed ourselves to cede the "yachdov" and embrace, through the practice of the very same mitzvos, a depth that was private and personal.

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Rav Kook List

Rav Kook on the Torah Portion

Mishpatim: Permission for Doctors to Heal

Permission to Heal

Amongst the various laws in Mishpatim - nearly all of societal or interpersonal nature - the Torah outlines the laws of compensation for physical damages. When one person injures another, he must compensate the damage with a financial payment covering five components. He must pay for permanent loss of income due to the injury, embarrassment and pain incurred, loss of work while the victim was healing, and medical expenses.

This last component, that he 'provide for his complete healing' (Ex. 21:19), is of particular interest. The root-word 'to heal' appears 67 times in the

Torah, almost exclusively referring to God as the Healer. Only here, as an aside to the topic of damages, is it made clear that we are expected to take active measures to heal ourselves, and not just leave the healing process to nature.

This detail did not escape the keen eyes of the Sages. "From here we see that the Torah gave permission to the doctor to heal" (Berachot 60).

Yet we need to understand: why must the Torah explicitly give such permission to doctors? If anything, we should expect all medical activity to be highly commended, for easing pain and saving lives.

Limited Medical Knowledge

The human being is an organic entity. The myriad functions of body and soul are intertwined and interdependent. What person can claim that he thoroughly understands all of these functions and their interrelationships, and how they interact with the outside world? There always exists the danger that when we treat a medical issue in one part of the body, we may harm another part. Sometimes the side-effects are relatively mild and acceptable. And sometimes catastrophic effects may be the unexpected result of treatment for a problem that is not particularly serious (the tragic example of thalidomide used to treat morning sickness comes to mind).

One could thus conclude that there may be all sorts of hidden side-effects, unknown to the doctor, far worse than the ailment we are seeking to cure. Therefore, it would be best to leave the body to its own natural powers of recuperation.

Relying on Available Evidence

The Torah, however, rejected this opinion. For such an outlook could easily be expanded to encompass all aspects of life. Any effort on our part to improve our lives, to progress technologically, to advance scientifically, could be rejected on the same grounds that we have no firm knowledge of all the implications of change.

The Sages taught, "The judge bases his decision on what he can see" (Baba Batra 131a). If the judge or doctor or engineer is a competent professional, we rely on his expertise and grasp of all available knowledge to make the best decision possible. We do not allow concerns of unknown effects to hinder efforts towards improving our lot.

"The progress of human knowledge, and all of the results of manmade inventions - this is all the work of God. These advances make their appearance in the world according to humanity's needs, in their time and generation."

(Adapted from Olat Re'iyah vol. I, p. 390)

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Weekly Halachah - Parshat Yitro 5750

Rabbi Doniel Neustadt (dneustadt@cordetroit.com)

Yoshev Rosh - Vaad HaRabanim of Detroit

Chasan and Kallah: The Seven Festive Days

Reciting Sheva Berachos: When and Where

Part II

Sheva Berachos are recited only after a meal which requires Birkas ha-Mazon and in which Elokeinu is recited when the zimun takes place.¹ Therefore:

* At least ten adult males, including the chasan, must be present and partake of the meal.

* At least seven people must eat a k'zayis of bread.²

* The remaining three men do not have to eat bread but must eat at least a k'zayis of any food, or drink a revi'is³ (approximately 3 fl. oz.) of any beverage except water.⁴ [These three people do not have to be present throughout the meal. As long as they ate or drank at any time during the meal,⁵ even if they ate or drank when the other seven were no longer eating,⁶ zimun with Elokeinu and Sheva Berachos are recited.]

* Both the chasan and kallah must be present at the meal. Even if they arrive late and miss much of the meal, they are considered as present for the meal. If they did not eat bread, Sheva Berachos should not be recited.⁷ If the chasan and kallah must leave before Birkas ha-Mazon, some poskim hold that Sheva Berachos are omitted, while others require them to be recited.⁸

* If there will not be a minyan without him, a mourner may be counted as one of the ten men required for Sheva Berachos.⁹

The requirement of panim chadashos

Sheva Berachos cannot take place unless at least one¹⁰ of the adult male participants is a panim chadashos, literally, “a new face”; i.e., he was not present at the wedding dinner or at a previous Sheva Berachos for this couple. If a panim chadashos is not present, Sheva Berachos are not recited, but the final blessing, asher bara, is.¹¹

Preferably, the panim chadashos should make ha-motzi and remain for the entire meal. If that is difficult to arrange, he may partake of anything served at the meal.¹² According to many poskim, even if he did not eat at all, and even if he came after the meal was over but before the Sheva Berachos were recited, he can still qualify as a panim chadashos.¹³ Whether or not the panim chadashos must be present when the Sheva Berachos are recited is a matter of dispute: Some poskim hold that if he partook of the meal but left early the Sheva Berachos are not recited,¹⁴ while others are not particular about it.¹⁵

When Sheva Berachos take place at either one of the first two meals of Shabbos or Yom Tov (both days), there is no need for an additional panim chadashos. We consider the Shabbos and Yom Tov themselves to be eminent “guests” who fulfill the role of panim chadashos.¹⁶ For the third meal¹⁷ (seudah shelishis), panim chadashos are required unless formal divrei Torah will be delivered¹⁸ at the meal.¹⁹ Who is considered a panim chadashos?

According to some opinions, a panim chadashos is more than just a “new face”; rather, it is a person whose presence adds a new dimension to the celebration.²⁰ Accordingly, a panim chadashos should be a person who is well-known to the chasan or kallah or their parents, and whose presence adds to the degree of simchah. Alternatively, a panim chadashos could be a dignitary or a respected talmid chacham whose distinguished presence enhances the meal even though he is not a personal friend of the couple or their families.²¹ But if such a person is not available, any acquaintance may be called upon to serve as a panim chadashos, provided that he is not a complete stranger.²²

A panim chadashos is a person who did not participate in any part of a previous meal that was held to celebrate this couple’s marriage. Therefore:

* If he was present at the chupah but not at the wedding meal, he can still be counted as a panim chadashos.

* If he ate at a previous Sheva Berachos meal but had to leave before Sheva Berachos were recited, he can no longer qualify as a panim chadashos.

* If he heard the Sheva Berachos recited at the wedding meal or at a previous Sheva Berachos meal, even though he did not partake of the meal, he can no longer qualify as a panim chadashos.²³

Reciting Sheva Berachos

There are three opinions concerning who may recite Sheva Berachos. Some hold that only those who ate bread may do so.²⁴ Others allow anyone who ate anything at all, even if he ate no bread, to recite Sheva Berachos.²⁵ Still others hold that even one who ate nothing at all may be honored with reciting a berachah.²⁶

The chasan should not be honored with any of the Sheva Berachos.²⁷

Some poskim hold that the fourth, fifth and sixth berachos should be recited by one person and not divided among three people.²⁸ The custom, however, follows the opinions who hold that all of the berachos may be split up among the participants. It is proper that anyone

honored with a berachah pay careful attention [and remain silent] while all of the other berachos are recited.²⁹

1 While there are various opinions on this issue (some hold that it is sufficient to have just three people eating bread), the common practice today – based on safek berachos l’hakel – is as stated above.

2 Or enough cake that would require Birkas ha-Mazon. See The Weekly Halachah Discussion, pgs. 478-480, for details.

3 B’diavad, even rov revi’is (1.6 fl. oz.) is sufficient.

4 Mishnah Berurah 197:12. Some poskim equate soda and lemonade with water while others hold that they qualify as a “beverage”; see Vezos ha-Berachah, pg. 130, who quotes both views.

5 “Any time” means before the participants decide not to eat any more or before they wash for mayim acharonim; Rama O.C. 197:1 and Beir Halachah (s.v. matzu).

6 Many people assume that a zimun necessitates eating together – the participants must actually eat together at least a bit, either in the beginning or at the end of a meal. The halachah is clear, however, that as long as the meal is still in progress and the participants could eat [even a morsel of food; Sha’ar ha-Tziyun 197:2], even though they are no longer actually eating anything, there is a zimun.

7 Tzitz Eliezer 13:99; Yabia Omer 6:9. See dissenting opinion in Sova Semachos 1:19.

8 See the various views in Ha-Nisuin k’Hilchasam 14:87 and in Yismach Lev, pg. 338 and 381.

9 Rav Akiva Eiger (Y.D. 391). He may also qualify as a panim chadashos; Rav S.Z. Auerbach (Pnei Baruch, pg. 459).

10 According to some opinions two panim chadashos are required (Ben Ish Chai, Shoftim 15, based on the view of the Rambam). Many Sephardim follow this view (Yabia Omer 3:11).

11 E.H. 62:7.

12 Based on Sova Semachos 1:9.

13 Rama, E.H. 62:7; Kitzur Shulchan Aruch 149:5; Rav N. Karelitz (Chut Shani, Ribbis, pg. 185). Sephardim should not rely on this leniency.

14 Sova Semachos 1:12 quoting several poskim.

15 Rav M. Feinstein and Rav Y.S. Elyashiv, quoted in Yismach Lev, pg. 245.

16 According to many poskim, seudas Purim, too, is considered a panim chadashos.

17 Even on Yom Tov (Shemiras Shabbos K’hilchasah 56, note 38).

18 Preferably, the divrei Torah should be said by the chasan (Chochmas Adam 129:5), but if he cannot, then any formal drashah of divrei Torah is sufficient (based on Aruch ha-Shulchan 62:30).

19 E.H. 62:8. Note that divrei Torah may be used as a substitute for panim chadashos only for seudah shelishis. During the week, or at any additional meal on Shabbos or Yom Tov (beyond the mandatory three meals), panim chadashos are required.

20 E.H. 62:8.

21 Rav M. Feinstein (Oholei Yeshurun 4:2).

22 Kitzur Shulchan Aruch 149:5; Sova Semachos 1:7.

23 Sova Semachos 1:11.

24 Yabia Omer 3:11; Rav Y.S. Elyashiv (Beis Chasanim 12:6).

25 Rav M. Feinstein (Oholei Yeshurun 5:9), Rav Y. Teitelbaum (quoted in Be’er Moshe 2:118), and other poskim.

26 Sova Semachos 4, note 74, quoting Rav E.Y. Finkel. Many people conduct themselves according to this lenient view (ibid., note 72). See also Minchas Shlomo 3:103:21 and Nefesh ha-Rav, pg. 257.

27 Minchas Yitzchak 3:114.

- 28 Sha'arei Efrayim, Pischei She'arim 9:19; Har Tzvi, O.C. 44. This is because the fifth and sixth berachos do not begin with the words Baruch Atah... which makes them a berachah ha-smuchah l'chaverta.
- 29 Igros Moshe, E.H. 1:94; Tzitz Eliezer 6:2; Sova Semachos 1:44.

The Dry Cleaner and the Gown **By Rabbi Yirmiyohu Kaganoff**

The female voice on the other end of the line sounded very familiar. Her voice was full of anger and disappointment. It took me a few minutes to discern what she was trying to communicate.

Once I identified the voice, I realized that it was that of a woman I knew well who is usually very rational. I also began to understand why she was so upset. Mrs. Stein had been expecting to wear a specific, elegant dress for a family simcha and had brought it to the dry cleaner to get it ready. While she was there, she pointed out some stubborn spots on the delicate fabric.

"The dry cleaner managed to remove the stubborn stains," Mrs. Stein told me, "but my gown's color washed out in the process! The gown is now absolutely unwearable! I want the cleaner to pay for the damage in full!"

"I try not to judge a business dispute without hearing the other person's side of the story," I told her.

"That's fine," she responded. "I'll ask the cleaner to call you up to explain his side of the story."

"Are you willing to accept my ruling in this situation?" I asked her.

"Certainly!" she replied.

While awaiting the cleaner's call, I reviewed the appropriate halachos. If someone hires a workman or artisan to process or repair an item and the workman damages it in the process, he is obligated to pay for its full value and he does not receive payment for his work (Shulchan Aruch, Choshen Mishpat 306:2; 3). As an example of this halacha, the Mishnah discusses the case of someone hired to dye cloth who left the cloth too long in the dye vat and damaged the cloth. The dyer must pay for the value of the cloth he ruined (Mishnah Bava Kamma 100b).

OTHER EXAMPLES

If you hired a builder to demolish a property, and specified that you want to reuse the stones in the subsequent reconstruction, if the builder destroyed building stones in the process, he must repay the value of the stones (Rama, Choshen Mishpat 306:2).

If you hire a carpenter to repair a cabinet, and the carpenter breaks it, he must pay for the damage (Rambam, Hilchos Sechirus 10:4; Shulchan Aruch, Choshen Mishpat 306:2).

Therefore if the cleaner damaged the gown, he is indeed responsible to compensate Mrs. Stein for its full value. This is assuming that the cleaner has no notice posted in his shop that he is not responsible for garments that he damages. According to halacha, if the repairman notified his clients in advance that he does not assume responsibility for damage, he absolves himself of responsibility.

THE CLEANER VERSION

The dry cleaner's phone call interrupted my research. His version of the events was somewhat different from Mrs. Stein's.

"Mrs. Stein pointed out the stains she wanted removed," he told me. "In retrospect, I regret that I did not specify to her that the solvents used to remove the stains could change the gown's color. I do not remember whether the garment was wearable with the stains or not, but I know that people do not usually leave stains on their nice garments."

"Was the garment ruined?" I asked the cleaner. "Not at all," he answered, "I am willing to show it to any expert on women's clothes. We saw the stains and assessed that the best way to remove them was to clean the entire garment evenly with a specific solvent. This is a standard procedure

in this type of situation. When you dry clean this way, if the color is affected, the entire garment changes to a consistent new color. I would love to show you the garment to see the masterpiece we created!"

The dry cleaner's interpretation of events had us dealing with a very different shaylah! He contended that he used his best professional judgment in removing the stain, and the result was an altered, but perfectly satisfactory and useful garment. According to this understanding, he is entitled to full compensation for his efforts since he did what Mrs. Stein hired him to do and there was no damage to the gown, according to him, but rather, an improvement!

I now found myself in a predicament. I knew this dry cleaner well, and as far as I know, he was a very reputable person. Although he could have been covering up for his mistake, I had no reason to suspect him. On the other hand, Mrs. Stein was also a person I respected; a tremendous baalas chesed – the classic "pillar of the community." Should I suspect that one of them is not telling the truth?

The fact that I heard two very different versions of the events from the two parties did not mean that either one of them was, G-d forbid, lying or dishonest. Each of them saw the events that transpired his or her own way.

This is human nature; we tend to see and color events through our own eyes, regardless of the fact that someone else's interpretation may vary considerably from ours.

This is the reason why it is very important for every person to have a good friend who gently challenges our assumptions. It is difficult, and maybe even impossible, for us to be objective about ourselves. A good friend can help us regain our objectivity when we become emotionally wrapped up in ourselves. In this case, if Mrs. Stein had asked a good friend for an honest evaluation, perhaps the friend could have helped her calm down. Similarly, the dry cleaner may have benefited by having someone point out to him that his interpretation of the events and facts may have been somewhat flawed.

Although this helped me understand the human side of the dry cleaning interaction that took place, it did not help me establish the facts. The question still remained – did the cleaner damage the gown or not?

There was indeed one other possibility, that both sides were right. The dry cleaner did what he thought was best, which was to clean the gown even though its color might fade slightly. However to Mrs. Stein, this result was unacceptable. It is possible that had she been told that her gown might fade she would have rejected this method of dealing with the problem.

If so, a third set of halachos applies - where the artisan did perfectly good work, but it was not what he was hired to do and not what you want. Perhaps our case is comparable to the case in the Mishnah (Bava Kamma 100b) of someone who hired a worker to dye cloth red and he dyed it black.

In that case, the resultant product is worth more than it was when he started, but the owner did not want black cloth, just as Mrs. Stein did not want a faded gown.

Does the worker receive compensation in this case? Is he liable for all damages?

The above mentioned Mishnah cites a dispute about someone who hired a worker to dye cloth red and he dyed it black. Rabbi Meir rules that the worker pays the hirer for his cloth and keeps it, regardless of whether the finished product is worth more or less than the original cloth. Rabbi Yehudah disagrees, contending that this arrangement benefits the negligent worker too much. Let us assume that the finished black cloth is worth far more than the original un-dyed cloth was worth. According to Rabbi Meir, the dyer would benefit from all this profit. Rabbi Yehudah contends that this is unfair - the worker should not benefit from his negligence. Instead, Rabbi Yehudah contends that any benefits go to the owner, and this is the final halacha. (The actual formula whereby we determine how much, if anything, the worker gets paid is somewhat halachically complicated, see Rambam and Raaavad, Hilchos Sechirus 10:4; Shulchan Aruch, Choshen Mishpat 303:6.)

Thus, we now have three possible interpretations of what happened.

1. The dry cleaner ruined the garment and should pay damages (Mrs. Stein's version).

2. The cleaner did the best possible job possible under the circumstances and made an unusable gown perfectly usable. Therefore, Mrs. Stein should pay him in full (the dry cleaner's version).

3. That the cleaner exceeded what Mrs. Stein authorized him to do, in which case he would be entitled only to whatever increase in value there is. According to Mrs. Stein, there is none, the gown is not worth more than it was in its stained but un-faded phase.

But I am a rabbi and not a prophet. What was I to do? How could I possibly determine what happened?

Furthermore, there was a more important issue at stake. Whenever I am involved in these types of litigation, I am not satisfied to simply determine the halacha, but I want the two parties to leave b'shalom. To me, this is the most important result – that there should be no lasting ill feeling afterwards.

I thought of a course of action that would accomplish this purpose. First, I asked my wife if she would be willing to look at Mrs. Stein's gown to see whether she considered the garment un-wearable. Of course I realized that although I value my wife's opinion, she was not going to make the final halachic decision. However, I was looking to see what she thought and consequently which direction I might take in resolving this shaylah.

In truth, this was the most difficult part of the shaylah. How was I to determine whether the gown was now ruined goods or not? For one woman a garment may be un-wearable and to another it could be perfectly fine. The halacha in such a dispute places the burden of proof on the person who wants to collect the money.

I also asked my wife the following question, after first explaining to her that there was a halachic reason why I needed the information (and therefore no loshon hora was involved). I asked her, "Is Mrs. Stein the type of woman who would be bothered by things that others would not notice?" My wife answered that Mrs. Stein is a very discerning dresser. Thus, I realized that it might be that even if the dry cleaner did what most people would consider the correct course of action, Mrs. Stein would not be happy with the results. On the other hand, it might be that the dry cleaner assumed that the garment was fine, but most people would consider it damaged.

Then I called Mrs. Stein to see if she would mind showing the damage to my wife. My wife felt that although the gown was definitely faded, most women would have worn the garment as is, although a discerning dresser like Mrs. Stein might find the new color unacceptable.

I called the dry cleaner and asked him whether he would be willing to bend over backwards to placate a customer.

"Of course," he responded, "I never gain anything from an angry customer. Do you know how many people might hear a story like this?"

I assured him that I would try my utmost to be sure that Mrs. Stein obeyed the rules of loshon hora. She is a very fine woman and meticulously observant of halacha.

Mrs. Stein agreed to come to my office to discuss the matter. First I engaged her in some small talk, and then moved the conversation over to the matter at hand. I knew Mrs. Stein to be a woman who was cautious of loshon hora. I just hoped that she did not forget to be careful while she had been so agitated about her damaged gown.

Indeed, she told me that she had told only one person, other than me, about the ruined gown. She had deliberately decided to tell a friend who does not know where she takes her dry cleaning so that there would be no loshon hora problem. I was extremely impressed about her care in observing halacha under this highly stressful circumstance.

Baruch Hashem, there had been no loshon hora said about this matter. Now to make shalom...

I explained to her that I had spoken to the dry cleaner, and that he regretted having not asked her before he used the particular cleaning solution. I also told her that he had used it evenly on the entire garment so that if it would

discolor the garment it would leave it in a pretty shade. I then added that I felt the dry cleaner was not guilty from a halachic point of view, but that he was eager to make some restitution anyway because he did not want her to be angry with him.

Mrs. Stein stopped and thought about it. "You know, he has always been so accommodating. I was just surprised and disappointed by him. I suppose not everyone is as fussy as I am. I would be very satisfied if he would make sure to hang up a note to himself in his shop to make sure that he asks every customer before he does something like this again!!"

I had not expected that making shalom would be so easy. I guess that sometimes when you try to do a mitzvah, Hashem makes it easier! And my wife tells me that Mrs. Stein wore a different outfit to the simcha which was absolutely stunning.

Ohr Somayach :: TalmuDigest :: Sanhedrin 2 - 8
For the week ending 13 February 2010 / 28 Shevat 5770
by Rabbi Mendel Weinbach

First Comes First •Sanhedrin 8a

When Moshe appointed judges for his people he instructed them that they must give a hearing to minor matters as well as major ones (Devarim 1:17). Rabbi Shimon ben Lakish interprets this as an order to respect the judgment involving only a prutah – the smallest coin – as much as one involving very large sums.

This cannot simply mean that there is a need to carefully examine even a minor matter and render a proper judgment, for this is obviously a basic requirement of justice. The conclusion, therefore, is that if a matter involving only a prutah comes before the court before a matter involving much money, the court has no right to give precedence to the latter because of the larger amount involved.

Maharsha raises the question as to why even such instruction is necessary since the minor case came first.

His explanation is based on the rule that a judge may receive compensation if it is obvious that the time he spends in judging is at the expense of the livelihood he could earn from another pursuit in the same time. Since the litigants would have to provide this compensation (in equal fashion and when such compensation is not provided by the community), there would be a temptation to give precedence to the case involving serious money so that there is enough at stake to make compensation to the judges possible, which is not so when only a tiny sum is at stake. To rule out such a consideration, Moshe told his judges that "first comes first" regardless of the amount involved.

What the Sages Say

"A judge who judges in true fashion causes G-d's Presence to rest in Israel."

•Rabbi Shmuel bar Nachmeni in the name of Rabbi Yonatan - Sanhedrin 7a

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