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subject: Rabbi Yissocher Frand - Parshas Mishpatim

**Rabbi Yissocher Frand**  
**Parshas Mishpatim**

Bribes Blind: Not Only Judges & A Case Study

These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: CD #933 – The Mitzvah of Lending Money Good Shabbos!

Bribes Blind: Not Only A Law For Judges

The pasuk in Parshas Mishpatim says, "You shall not accept a bribe for the bribe will blind those who see and corrupt the words of the righteous." [Shmos 23:8] When most of us read this pasuk, we assume it does not apply to us because most of us are not judges. We do not sit on Jewish Courts hearing disputes between litigants and thus the prohibition of not taking bribes presumably does not apply to us.

All the classical works say this is not true. This is a pasuk that applies to every single one of us and in fact, it applies to us not only multiple times in our lifetime but sometimes even multiple times in a single day. We as individuals are called upon – almost on a constant basis – to make decisions. In making those decisions, we constantly need to be on guard for not taking bribes.

One should not be thinking -- "I may have been called upon to make decisions but no one has ever offered me a bribe to decide one way or the other." Bribes do not always come in the form of "cash in a brown paper bag". Any time an individual has something personal to gain out of a certain decision, right away he is compromised. He is confronted with taking a bribe, of sorts. One of the great challenges of life is the challenge of "negius". "Negius" means we are affected by our own personal agenda. Many times our personal needs and desires affect our decision making process in ways that totally compromise the decisions. The pasuk is saying that any time there is personal gain involved (be it money or honor or comfort or convenience – whatever it may be) we are already "on the take" so to speak. Our judgement is thereby compromised.

What does a person do about this inevitable situation? When a person is involved in such situations and he knows he has personal "negius," he must realize that he cannot trust himself to make an unbiased decision. He must ask the advice of a non-compromised third party. This is why the Mishna [Avos 1:6] advises "Make yourself a Rav and acquire for yourself a friend". Everyone needs a set of "outside eyes". For a person to delude himself and say "I know I am biased in the matter BUT nevertheless I am able to raise myself above that and come to a balanced and proper decision" is wishful thinking. It is impossible.

The Torah tells it straight: Bribes blind the wise. This is an immutable law of nature that a person's decision making ability is affected when he has something personal to gain.

In his sefer Emunah V'Bitachon, the Chazon Ish writes as follows: Personal involvement is something that affects great people and small people alike. Even pious individuals and men of great accomplishment are affected by negius. This is nothing to be ashamed about and it does not call into question the person's piety or scholarship. Simply, this is engraved into human nature. The basis of this phenomenon appears in the Talmudic passage which restricts the Kohen Gadol and the King from taking part in the court deliberation regarding the need to add a leap month to the calendar to make a lunar leap year.

The Talmud in Sanhedrin explains that a King cannot sit in on this Beis Din because he paid his army on an annual basis and it is always to his benefit to have a leap year (and get an extra month of "free" work from his officers and soldiers). This will always compromise the King in this decision making process. The Kohen Gadol is not allowed to sit on a Court deciding whether or not to establish a leap year because he had to go into the Mikveh five times as part of the Yom Kippur service. It was always in his interest to have Yom Kippur fall out "earlier" in the calendar when it was still warm outside, rather than "later" in the year when there was already briskness in the air. Going into the Mikveh five times a day in September is much easier than doing the same thing in October. Because of that the Kohen Gadol's decision making ability here would be compromised.

The Chazon Ish points out that this Talmudic rule applies even to the most righteous of kings and to the most pious of High Priests. This is reality. The Chazon Ish continues with the quote that "the Almighty looked into the Torah and created the world." This means Hashem "consulted" (as it were) the Torah and saw that it said "a bribe blinds the wise." Therefore, when Hashem created man, He created our human nature to be affected by our own personal negius. Just like it is a law of nature that every person needs oxygen and every person needs water, so too it is a law of nature that once a person has a personal stake in a decision, he is predisposed to decide in favor of what is best for him. His judgment becomes clouded.

The Imrei Baruch (Rabbi Baruch Simon) cites a brilliant Biblical exegesis from Rav Chaim Kanievsky. Rav Kanievsky states that every time we find the word Tzadikim in the Torah it is spelled "deficient" (choser – i.e. -- Tzadee-Daled-Yud-Kuf-Mem Sofis). The only exception is the reference here in Parshas Mishpatim [Shmos 23:8]. In stating that bribes will corrupt, the word Tzadikim it is spelled "full" (maleh – i.e. Tzadee-Daled-Yud-Kuf-Yud-Mem Sofis – with two "yud"s). Rav Kanievsky explains the reason. The Torah is emphasizing that even if it is a "full Tzadik" (e.g. – a totally righteous individual) nevertheless, he can be corrupted by bribes. Rav Kanievsky explains that normally Tzadikim is spelled "deficient" because "there is no Tzadik in the world who does only good and does not sin" [Koheles 7:20]. However, here the Torah uncharacteristically spells the word Tzadikim "full" to emphasize that even a hypothetical "full Tzadik" is not immune from the inappropriate influence of shochad.

Bribes Blind: A Case Study

The idea above relates to something that has been in the news lately and I believe it is a mitzvah to publicize the matter. Even though this is from a source that I do not normally quote, and I have my reservations about

quoting from him but there is a principle of "accepting the truth from whoever speaks it" and I feel that it is meritorious to publicize this.

Alan Dershowitz is a professor of law at Harvard Law School. By all accounts, he is a brilliant lawyer. I do not happen to agree with most of his politics. He is a dyed in the wool liberal and his legal opinions reflect that, but he is a brilliant man who certainly does not need my approbation for his credentials. He wrote an article entitled "Ex-President For Sale" about Jimmy Carter. The former U.S. President wrote a best-selling book called Palestine: Peace Not Apartheid. The title of the book itself is inflammatory and incendiary.

What does this have to do with this week's parsha? Professor Dershowitz documents – like only a good lawyer can – how Carter has been on the take from a foundation called the Zayed Foundation, founded by Sheik Zayed bin Sultan al Nahyan. According to Mr. Dershowitz, Sheik Zayed is an unrepentant anti-Semite, to the extent that when this Sheik Zayed wanted to give the Harvard Divinity School two million dollars, Harvard refused the money because of Sheik Zayed's reputation for being such a virulent anti-Semite. Even though Harvard's Divinity School is on hard times, they returned the money. Jimmy Carter, however, did not. Mr. Carter said "This award has special significance for me because it is named for my personal friend, Sheik Zayed bin Sultan al-Nahyan." Carter's personal friend, it turns out, was an unredeemable anti-Semite and all-around bigot.

In addition, the article documents that Carter has received over ten million dollars from the Saudi Arabian Government for his Carter center in Atlanta whose stated purpose is to be a "disinterested dispassionate third party in the adjudication of disputes between different countries." Moreover, Saudi Arabia does not make Carter's list of countries in which there are human rights abuses, as opposed to Israel "where human rights abuses are rampant". The fact that in Saudi Arabia, women are not allowed to drive and if you steal, you get your hand chopped off, apparently does not bother Carter enough for him to make a tumult. In other words, Carter has been sold -- lock, stock, and barrel.

For a person of Carter's stature (an ex-President, who, I am embarrassed to add, I voted for in 1976 - a mistake that I regret to this very day) to take money from a Government like Saudi Arabia and from a person like Sheik Zayed is one thing. But for him to then claim to write an impartial book about "Palestine" and the Israeli-Arab conflict is a colossal chutzpah. So take money for your Carter Center, but then do not claim you can be an impartial observer to say who is acting correctly and who is acting wrongly.

If bribes blind Chachomim and corrupt the words of Tzadikim, Jimmy Carter certainly has a problem. I do not know how much of a Chochom he is, but one thing I can tell you – he is certainly not a Tzadik!

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from: Kol Torah Webmaster <[webmaster@koltorah.org](mailto:webmaster@koltorah.org)> to: Kol Torah <[koltorah@koltorah.org](mailto:koltorah@koltorah.org)> date: Thu, Feb 4, 2016 at 9:50 PM subject: Kol Torah Parashat Mishpatim 2016

**Eat, drink, and Tomorrow you Die?**

by **Rabbi Yaakov Blau**

The last Perek of Parashat Mishpatim contains a rather cryptic account. In Shemot 24:9, Moshe, Aharon, Nadav, Avihu, and the 70 elders ascend Har Sinai. In the next Pasuk, they "see" Hashem, and the subsequent Pasuk tells us that Hashem does not strike them down, they see Hashem, and then they eat and drink. The Perek then moves on to a conversation between Hashem and Moshe, seemingly unrelated to the previous story. How are we to understand what happened when all those characters "saw" Hashem?

The Meforashim suggest two nearly opposite approaches to this story. Rashi (24:10-11) views their actions as having been negative, explaining that it was improper for them to so blatantly perceive Hashem. Rashi views Pasuk 11, which states that Hashem did not strike them down, as evidence that they in fact deserved to be struck down. Rashi believes that their eating and drinking was symptomatic of their lack of respect for such a sacred moment.

Now, if Rashi is correct that what Moshe, Aharon, Nadav, Avihu, and the elders did was so egregious, it seems odd that there does not appear to be any consequence for their actions mentioned in the Pesukim. Rashi deals with this issue by positing that they, in fact, were deserving of death, but Matan Torah was too joyous an occasion to be marred with so many leaders being killed (24:10 ad loc. VaYir'u Eit Elohei Yisrael). Instead, Hashem "waited" for another opportunity to kill them all – Nadav and Avihu, when they brought the foreign flame in VaYikra 10, and the elders in the story of the Mitonenim in BeMidbar 11:1. Although this solution accounts for the leaders' not being punished, this explanation of their punishment is questionable.

Many other explanations are given as to what Nadav and Avihu did in Sefer VaYikra to deserve death. In terms of the elders, it is not even clear if they were killed in the aforementioned story. Rashi (BeMidbar 11:1 s.v. BiKetzei) Midrashically understands the word "BiKetzei," "the corner," in BeMidbar 11:1, as meaning "BeMukatzin," the leaders. In addition to the fact that this is certainly not the Peshat of the Pasuk, Rashi on that Pasuk suggests another Midrashic reading, and he also presents the aforementioned approach that he writes in Sefer Shemot.

Other Meforashim view the elders' ascending Har Sinai in a positive light. Targum Onkelos (Shemot 24:11) understands that they did not actually eat and drink but rather felt so much joy for their revelation that it was as if they ate and drank. Ramban (ad loc.) deals with the fact that the Pasuk states that Hashem did not strike them down, which at first glance would seem to be a solid proof for Rashi's negative approach. Ramban harkens back to 19:24, where levels are designated for how far different groups are allowed to ascend Har Sinai. What the Pasuk teaches us, Ramban writes, is that nobody overstepped his boundaries and therefore, Moshe and those accompanying him were not deserving of being stricken down. As to why they ate, Ramban understands that they were eating Korbanot, a quite appropriate reaction to the preceding events. Ibn Ezra (Peirush HaAruch) quotes Rabi Yehudah HaLeivi as writing that the Pasuk is informing us that, unlike Moshe, who was able to be sustained for forty days without eating or drinking, the other leaders, despite the awesome Divine revelation, still needed to eat and drink.

Now, the fact that the Meforashim can take such diametrically opposed approaches is, of course, significant from a Parshanut perspective. Methodologically, it is important to note that each approach had to explain how every detail in the Pesukim made sense with his overall understanding. I believe that one can take a lesson that is more personal than the aforementioned analysis. We often make snap judgements of situations and how people act in them. We should be cautious and recall that there are many factors that go into every situation that arises, and it behooves us to reserve judgment until we know all the facts and consider all the factors that may be motivating people to act the way that they are.

from: Shabbat Shalom <[shabbatshalom@ounetwork.org](mailto:shabbatshalom@ounetwork.org)> reply-to: [shabbatshalom@ounetwork.org](mailto:shabbatshalom@ounetwork.org) date: Thu, Feb 4, 2016 at 7:15 PM

**Doing and Hearing**

### Britain's Former Chief **Rabbi Lord Jonathan Sacks**

One of the most famous phrases in the Torah makes its appearance in this week's parsha. It has often been used to characterise Jewish faith as a whole. It consists of two words: *na'aseh venishma*, literally, "we will do and we will hear" (Ex. 24:7). What does this mean and why does it matter?

There are two famous interpretations, one ancient, the other modern. The first appears in the Babylonian Talmud,[1] where it is taken to describe the enthusiasm and whole-heartedness with which the Israelites accepted the covenant with God at Mount Sinai. When they said to Moses, "All that the Lord has spoken we will do and we will hear", they were saying, in effect: Whatever God asks of us, we will do – saying this before they had heard any of the commandments. The words "We will hear", imply that they had not yet heard – not the Ten Commandments, or the detailed laws that followed as set out in our parsha. So keen were they to signal their assent to God that they agreed to His demands before knowing what they were.[2]

This reading, adopted also by Rashi in his commentary to the Torah, is difficult because it depends on reading the narrative out of chronological sequence (using the principle that "there is no before and after in the Torah"). The events of chapter 24, on this interpretation, happened before chapter 20, the account of the revelation at Mount Sinai and the Ten Commandments. Ibn Ezra, Rashbam and Ramban all disagree and read the chapters in chronological sequence. For them, the words *na'aseh venishma* mean not, "we will do and we will hear", but simply, "we will do and we will obey."

The second interpretation – not the plain sense of the text but important nonetheless – has been given often in modern Jewish thought. On this view *na'aseh venishma* means, "We will do and we will understand." [3] From this they derive the conclusion that we can only understand Judaism by doing it, by performing the commands and living a Jewish life. In the beginning is the deed.[4] Only then comes the grasp, the insight, the comprehension.

This is a signal and substantive point. The modern Western mind tends to put things in the opposite order. We seek to understand what we are committing ourselves to before making the commitment. That is fine when what is at stake is signing a contract, buying a new mobile phone, or purchasing a subscription, but not when making a deep existential commitment. The only way to understand leadership is to lead. The only way to understand marriage is to get married. The only way to understand whether a certain career path is right for you is to actually try it for an extended period. Those who hover on the edge of a commitment, reluctant to make a decision until all the facts are in, will eventually find that life has passed them by.[5] The only way to understand a way of life is to take the risk of living it.[6] So: *na'aseh venishma*, "We will do and eventually, through extended practice and long exposure, we will understand."

In my Introduction to this year's Covenant and Conversation, I suggested a quite different third interpretation, based on the fact that the Israelites are described by the Torah as ratifying the covenant three times: once before they heard the commandments and twice afterward. There is a fascinating difference between the way the Torah describes the first two of these responses and the third:

The people all responded together, "We will do [*na'aseh*] everything the Lord has said." (Ex. 19:8)

When Moses went and told the people all the Lord's words and laws, they responded with one voice, "Everything the Lord has said we will do [*na'aseh*]." (Ex. 24:3)

Then he took the Book of the Covenant and read it to the people. They responded, "We will do and hear [*na'aseh ve-nishma*] everything the Lord has said." (Ex. 24:7)

The first two responses, which refer only to action (*na'aseh*), are given unanimously. They people respond "together". They do so "with one voice". The third, which refers not only to doing but also to hearing (*nishma*), involves no unanimity. "Hearing" here means many things: listening, paying

attention, understanding, absorbing, internalising, responding and obeying. It refers, in other words, to the spiritual, inward dimension of Judaism.

From this, an important consequence follows. Judaism is a community of doing rather than of "hearing". There is an authoritative code of Jewish law. When it comes to *halakhah*, the way of Jewish doing, we seek consensus.

By contrast, though there are undoubtedly principles of Jewish faith, when it comes to spirituality there is no single normative Jewish approach. Judaism has had its priests and prophets, its rationalists and mystics, its philosophers and poets. Tanakh, the Hebrew Bible, speaks in a multiplicity of voices. Isaiah was not Ezekiel. The book of Proverbs comes from a different mindset than the books of Amos and Hosea. The Torah contains law and narrative, history and mystic vision, ritual and prayer. There are norms about how to act as Jews. But there are few about how to think and feel as Jews.

We experience God in different ways. Some find him in nature, in what Wordsworth called "a sense sublime / Of something far more deeply interfused, / Whose dwelling is the light of setting suns, / And the round ocean and the living air." Others find him in interpersonal emotion, in the experience of loving and being loved – what Rabbi Akiva meant when he said that in a true marriage, "the Divine presence is between" husband and wife.

Some find God in the prophetic call: "Let justice roll down like a river, and righteousness like a never-failing stream" (Amos 5:24). Others find Him in study, "rejoicing in the words of Your Torah ... for they are our life and the length of our days; on them we will meditate day and night." Yet others find Him in prayer, discovering that God is close to all who call on him in truth.

There are those who find God in joy, dancing and singing as did King David when he brought the Holy Ark into Jerusalem. Others – or the same people at different points in their life – find Him in the depths, in tears and remorse and a broken heart. Einstein found God in the "fearful symmetry" and ordered complexity of the universe. Rav Kook found Him in the harmony of diversity. Rav Soloveitchik found Him in the loneliness of being as it reaches out to the soul of Being itself.

There is a normative way of doing the holy deed, but there are many ways of hearing the holy voice, encountering the sacred presence, feeling at one and the same time how small we are yet how great the universe we inhabit, how insignificant we must seem when set against the vastness of space and the myriads of stars, yet how momentarily significant we are, knowing that God has set His image and likeness upon us and placed us here, in this place, at this time, with these gifts, in these circumstances, with a task to perform if we are able to discern it. We can find God on the heights and in the depths, in loneliness and togetherness, in love and fear, in gratitude and need, in dazzling light and in the midst of deep darkness. We can find God by seeking Him, but sometimes He finds us when we least expect it.

That is the difference between *na'aseh* and *nishma*. We do the Godly deed "together". We respond to His commands "with one voice". But we hear God's presence in many ways, for though God is One, we are all different, and we encounter Him each in our own way.

[1] Shabbat 88a-b. [2] There are, of course, quite different interpretations of the Israelites' assent. According to one, God "suspended the mountain over them," giving them no choice but to agree or die (Shabbat 88a). [3] The word already carries this meaning in biblical Hebrew as in the story of the tower of Babel, where God says, come let us confuse their language so that people will not be able to understand their neighbour. [4] This is the famous phrase from Goethe's Faust. [5] This is similar to the point made by Bernard Williams in his famous essay, 'Moral Luck,' that there are certain decisions – his example is Gauguin's decision to leave his career and family and go to Tahiti to paint – about which we cannot know whether they are the right decision until after we have taken them and seen how they work out. All such existential decisions involve risk. [6] This, incidentally, is the *Verstehen* approach to sociology and anthropology, namely that cultures cannot be fully understood from the outside. They need to be experienced from within. That is one of the key differences between the social sciences and the natural sciences.

from: Shabbat Shalom <shabbatshalom@ounetwork.org> reply-to: shabbatshalom@ounetwork.org date: Thu, Feb 4, 2016 at 7:15 PM

## On Eagle's Wings Rabbi Natan Slifkin

February 4, 2016 One of the questions that I receive most often is about the description of eagles carrying their young on their wings. The neshet, king of birds, is the most prominent bird in the Torah. Although many assume that the neshet is the eagle, and some of the commentaries have identified it as such, the evidence shows that it is more likely a vulture – specifically, the griffon vulture (see full essay here).

The best-known Scriptural description of the neshet is also the most problematic to understand. It occurs in reference to God bringing the Jewish People out of Egypt:

“You have seen what I did to the Egyptians, and how I carried you (va’esa eschem) on the wings of nesharim, and brought you to Myself.” (Exodus 19:4)

The conventional translation of va’esa eschem is “I carried you.” However, some translate it as “I elevated you.” The explanation is that the neshet is the highest-flying bird, and God raised the Jewish People to spiritual heights above anything in the natural world with His miraculous redemption.[1] The highest flying birds are griffon vultures.

But many explain this verse instead to refer to God poetically carrying the Jewish People like a neshet carrying its young on its back (see Rashi ad loc.). This relates to a description of the vulture later in the Torah:

“As a neshet stirs up its nest, flutters over its young, spreads out its wings, takes them, bears them on its pinions; So did God guide them, and there was no strange god with them.” (Deuteronomy 32:11-12)

The description here is of the neshet carrying its young upon its wings while flying. Many have considered this verse to present us with a great difficulty and to require some kind of allegorical or poetic interpretation, since neither vultures or eagles are generally known to carry their young on their wings. Swans and other waterfowl sometimes carry their young on their backs while swimming, and jacanas and bustards may sometimes carry their young between wing and body while walking.[2] There are reports of some ducks taking flight while their young are on their backs.[3] A further report concerns an obscure water bird from Central and Southern America called the sungrebe, which carries its twin young in pouches under both wings.[4]

But eagles and vultures, despite being widely studied, are not generally described as displaying such behavior. However, unbeknownst to many, reports do indeed exist of eagles carrying their young on their backs. One ornithologist writes:

“Many ornithologists have thought that the Bible picture of an eagle carrying her young was merely figurative, but in recent years certain reliable observers have actually seen a parent bird let its young rest for a moment on the feathered back – especially when there was no other roosting place in sight. When an eagle nests on the ledge of a sheer-walled canyon, many feet above the earth, with no jutting tree or protruding rock to break the fall, the quick movement of a mother bird to offer her own back to a frightened fledgling may be the only way to let it live to try its wings again.” (V.C. Holmgren, *Bird Walk Through The Bible* [New York: Dover Publications 1988] p. 98)

One report of this behavior is as follows:

“Our guide was one of the small company who have seen the golden eagle teaching the young to fly. He could support the belief that the parent birds, after urging and sometimes shoving the youngster into the air, will swoop underneath and rest the struggler for a moment on their wings and back. ... Our guide, when questioned, said that every phrase of the verse [Deut. xxxii, I I] (which was new to him) was accurate, save the first; he had seen it all except the stirring up of the nest.” (W.B. Thomas, *Yeoman's England* [1934], pp. 135-6)

Another report concerning the golden eagle comes from Arthur Cleveland Bent, one of America's greatest ornithologists, on the authority of Dr. L. Miller:

“The mother started from the nest in the crags and, roughly hand-ling the youngster, she allowed him to drop, I should say, about ninety feet; then she would swoop down under him, wings spread, and he would alight on her back. She would soar to the top of the range with him and repeat the process. Once perhaps she waited fifteen minutes between flights. I should say the farthest she let him fall was a hundred and fifty feet. My father and I watched him, spellbound, for over an hour.” (A. C. Bent, *Bulletin of the Smithsonian Institution* CLXVII [1937], 302)

True, these reports have not been widely confirmed, despite extensive studies of these species. Furthermore, these reports concern eagles, whereas evidence shows the neshet to be the griffon vulture rather than the eagle. However, it is possible that such rare behavior likewise occurs with griffon vultures, or that neshet is a generic term encompassing both eagles and griffon vultures.

Another solution to the entire question is to posit that “the Torah speaks in the language of men,” which, according to one school of thought, means that it packages its messages within the scientific worldview of the generation that received the Torah. For more on this approach, which has been used by several recent and modern authorities to explain other phrases in the Torah that are scientifically inaccurate (such as references to the “firmament,” the hare bringing up its cud, the dew falling, and so on), see my essay “The Question of the Kidneys’ Counsel.”

If referring to a griffon vulture, these verses show that the vulture is regarded by the Torah very differently from the way that it is perceived in contemporary culture. While people today view the vulture in a negative light, the Torah presents it as an example of a loving and caring parent. This also relates to the vulture's entire parenting process. Female griffon vultures usually lay one egg, which both parents incubate for an unusually long period of around seven weeks until it hatches. The young are slow to develop and do not leave the nest until three or four months of age. The long devotion of the vulture to its young symbolizes God's deep dedication to the Jewish People.

Sources: [1] See HaKesav VeHaKabbalah ad loc. [2] See Johnsgard, Paul A. and Kear, Janet, “A Review of Parental Carrying of Young by Waterfowl” (1968). *Papers in Ornithology*. Paper 32.

<http://digitalcommons.unl.edu/biosciornithology/32>. Also Celia K. Falzone. 1992. “First Observations of Chick Carrying Behavior by the Buff-crested Bustard”. *The Wilson Bulletin* 104 (1). *Wilson Ornithological Society*: 190–92. <http://www.jstor.org/stable/4163135>. [3] See Johnsgard and Kear, *ibid*.

[4] This remarkable phenomenon was first reported in 1833 by the German ornithologist M.A. Wied. Subsequent generations of ornithologists viewed this report with skepticism or ridicule. However in 1969 Mexican ornithologist Miguel Alvarez del Toro confirmed that soon after hatching, the male sungrebe places each of the two chicks in pouches under his wings and departs. An article by B. Bertrand explains: “M. Alvarez del Toro, who observed a nesting pair in Mexico, discovered that the male has a shallow pocket under each wing into which the two young can fit. The pocket is formed by a pleat of skin, and made more secure by the feathers on the side of the body just below. The heads of the chicks could be seen from below as the bird flew. Alvarez del Toro collected the bird in order to examine it and confirm the unlikely discovery. Subsequently, he found it confirmed also by a report published by Prince Maximilian of Wied 138 years earlier but apparently ignored, forgotten or not believed. This adaptation is unique among birds: in no other species is there any mechanism whereby altricial young can be transported....” Bertrand, B. C. R. (1996) *Family Heliornithidae (Finfoots)* in del Hoyo, J., Elliott, A., & Sargatal, J., eds. *Handbook of the Birds of the World*. Vol. 3. Lynx Edicions, Barcelona.

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By Rabbi Yair Hoffman

Klal Yisrael has lost an extraordinary rosh yeshiva, a great tzaddik, and a world-class posek.

Moreinu HaRav HaGaon Rav Chaim Yisroel Belsky, zt'l, 77, passed away last Thursday evening. In the words of the maspidim, he was an outstanding talmidchacham and tzaddik who served as a roshyeshiva in Yeshiva Torah Vodaath, a world-class posek in the largest kashrus agency in the world, and the rav of Camp Agudah for many years. Rav Belsky had studied in Yeshiva Torah Vodaath, under Rav Moshe Feinstein, zt'l, and in Beis Medrash Elyon in Monsey.

Rav Elya Katz, shlita, a maggidshiur at Yeshiva Torah Vodaath, stated at the levayah last Friday that Rav Belsky was the embodiment of the yeshiva. He was head of the yeshiva, the heart of the yeshiva, and the eyes of the yeshiva.

#### Prodigious Accomplishments

Rav Belsky served as a maggidshiur in Yeshiva Torah Vodaath for over half a century. He ruled on thousands of halachic questions for the Orthodox Union. Thousands of hours of his recorded shiurim are available in Torah libraries across the country. The shiurim are filled with the classic thinking of gedolei haRishonim and Acharonim as well as his own chiddushim. Rav Belsky gave regular shiurim in the dafyomi, YorehDeah, Chumash and Rashi, and much more.

As rav, masmidim-program director, and general mashpia on thousands and thousands of young men in Camp Agudah in Ferndale, New York, Rav Belsky's relationship with his talmidim and campers was like that of a loving father. One summer it was arranged that his masmidimshiur was to be taken over by someone else. When he noticed the sadness on the faces of four of the students, he worked out that he would give them a private shiur in the laws of chazarah and shehiyah on Shabbos—at six o'clock in the morning. To this day, the boys—now grown men—remember those halachos particularly well.

On one occasion, a camper was hospitalized with a serious brain tumor in a hospital some four hours away. Entirely unfazed by the distance, Rav Belsky drove the four hours to the hospital, spent a few hours with the young man, and drove the four hours back.

On another occasion, a young student who was confined in a wheelchair quietly expressed to someone that he would love to attend one of the camp's hikes. Rav Belsky, a man of immense physical strength, carried him on his shoulders for the next hike for five hours straight. Not many people can manage an extra 140 to 160 pounds on one's shoulders for a full five hours. This was an extraordinary feat of strength. The young man is now a remarkable talmidchacham himself and is a neighbor of this author's relative.

#### Intertwined With Yeshiva Torah Vodaath

The story of Rav Yisroel Belsky, zt'l, is intertwined with the story of Yeshiva Torah Vodaath. Reb Binyomin Wilhelm, Rav Belsky's maternal grandfather, was one of the three founders of Yeshiva Torah Vodaath. In 1919, while attempting to recruit students for his new yeshiva, he had convinced Reb Yisroel and Leah Belsky to enroll their son Berl in the fledgling new yeshiva located in Williamsburg. Reb Berl enrolled and developed a close keshet with Reb Shraga Feivel Mendlowitz. Soon, Reb Berl went back to Europe to study in Radin under the saintly Chofetz Chaim himself. The Chofetz Chaim valued Reb Berl and would often caress his arm lovingly and declare with surprise, "Fuhn America!" The Chofetz Chaim was amazed that such a prized talmid could have emerged from the melting pot of assimilation that was America.

Reb Berl would later teach his son, Reb Yisroel Belsky, the Chofetz Chaim's niggunim. Reb Yisroel's mastery of niggunim was legendary as well, and he taught these niggunim to talmidim and campers alike. Thousands of bachurim now sing the unique yeshiva niggunim of a century ago—all because of Rav Belsky. Camp Agudah once published an entire bentcher just of unique and inspiring niggunim that were vouchsafed for the future by Rav Belsky.

When Reb Berl returned from Radin, Reb Shraga Feivel Mendelevitch suggested the shidduch of Reb Binyomin Wilhelm's daughter, Chana Tzirel. Rav Yisroel Belsky was their bechor.

Rav Yaakov Kamenetsky had asked Rav Belsky, at the age of 24, to take over the shiur of Rav Zelig Epstein, zt'l, one of the venerable zikneiha'roshei yeshiva. His students then were among the leading bnei Torah in the country. Some of them became roshei yeshiva in their own right.

Rav Belsky would eventually become a roshyeshiva at Yeshiva Torah Vodaath. Rav Belsky taught at the yeshiva for over half a century.

#### Close To Great Luminaries

Rav Belsky learned under the great luminaries of Yeshiva Torah Vodaath. He was close with Rav Zelig Epstein, Rav Elya Chazan, and his rebbe muvhak—Rav Yaakov Kamenetsky, zt'l. Rav Yaakov inspired him to master Tanach among his other limudim. He was close to Rav Avrohom Pam, zt'l, as well, and was related to him.

Rav Belsky received semichah from Yeshiva Torah Vodaath in 1962 and then went on to receive shimush from the gadol ha'dor, Rav Moshe Feinstein, zt'l. He received semichah from Rav Moshe in 1965.

#### Memory

His recall of every Tosfos in Shas was well known. Rav Dovid Kviat, zt'l, told this author that Rav Belsky knew kol haTorah kulah. Rav Yeruchim Olshin, shlita, stated at the levayah that Rav Belsky's knowledge was not just broad. He knew all the mekoros well and in great depth.

His ability to rule in numerous areas of halachah was uncanny. His proficiency and familiarity with kol HaTorah kulah was veritably unmatched. Aside from his vast knowledge in all these areas, he was also a mohel, shochet, and knew the vast intricacies of safrus. His mastery of nikkur was well known too.

Rav Belsky developed a close bond with campers and masmidim in Camp Agudah. He taught two of my sons who attended the Masmidim program. He taught them Torah—and much more. He taught one of my sons how to tell time at night with just the stars acting as his clock. He taught campers the names of the constellations, the names of all the surrounding trees, and the names of flowers and bushes. He taught them how to swim.

This author once was doing research in libraries and found the original text of Rav Yisroel Salanter's Iggeres HaMussar. The original text was different than the one printed in the Ohr Yisroel published by Rav Yitzchok Blaser. Rav Belsky gave me a haskamah on my translation of the original and proceeded to recite the Igeres HaMussar by heart.

#### Psakim

Rav Belsky, zt'l, had some remarkably innovative halachic rulings. He held that even though an akum does not have ne'emanus regarding checking an egg for bloodspots, if one provides a financial reward for every egg with a blood spot that is found, this can be relied upon halachically.

He issued a ruling once regarding the use of a cell phone to prevent yichud between a married woman and a taxi driver driving her home. He used the cell phone as an additional factor to issue a permissive ruling.

In another innovative p'sak, Rav Belsky held that it was possible to establish an individual chezkaskashrus on a gentile's ne'emanus by checking upon him or her three times in specific situations where the gentile is unaware of the fact that he is being checked up on. Other poskim, however, were not in agreement with this view.

Rav Belsky also held that a plastic-foam ("styrofoam") cup does not have the halachic status of a kli sheini because its walls do not absorb the heat from the liquid inside. This too was rather innovative and was not accepted by other poskim. In another stringency, Rav Belsky held that during the Nine Days, underclothing also had to be pre-worn.

When the controversy arose over copepods in the New York City water supply, Rav Belsky was one of the few poskim who ruled leniently. He also issued a lenient ruling regarding the consumption of the anisakis worm in fish.

In the late 1980s, when the controversy arose over the condition of displaced abomasum in cows, he issued a lenient ruling saying that Rav Moshe had already paskened on the issue in his lifetime. The chalav Yisrael companies chose not to follow his leniency and to this day make sure that all cows that had DA surgery are removed from the line.

#### Ba'al Tefillah

Rav Belsky was a master ba'altefilah. His intent kavanah, and his beautiful nusach, was enrapturing. He was the ba'altefilah on Yamim Nora'im for Khal Adas Yereim in Kew Gardens for many years. The rav of the shul was Rav Yaakov Teitelbaum, zt'l, the mara d'asra of Camp Agudah prior to Rav Belsky.

One could see him occasionally in the Five Towns at the 11:30 p.m. Ma'arivminyan at Rav Yaakov Horowitz, the Bostoner Rebbe of Lawrence. Rav Horowitz told me recently that Rav Belsky had also been the ba'altefilah at the shul of his great-grandfather in Brooklyn a half-century earlier.

#### Vast Knowledge Of Nature

He not only gave deep shiurim in Gemara and halachah, but had a vast knowledge in mili d'alma, worldly matters. He had a solid grasp of astronomy, botany, and biology, and would often lead campers in nature walks. In his work as one of the two poskim in the Orthodox Union, he had a deep grasp of the manufacturing process, never refraining from climbing or getting his hands dirty to investigate manufacturing processes.

In a conversation I had with Rav Yisroel Belsky on the 27th of Tishrei 5769, having to do with the halachos of shechitah, he explained that the actual blood-alcohol-content level necessary to be considered "the stage of drunkenness of Lot" would be 0.21% to 0.29% depending upon the person. This was based upon a study by Virginia Tech University, ruled by Rabbi Belsky as authoritative, titled "Alcohol's Effects."

Another time I spoke to him about the halachos of how, when a vessel becomes non-kosher only to k'dei klipah, i.e. skin deep, one calculates whether we have shishim of food against the k'dei klipah. Within a minute and a half, he provided the equation to determine whether hot food subsequently placed in the pot is 60 times the amount of the k'dei klipah of the pot (assuming that in this pot we say cham miktzaso cham kulo):  $x = \frac{6m(r + 2h)}{rh}$ , where x is the percentage of the pot that must be full, m is the depth in mils of the k'dei klipah of that particular metal, r inches is the radius of the pot, and h inches is its height.

Thus, for example, if we assume that the k'dei klipah of an aluminum pot is 1 mil and that the pot is 10 inches high and 10 inches in diameter, the pot must be 3 percent full in order to have shishim against the klipah.

Rabbi Menachem Genack of the OU mentioned this aspect about him at the levayah as well. It was fascinating to hear of someone from the Torahu'Madda school speak in such absolute awe of the mathematical mastery of someone from a Torah-only background.

Another time, I was a rav in a shul where an actual food and fist fight had emerged after an argument between two of the ba'al ha'batim. Rav Belsky was instrumental in deciding how best to deal with both parties. Later, someone had told me that the incident had gotten into one of Rav Belsky's hashkafah lessons that he delivered to his talmidim in Yeshiva Torah Vodaath.

#### Empathy For Others

Rav Belsky's entire nature was such that he would empathize wholly and completely with the problem of whoever approached him or called him. He would cry with them. He would spend time with them.

On one occasion, a man had passed away in Far Rockaway without leaving a child. His only brother was severely developmentally disabled, and the man's wife faced a difficult halachic question. Could her brother-in-law perform chalitzah or was he considered a halachic shoteh, making him ineligible?

The last time this question arose was in the early 1960s, posed to Rav Moshe Feinstein. I called Rav Belsky at the behest of the man's rosh

yeshiva. Rav Belsky immediately asked if I could pick him up to go to the shivah. I did.

Rav Belsky came down to the shivah home and spent three hours with the deceased man's family. Rav Belsky consoled and comforted the parents while simultaneously determining the status of the brother. The nichum aveilim was so comforting to the parents that they thanked the rabbi who had brought them this "wonderful holy rabbi."

Rav Belsky had a special place in his heart for our brethren that are in and came from the Soviet Union. He spent much of his time with them, helping them not only with Torah, but with solving practical problems too.

Rav Belsky's care and concern for Klal Yisrael was manifest in the time that he had spent consoling and comforting all people that came to him with their problems.

#### Sense Of Achrayus

Rav Belsky had a strong sense of achrayus for Klal Yisrael. When the Indian sheitel controversy took place, he made great effort to convey to the gedolim in Eretz Yisrael the research he had done. I was in his office in Yeshiva Torah Vodaath at the time. His purpose, aside from seeking emes, truth, was to save the women of Klal Yisrael vast sums of money.

Once there was a certain chazzan that would pursue underage girls, ply them with alcohol, and do unspeakable things. Rav Belsky issued a p'sak that he should be put in jail and arrested. He issued this p'sak out of a sense of achrayus to Klal Yisrael. I was there when he issued this p'sak.

Another time a political issue developed in regard to one of the big chicken plants. The issue required that a second hechsher also be obtained on the plant. Rav Belsky's role was not personal or political—his efforts were to save someone's life and he was technically working against his own interest in this shtadlanus.

Rav Belsky authored a few sefarim. He wrote teshuvah sefarim in halachah and shiurim on Chumash. He could have authored many more but he didn't because his day was fully devoted to matters of Klal Yisrael. He penned hundreds of haskamos to other people's sefarim, too. Such was his extraordinary sense of selflessness.

Rav Belsky was selfless in numerous ways—with his money, with his reputation, and with his time.

#### Firm In Torah

Notwithstanding his remarkable ahavas Yisrael, Rav Belsky could be sharp and strong when he disagreed with someone in Torah. People who were not used to this could be intimidated. Yet he welcomed conversation and discussion and at times he relented in argument too.

#### Illness Of Four Years Ago

Four years ago, Rav Belsky developed a life-threatening illness that almost took his life. Miraculously, he recovered to the extent that he was able to resume activities in yeshiva, in the OU, and at Camp Agudah. The amount he had accomplished just in those four years was beyond what many accomplish in a lifetime.

About two months ago, he arranged a get for an agunah whose husband had violated the trust of numerous young people. Rav Belsky's remarkable personality was instrumental in arranging for this woman's freedom. She told me all about it the next day. This former agunah had tears of joy as she expressed her remarkable admiration for Rav Belsky, who was so instrumental in freeing her.

Rav Belsky's imprint on Torah Judaism in the past half a century will certainly have an impact for generations to come. The world is a vastly different place without him. Nafla ateres rosheinu. v

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subject: [Rav Kook Torah] Mishpatim: Following the Majority Opinion

### Mishpatim: Following the Majority Opinion

A story about Rabbi Akiva, when the famed second-century Talmudic sage was a young scholar....

Rabban Gamliel, the head of the Sanhedrin, hosted a gathering of scholars in the town of Jericho. The guests were served dates, and Rabban Gamliel honored Rabbi Akiva with reciting the brachah achronah, the blessing after eating. However, Rabban Gamliel and the other sages disagreed about which blessing should be said after eating dates. The young scholar quickly made the blessing - in accordance with the opinion of the other rabbis.

“Akiva!” exclaimed Rabban Gamliel. “When will you stop butting your head into Halachic disagreements?”

“Our master,” Rabbi Akiva replied calmly, “it is true that you and your colleagues disagree in this matter. But did you not teach us that the law is decided according to the majority opinion?”

In fact, it is hard to understand Rabban Gamliel’s criticism. What did he expect Rabbi Akiva to do? Why was he upset?

#### Two Methods to Resolve Disputes

When resolving legal disputes, there are two methods a scholar may use to decide which opinion should be accepted as law.

The first way is to conduct an extensive analysis of the subject. We examine the issue at hand, weighing the reasoning and supporting proofs for each view, until we can determine which opinion is the most logical.

However, if we are unable to objectively decide which opinion is more substantiated, we fall back on the second method. Instead of the truth, we look for consensus. We follow the majority opinion, not because it is more logical or well-reasoned, but out of the need to establish a normative position and avoid disagreement and conflict. If we seek consensus and peace, the most widely held opinion is the preferred one.

The Sanhedrin president was critical of Rabbi Akiva because he thought the young scholar had the audacity to decide which opinion was the correct one. Therefore he castigated him, “When will you stop butting your head into these legal disagreements?” In other words, where did you get the idea that you could use your head - your own powers of logic and reasoning - to decide issues that are beyond your expertise and knowledge?

Rabbi Akiva responded that he had not presumptuously tried to decide which opinion is the correct one. Rather, he had simply applied the second method of resolving a legal dispute: deciding the issue by consensus, according to the majority opinion.

(Adapted from Ein Eyah vol. II, p. 176 on Berachot 37a)

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from: Shabbat Shalom <shabbatshalom@ounetwork.org> reply-to: shabbatshalom@ounetwork.org date: Thu, Feb 4, 2016 at 7:15 PM

Parshat Mishpatim: When the Torah Does Not Say What It Means  
Excerpted from **Rabbi Shmuel Goldin’s** ‘Unlocking The Torah Text: An In-Depth Journey Into The Weekly Parsha- Shemot’ co-published by OU Press and Gefen Publishers

Commenting on one of the most well-known legal passages in the Torah, the rabbis overrule the seemingly clear intent of the text.

The Torah states, in its discussion of the laws of personal injury:

“...And you shall award a life for a life, an eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot, a burn for a burn, a wound for a wound, a bruise for a bruise.”

In the book of Vayikra, the text is even clearer: “And if a man shall inflict a wound upon his fellow, as he did so shall be done to him. A break for a break, an eye for an eye, a tooth for a tooth; as a man shall inflict a wound upon a person, so shall be inflicted upon him.”

The rabbis in the Talmud, however, maintain that the Torah never intended to mandate physical punishment in personal injury cases. Instead, they say, the text actually authorizes financial restitution. The oft-quoted phrase “an eye for an eye,” for example, means that the perpetrator must pay the monetary value commensurate with the victim’s injury.

All the other cases cited in these passages are to be understood similarly, in terms of financial compensation.

So great is the gap between the face value of the Torah text and the legal conclusion recorded in the Talmud, that the Rambam, in his halachic magnum opus the Mishneh Torah, feels the need to stress that the decision to levy monetary compensation in personal injury cases is not the result of later rabbinic legislation: “All this is law given to Moshe in our hands, and thus did our ancestors rule in the court of Yehoshua and in the court of Shmuel from Rama and in each and every court which has stood from the time of Moshe, our teacher, to this day.”

In an unbroken tradition from the time of Revelation onward, the halachists insist that Torah law itself mandates financial restitution, not physical punishment, in cases of personal injury.

#### Questions

Why doesn’t the Torah simply say what it means?

Over the ages, the “eye for an eye” formula has been cited by critics as proof of the vengeful, primitive nature of Mosaic law. If the Torah never meant to mandate physical punishment in cases of personal injury, why wasn’t the text more clearly written?

A great deal of misunderstanding, misinterpretation and trouble could have been avoided had the Torah simply stated, “The court shall levy the appropriate compensatory payment in cases of personal injury.”

#### Approaches

A

An easily missed phrase in the Rambam’s above-cited codification of the law provides a glimpse into the Torah’s true intent:

The Torah’s statement “As a man shall inflict a wound upon a person, so shall be inflicted upon him” does not mean that we should physically injure the perpetrator, but that the perpetrator is deserving of losing his limb and must therefore pay financial restitution.

Apparently the Rambam believes, as do many other scholars who echo the same sentiment, that the Torah confronts a serious dilemma as it moves to convey its deeply nuanced approach to cases of personal injury: using the tools at its disposal, how can Jewish law best reflect the discrepancy between “deserved” and “actual” punishment?

The gravity of the crime is such that, on a theoretical level, on the level of “deserved punishment,” the case belongs squarely in the realm of *dinei nefashot* (capital law). The perpetrator truly merits physical loss of limb in return for the damage inflicted upon his victim. Torah law, however, will not consider physical mutilation as a possible punishment for a crime. The penalty must therefore be commuted into financial terms.

Had the Torah, however, mandated financial payment from the outset, the full gravity of the crime would not have been conveyed. The event would have been consigned to the realm of *dinei mamonot* (monetary crimes), and the precious nature of human life and limb would have been diminished.

The Torah therefore proceeds to express, with delicate balance, both theory and practice within the law. First, the written text records the “deserved punishment” without any mitigation: “...an eye for an eye, a tooth for a tooth...” In this way, the severity of the crime is immediately made clear to all. Then, however, the actual monetary punishment must also be conveyed, as well. Concerning this task, the Oral Law serves as the vehicle of transmission. The practical interpretation of the biblical passage – commuting the penalty into financial terms – is divinely revealed to Moshe. This interpretation is then preserved and applied in an unbroken transmission, from the time of Revelation onward.

Jewish law thus finds a way to memorialize both the “deserved” and the “actual” punishments within the halachic code.

B

A few sentences further in Parshat Mishpatim, an even more glaring example of the discrepancy between theory and practice in the realm of punishment emerges. In this case, however, both variables are recorded in the written text itself. As the Torah discusses the laws of a habitually violent

animal, two conflicting consequences appear in the text for the very same crime.

The Torah states that, under normal circumstances, if an individual's ox gores and kills another human being, the animal is put to death but the owner receives no further penalty. Such violent behavior on the part of a domesticated animal is extremely rare and could not have been predicted.

If, however, the animal has shown clear violent tendencies in the past – to the extent that the owner has been warned yet has failed to take appropriate precautions – the Torah emphatically proclaims, "...The ox shall be stoned and even its owner shall die."

The matter, however, is not laid to rest with this seemingly definitive declaration. Instead, the text continues, "If a ransom shall be assessed against him [the owner of the violent ox], he shall pay as a redemption for his life whatever shall be assessed against him."

In this case, the written text itself seems bewilderingly contradictory. On the one hand, the Torah clearly states that the owner of a violent animal "shall also die." Then, however, the text offers the condemned man an opportunity to escape his dire fate through the payment of a financial penalty assessed by the court.

Nowhere else does the Torah allow avoidance of capital punishment through the payment of a "ransom." The very idea, in fact, is anathema to Jewish thought. In discussing the laws of murder, the Torah clearly states, "You shall not accept ransom for the life of a murderer who is worthy of death, for he shall certainly be put to death."

Why, then, if the owner of the ox is deserving of death, is he offered the opportunity to ransom his life?

To make matters more complicated, many authorities maintain that what the Torah seems to present as a choice really is not. The ransom payment is mandatory. No one is ever put to death as punishment for the actions of his violent animal.

In partial explanation, the Talmud does maintain that the death sentence mandated in this case refers to death "at the hands of heaven" rather than execution decreed by an earthly court. Monetary payment enables the owner of the ox only to escape a divine decree. No ransom would ever be accepted as an alternative to true capital punishment determined through due process of law, in a human court.

The question, however, remains: if the punishment in this case is uniformly monetary, why doesn't the Torah say so in the first place? Why pro-nounce a death sentence on the owner that will not actually be carried out, even at the hands of heaven?

Once again our questions can be answered by considering the distinction between "deserved" and "actual" punishment.

The Torah wants us to understand that, on a theoretical level, the owner of the ox deserves to die. His negligence has directly resulted in the loss of human life. On a practical level, however, this sentence cannot be carried out. Halacha only mandates capital or corporal punishment in cases of active crimes. Crimes of "uninvolvement," consisting of the failure to do something right, cannot carry such penalties in an earthly court. The owner who fails to guard his dangerous animal can only be fully punished through heavenly means.

There is, therefore, an available corrective, a way for the condemned man to escape the divine decree. God, Who "truly discerns the soul and heart [of man]," will forgive a perpetrator in the face of real repentance and change.

Through payment of the fine levied by the court, the animal's owner actively proclaims a newfound willingness to take responsibility for his past failure. In effect, he corrects the omission that led to tragedy by admitting his involvement in the crime. This admission, if heartfelt, suffices to avert a merciful God's decree.

Through carefully balancing the textual flow, the Torah manages to convey a complex, multilayered message of personal responsibility in a nuanced case of "uninvolvement."

Points to Ponder

The practice of studying and quoting passages from the biblical text "out of context" has become common, not only among those who seek to attack the divine authority and character of the Torah, but even among those who claim to respect it. Conclusions and lessons are often drawn from words and phrases in isolation, without attention paid to their surrounding framework.

As the above discussions clearly demonstrate, true Torah study must be contextual in the fullest sense of the word. Failure to consider context inevitably leads to misinterpretation and misrepresentation of the text.

Each phrase of the Torah must be analyzed against the backdrop of surrounding textual flow, other sources in the written text and related Oral Law. Only such complete, comprehensive study reveals the true depth and meaning of the biblical text.

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from: Shlomo Katz <skatz@torah.org> reply-to: do-not-reply@torah.org to: hamaayan@torah.org date: Thu, Feb 4, 2016 at 3:05 PM subject: Hamaayan - Parshas Mishpatim

In last week's parashah, we read of the momentous revelation at Har Sinai. In this week's parashah, we begin to learn the detailed laws of the Torah.

Why, of all those laws, does the Torah begin with the laws of eved ivri / a Jew who is sold as a slave because he is unable to repay what he stole?

R' Yitzchak Leib Kirzner z"l (1951-1992; mashgiach ruchani of Yeshivat Rabbeinu Yaakov Yosef in Edison, N.J.) explains: Maharal of Prague z"l writes that only a person's body can be enslaved; his soul, his spiritual intellect, is always free. Thus, writes R' Kirzner, the revelation at Har Sinai in last week's parashah and the laws of eved ivri at the beginning of this week's parashah highlight two extremes: the heights to which the soul can ascend and the lows to which the body can fall. This contrast is why the term of an eved ivri is six years, and in the seventh year he goes free, for "six" represents the physical (the six days of Creation), while "seven" represents the spiritual (Shabbat).

The Torah states that an eved ivri's master may give him a non-Jewish maidservant as a wife, and their children will remain behind as slaves even after the eved ivri goes free. R' Kirzner asks: Kabbalists teach that one's children are his very essence. If a person's essence, his soul, cannot be enslaved, how can his children remain slaves? R' Kirzner answers: It is true that the spirit cannot be enslaved. Nevertheless, the lowly state to which the eved ivri has fallen takes some toll even on his spirit, which finds expression in the enslavement of his offspring. (Ma'oz La'tam)

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"If he is the husband of a wife, his wife shall leave with him." (21:3)

Was the wife of the eved ivri enslaved as well? She was not. Rather, explains R' Yehonatan Eyebchutz z"l (Germany; died 1764), this verse is highlighting the oneness of husband and wife. When he is enslaved, she is punished by his troubles, and it is as if she is enslaved too. (Tiferet Yehonatan)

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"If the slave will say, 'I love my master, my wife, and my children -- I shall not go free.'" (21:5)

R' Michel Zilber shlita (rosh yeshiva of the Zvhill yeshiva in Yerushalayim) asks: How is it conceivable that a slave would refuse to go free because he loves his master? How could he not love freedom even more than he loves his master?

R' Zilber answers: This is the way of the yetzer hara. We read (Mishlei 5:3), "The lips of a forbidden woman drip honey, and her palate is smoother than oil, but her end is as bitter as wormwood, as sharp as a double-edged sword."

The yetzer hara makes slavery appear sweet so that the slave will remain enslaved forever. To the observer, the slave's response is irrational, but to one who is controlled by his yetzer hara, even the irrational makes sense.

(Tippah Min Ha'yam)

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"If you take your fellow's garment as security, until sunset you shall return it to him. For it alone is his clothing, it is his garment for his skin -- in what



should he lie down? It will be that if he cries out to Me, I shall listen, for I am compassionate.” (22:25-26)

This mitzvah requires a creditor to lend the borrower the very garment, blanket or pillow that the borrower gave the creditor as security.

R’ Avigdor Tzarfati z”l (France; 13th century) asks: Why does Hashem say, “If he cries out to Me, I shall listen, for I am compassionate”? To the contrary, when He exercises His attribute of compassion, He should forgive sinners [including the creditor who pressures the borrower]!

R’ Avigdor explains: A creditor might argue, “Why should You listen to the borrower’s cries? I am only exercising my lawful rights.” Nevertheless, says Hashem, “I am compassionate. My compassion goes beyond the letter of the law, and so should yours.”

In contrast, we read a few verses earlier (21-22), “You shall not cause pain to a widow or orphan. If you cause him pain, if he shall cry out to Me, I shall surely hear his outcry.” Here, R’ Avigdor notes, there is no mention of compassion, for answering the cry of an oppressed widow or orphan is an expression of justice, not compassion. (Peirushim U’pesakim Le’rabbeinu Avigdor Tzarfati)

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“You shall be people of holiness to Me; you shall not eat flesh of a treifah / an animal that was torn in the field; you shall throw it to the dog.” (22:30) Rashi z”l comments: This teaches that G-d does not withhold the reward due to any of His creatures. Here, the dog is entitled to reward because, during the Plague of the Firstborn, “Among all of Bnei Yisrael, no dog will move its tongue” (Shmot 11:7).

What is the significance of the fact that no dog barked during the Plague of the Firstborn? R’ Yisroel Belsky z”l (rosh yeshiva of Yeshiva Torah Vodaath and a leading halachic authority in the United States, especially regarding kashrut; he passed away last week) explains:

The ten plagues served two purposes. First, they demonstrated Hashem’s power and attributes--that He is the Creator and All-Powerful, and that He takes an interest in this world. This lesson is stated in verses such as (Shmot 10:2), “That you may know that I am Hashem,” and (8:18), “So that you will know that I am Hashem in the midst of the land.”

Second, the plagues demonstrated the separateness of the Jewish People and our special connection with Hashem. This lesson is stated in verses such as (8:19), “I shall make a distinction between My people and your people,” and (9:4), “Hashem shall distinguish between the livestock of Yisrael and the livestock of Egypt.”

The silence of the dogs served this latter purpose. Regarding the time of the Plague of the Firstborn we read (11:6-7), “There shall be a great outcry in the entire land of Egypt, such as there never has been and never will be again. But among all of Bnei Yisrael, no dog will move its tongue, against neither man nor beast, so that you shall know that Hashem will have differentiated between Egypt and Yisrael.” R’ Belsky explains: Hashem was emphasizing that the quiet in Bnei Yisrael’s neighborhoods would be as extreme as the outcry in the Egyptian neighborhoods; even the natural sounds that are ordinarily heard because of the quiet of the night--for example, the barking of dogs--would not be heard. This highlighted the separateness of Bnei Yisrael from the Egyptians, Bnei Yisrael’s recognition of which was a prerequisite for redemption. (She’eilot U’teshuvot Shulchan Ha’levi: Introduction)

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“The choicest first fruit of your land shall you bring to the House of Hashem, your Elokim.” (23:19)

R’ Elya Meir Bloch z”l (1895-1955; founder and rosh yeshiva of the Telshe Yeshiva in Cleveland) comments: This is one of the fundamental principles of the Torah--whenever a person experiences joy, the first expression of that joy should be given to Hashem. This is the reason, as well, for the mitzvah of pidyon ha’ben. (Peninei Da’at)

from: **Rabbi Yitzchok Adlerstein** <ravadlerstein@torah.org> reply-to: do-not-reply@torah.org to: mchochmah@torah.org date: Thu, Feb 4, 2016 at 5:05 PM subject: **Meshech Chochmah** - Parshas Mishpatim Parshas Mishpatim

Religious Coercion Moshe came and related to the nation all the words of Hashem, and all the mishpatim. The entire nations responded, “All the words that Hashem spoke, we will do.”

Meshech Chochmah: Are mishpatim, the laws of civil conduct, not included in the “words of Hashem” that Moshe received from Hashem, and now conveyed to the people? Why are mishpatim singled out for special treatment?

Not all mitzvos require “acceptance” in the sense of agreeing to do what we ordinarily would not. It is much easier to make the human case for observance of some mitzvos than others. We can appreciate the distinction by looking at the laws incumbent upon non-Jews – the seven Noachide laws. One of those is called dinim, identified[2] with a large number of laws of civil conduct that Man’s rational sense tells him are essential to a stable society. Laws about commerce, labor, contracts, etc. are part of the backbone of an orderly collection of human beings. Rational people understand that they are indispensable; people generally do not see enforcement of these laws – what in our parshah the Torah calls mishpatim – as encroaching on their civil liberties and individual rights. Non-Jews are expected to enforce these laws – but nothing more. While they might agree on the morality of some actions and the immorality of others, this does not give them the moral right to enforce this thinking on those reluctant to join with them. Such moral compunctions should remain within the province of individual free choice. Moral arguments beyond those which all agree upon should not be foisted upon the unwilling, even by a majority. No person has the right to dictate morality to another beyond that which G-d Himself demands.

Halachah pertaining to Klal Yisrael, however, does not accept this thinking, even though it is fundamentally sound. The nature of the interconnectedness of all Jews creates a strong argument for enforcement of all laws of the Torah, beyond the dinim that all agree upon. “All Jews are guarantors of each other;”[3] Chazal tell us. This means that any Jew’s misconduct impacts upon the quality of life of every other Jew. The intuitive laws included under the rubric of dinim include the understanding that no person has the right to damage another, or his property. Because of the special relationship of Hashem with the Jewish people, the violation of any precept of the Torah is the equivalent of breaking a neighbor’s window. The transgression of any one Jew damages the spiritual well-being of all other Jews. What otherwise would be part of the personal domain of choice of every person now becomes an item of collective interest and concern.

In the pesukim that follow, the Torah’s description of the Bnei Yisrael’s acceptance of mitzvos changes subtly. At first, they say, “All the words that Hashem spoke, we will do.” There is no mention of mishpatim, of the laws whose necessity is universally recognized, and that were explicitly mentioned in the preceding phrase. A few pesukim later,[4] however, they attach the famous words “naaseh v’nishma” to “all that Hashem spoke” – without further references to “words” or to “mishpatim.”

Here is what happened. In our pasuk, the Bnei Yisrael hear both the “words” of Hashem and the mishpatim. They react to the former, which mean the mitzvos that we obey only because we heard them from Him, but not because we understand their importance even without being commanded. They react by accepting them in particular; the mishpatim, they believe, don’t require any special acceptance. They are part of the civilized human condition. The “words” of Hashem, however, they eagerly accept. That is, each man and woman accepted them as their personal, individual obligation. They did not see themselves meddling in the spiritual choices and affairs of others.

Before we get to the other verse that speaks of the Bnei Yisrael accepting Hashem’s orders, the people are readied and prepared for a covenant. Moshe will formally inaugurate the bris by soon sprinkling them with the blood of

offerings.[5] But first, presumably, they learn about the implications of that bris.

They learn that the relationship between G-d and His people is such that our fates and destinies are all interdependent. They understand that His providential management of the affairs of the nation depends on the spiritual level of the nation as a whole, not on the righteousness of individuals alone. Any one person's transgression, therefore, impacts upon every other person's life. In other words, all the other mitzvos of the Torah have now become similar to mishpatim. Just as the latter are a communal responsibility because violations of laws of theft, bailments, torts, etc. directly threaten the well-being of others, so are all other commandments. The community as a whole becomes a stakeholder in the religious observance of every Jew.

Thus, when they react to the new bris, they announce that they are accepting all the words of Hashem—equally, and without differentiating between them. Moreover, the acceptance has now moved from the arena of personal conscience to the protection of the entire nation.

Torah – The Prequel[6]

I will give you the stone tablets and the Torah and mitzvos that I have written, for their generations.

Meshech Chochmah: Rashbam understands the words “I have written” as applying specifically to the tablets with which Moshe would be presented at the conclusion of his forty days on the mountain. We can appreciate the reason: he finds it difficult to speak of mitzvos that were not yet given as already written.

There is room for other solutions to the problem. Chazal tell us[7] that had we not received the Torah, it would have been possible to discern in the animal kingdom the basis for several of the Torah's requirements. We could have taken instruction in modesty from the cat, and learned to eschew theft from the ant. This suggests that what Hashem may have meant is that the mitzvos were already written – albeit not in the book we call the Torah. They were inscribed in antiquity in the Book of Nature that He authored.

Alternatively, Reish Lakish[8] parses our pasuk and finds in it references to the Ten Commandments, Chumash, Mishnah, Nach, and gemara. This can only mean that Hashem has inscribed the Torah and its many parts upon the neshamos of Jews. Each person can find connections to his personal portion of the Torah already waiting inside his heart.

The gemara links the words “I wrote” to the books of Nevi'im and Kesuvim. Elsewhere[9] the gemara relates that those works were necessitated only because of the transgressions of the Jewish people. Were it not for the transgressions of the people with the passage of time, our Scripture would much leaner, since these works would not have come into being.

Speaking of Nach in particular, then, has its own difficulties, because writing or fixing them anywhere would essentially strip the people of the choice not to sin! The prophetic admonitions in those books make sense only after sin and failure. Were those books to make it to the public domain, free-choice would have been erased.

There is one place, however, where knowledge of what a person will choose does not restrict the choices as they are being made. As the Rambam[10] explains, Hashem's knowledge is unlike anything we call knowledge. We learn by absorbing information that comes to us externally. He doesn't. All knowledge is contained within Him; all that can be known is part of his Essence. Because His knowledge is so different, it does not restrict our freedom to choose.

For this reason our pasuk underscores “that I have written,” rather than the more generic “that have been written.” Writing Nach in any other format would have eliminated the bechirah of the Jewish people. What Hashem has written for Himself, however, leaves room for human free choice.

[1] Based on Meshech Chochmah, Shemos 24:3 [2] Following Ramban. Ramban takes a different, but related in regard to our topic, approach [3] Shavuos 39A [4] Shemos 23:8 [5] Shemos 24:8 [6] Based on Meshech Chochmah, Shemos 24:12 [7] Eruvin 100B [8] Berachos 5A [9] Nedarim 22B [10] Hilchos Teshuvah 5:5

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#### **Peninim on the Torah**

**by Rabbi A. Leib Scheinbaum** - Parshas Mishpatim

If you see the donkey of someone you hate crouching under its burden, would you refrain from helping him? (23:5)

Rashi places a question mark, bitmiya, after the word v'chadalta, "would you refrain" (from helping him)? Horav Yechiel Michel Feinstein, zl, was wont to say that this is the only instance in the Torah that the Torah turns to the person with a question. This means that the Torah is incredulous concerning a person that would ignore another Jew in his time of need - even if he is a person whom one is permitted to hate. Turning away from helping a fellow Jew is not in the Jewish DNA. How could a person act so callously? A person who was created b'tzelem Elokim, in the image of G-d, cannot possibly close his heart to the plight of his fellow/brother. It is simply not Jewish behavior.

Horav Moshe Rosenstein, zl, was Mashgiach of Lomza Yeshivah and one of the premier Mussar leaders of Pre-World War II. Prior to taking the position as Mashgiach, and beset with the responsibility of providing for the material sustenance of his family, Rav Moshe had opened a small pharmacy - which did fairly well. After a short while, he decided that his own spiritual subsistence could use some reinforcement. He traveled to Kelm to study in its famous Talmud Torah. The mere fact that he was readily accepted speaks volumes of his own eminence. In his absence, his family attended to the pharmacy. Whenever he came home, he filled in. This arrangement, however, did not last. Shortly thereafter, he closed the pharmacy and sought another business venture.

When questioned concerning his decision to change businesses, Rav Moshe explained that, while a pharmacy provides a physical and emotional benefit to the community, it is quite possible that it could lead him to cruelty. After all, it is a business venture, and any successful retail venture depends upon customers. By nature, every businessman prays for customers. He feared that, by owning a pharmacy, he might subtly pray for a larger retail market, for more customers. This would mean that, by extension, he was praying that people should be sick in order to be healed by the drugs in his pharmacy. He was not taking a chance on being part of such cruelty.

What a far cry from contemporary business practices, where everything revolves around the bottom line, the holy dollar. All scruples go by the wayside; ethics are thrown out the door, together with friendships, relationships and allegiances. Everything is justified in order to achieve the goal of success - earning more and more money. Why is this? Is it the money - or the kavod, prestige, that is a primary fringe benefit of business success? Of course, there is always the all-too-common excuse that, with greater maternal success, one is able to enable others, to support Torah growth, and to enhance Yiddishkeit. What a beautiful and meaningful reason to drive oneself to the bone in order to achieve material success. It would truly be saddening if, in the course of pursuing one's monetary goals, he loses sight of his "reason."

You shall not take a bribe, for the bribe will blind those who can see and will make righteous words crooked. (23:8)

Rashi teaches that even a Torah scholar who takes a bribe will ultimately become confused, his learning forgotten, and his vision dimmed. This is a very frightening punishment. A person can spend his entire life developing his erudition to the point that he achieves the appellation of chacham, Torah scholar. Yet, if he takes a bribe, it will be the catalyst for his downfall. Veritably, we are all judges in one way or another. We judge people and situations. Imagine if we are bribed because someone comes across as the underdog; we perceive him to be the one who is being persecuted, and, as a result of our myopia, we pass judgment on another person, holding him/her guilty in our eyes. Is this not reason for Heavenly repercussion? What if the form of bribe is eminence, power, glory - not money - but just as dangerous? Is this any less of a bribe? Can we really assert that we are bribe-free, or do we tend to bend the law, because, in our mind, we can relate better to one of the litigants? The do-gooders who seek a wrong to be righted - an opportunity to achieve glory at the expense of someone for whom they do not care for anyway - are as equally guilty of taking a bribe as the one who accepts cash.

Having said this, we can move on to the punishment. It is guaranteed. The Torah warns us about the consequences of accepting a bribe. It affects one's mind, destroys his learning, and takes a physical toll on his vision. If the Torah, as per Rashi's explanation, informs us that this is the punishment for one who accepts a bribe - then it is a verity. It will happen. The judge whose decision is biased as a result of taking a bribe - regardless of the size or nature of the bribe - will lose his vision, in more ways than one. Horav Shlomo Amar, Shlita, states this emphatically, deriving from the text of Targum Yonasan that a judge who accepts a bribe will lose his physical ability to see. The Chida relates the reality of this punishment based upon an incident that took place in the Jewish community of Egypt.

Horav Chaim Kapusi, zl, was a Rav in Egypt. When he reached an advanced age, his vision became impaired. It came to his attention that his detractors, individuals who did not agree with the elderly Rav's rendering of the law - especially if it found them guilty - were spreading vicious rumors about him. They contended that the reason his eyesight had failed was that he was taking bribes when he halachically adjudicated the law. Rav Chaim was a saintly scholar who was greatly troubled by these reprehensible rumors. He decided that the only way to put the rumors to sleep was to take immediate and emphatic action.

That Shabbos, as the Sefer Torah was resting on the lectern, in front of the entire congregation assembled in shul, the Rav ascended to the podium: "I have heard reports of troubling rumors being spread concerning my veracity in adjudicating halachah. I have been slandered as one who accepts bribes. They support their villainous lies with the fact that I have lost my sight. Therefore, I decree, in front of the Torah and in front of the entire congregation, that if I accepted a bribe of any sort that I should continue to be vision-impaired. If, however, I am innocent of these iniquitous allegations, my sight should return!"

The next morning, the Rav arose and his sight had returned! The Chida adds that he saw the Rav's handwriting prior to his loss of sight, after he lost his sight, and again, once it had returned. There was no doubt that the Rav was the beneficiary of a Heavenly miracle sent to clear his impeccable reputation.

Moshe took the blood and threw it upon the people. (24:8)

The Mechilta teaches that on the last day of the Shloshes Y'mei Hagbalah, three-day waiting period prior to receiving the Torah, Klal Yisrael entered into a covenant with the Almighty. This covenant comprised their commitment to be tied, fastened and bound (keshurim, anuvim, tefusim) to the Torah. Only afterwards, did Moshe Rabbeinu say, "Come and accept upon yourselves all of the mitzvos." This was followed by the Giving of the Torah. Horav Shmuel Yaakov Burnstein, Shlita, Rosh Yeshivah of Kiryas Melech, derives from here that, before one can actually receive the Torah, before he can enter into a covenant of commitment and thereby receive all that the Torah has to offer, one must be totally committed - "tied, fastened and bound" to the Torah. Unless one realizes the extraordinary value of the Torah and the need to be unconditionally bound to it, he will not adhere to the Torah.

Torah demands extreme dedication, steadfast commitment, constant loyalty, without which one indicates that he is not bound completely to the Torah. When one maintains such a relationship with the Torah, he demonstrates his true appreciation of its value in its own right and its significance to him. L'Sitcha Elyon relates that when Horav Eliyahu Lopian, zl, entered into his twilight years, his eyesight became dimmed, and he was compelled to undergo eye surgery. Following his surgery, he was unable to see. As a result, his students would learn with him by reading to him from the sefarim.

Additionally, he requested of his grandson, Horav Avraham Pinsky, Shlita, to come to him in the evenings to learn. Rav Avraham related that he would read to his grandfather from Mishnayos, Seder Kedoshim, with the commentary of the Rav (Rav Ovadia Bartenuira), and Rav Elya would correct him whenever he missed a word in the Rav!

His grandson asked, "Sabba, do you know all the Mishnayos in Zevachim and Menachos by heart?" Rav Elya was silent. He did not answer him. A short while later that grandson reached the age of thirteen, when he would be ushered into adulthood by accepting upon himself the yoke of mitzvah observance. The night before his bar mitzvah, Rav Elya spoke with him. It was a conversation replete with emotion and inspiration. A young boy about to enter adulthood was no small milestone. Rav Elya wanted his grandson to appreciate the responsibility that he was about to undertake. In the course of the conversation, Rav Elya informed his grandson that he did not begin working on his personal spiritual development at age fifty. He began when he was twelve years old. If one wants to achieve greatness, he must begin as soon as possible. It is a long, steep climb, and, the earlier one begins climbing, the greater possibility of success.

Rav Elya concluded with the following admonition: "You should be aware that one must prepare himself so that whenever, wherever, he is to be found, regardless of the circumstances or his personal ability, he must continue his learning. Nothing may stand in the way of Torah study." This is why he had studied a number of Mesechtas,

Tractates, of Mishnayos, with the commentary of the Rav, so that in case he was unable to access a sefer, or he was in a situation where the structured learning to which he was accustomed was unattainable, he would always have access to the Mishnayos stored in his mind. One of the primary distinguishing characteristics of a Torah leader is his inextricable bond with the Torah. I would not know where to begin, which gadol to select, which story to relate, but one vignette does, for some reason, stand out in my mind, concerning Horav Chaim Zaitchik, zl, which I take the liberty to recount.

First, a little background. Rav Chaim was a Novarodoker talmid, a student of the famed yeshivah founded by Horav Yosef Yoizel Horowitz, zl, the Alter m'Novarodok. The yeshivah's mussar outlook stressed the total negation of ego and the physical, mundane world. It focused on shattering one's personal desires, eradicating any vestige of evil desires or habits. Its students lived an austere lifestyle wholly devoted to Torah study, which was to them their very life. Obviously, a life of such intense deprivation took its toll on those students who were not hardy - both physically and spiritually. It required extraordinary stamina and commitment. Those who "made it" represented an elite yeshivah student who was in total control of himself.

Rav Chaim had acquired a sterling reputation, earned through years of complete devotion to Torah learning amid extreme deprivation. He was once invited to the home of Horav Yeruchem Levovitz, zl, legendary Mashgiach of Mir. He walked in and gazed in amazement at the scene before him. Rav Yeruchem sat at a table surrounded by bachurim, students, standing, listening in awe and fear to every word that he said. Rav Yeruchem looked up and noticed Rav Chaim. He asked, "If the students of Novoradok are in a constant state of search, why do they not come to Mir?" Rav Chaim did not respond. Rav Yeruchem then asked, "Why is it that some fall? Why are the Novoradok bachurim broken? Why - if they leave the yeshivah - are they broken?" (Apparently, Rav Yeruchem felt that the intensity demanded of Novoradok students was too much.)

Rav Chaim shocked everyone by responding to the venerable Mashgiach's queries. "They fall, because you cannot fall from the floor - only from high places. They are broken, because they cannot meet the incredible demands. They are bitter because they were tested and they failed."

These responses characterized Rav Chaim and Novoradok. It was a difficult grind, but those who reached the summit represented a uniquely committed Torah personality, armed with bitachon and emunah, trust and faith in the Almighty, that was without peer.

A Siberian labor camp was "home" to Rav Chaim during World War II. The bitter cold and hunger did not bother him as much as the inability to properly learn Torah. The study of Torah was his lifeline, without which he found it difficult to survive. What kept him going was the hope that somehow, someday, he would find a medium for studying Torah.

One of the "jobs" which everyone dreaded was water carrier. Because the nearest source of water was three kilometers from camp, the water carrier was compelled to carry the heavy buckets of ice water the entire way. Rav Chaim volunteered for the job. Why? He heard that not far from the spring there lived a Jew. He was hopeful that the Jew might have a sefer which he could borrow. Anything which could allow him to learn would be a life-saver. He was literally suffocating without his precious Torah.

Rav Chaim left with the empty pail to go fetch water for the group. After walking for hours through the forest, he located the spring of water. He put down his buckets and went in search of the village. After a while, he found the village. Now, all he needed was the city's "smart list", so he could find the one Jew who lived there. He did the next best thing. He looked for a house with a mezuzah affixed to the doorpost.

Rav Chaim found the elusive home, and knocked on the door. A woman answered, and noticing that before her stood a co-religionist, she compassionately offered to share some of their meager rations with him. "I do not need food!" Rav Chaim cried. "Please, do you have a sefer from which I could learn? It has been so long. I am starving for Torah. Please help me!"

The woman called her husband who said that he had one sefer from which he could not part. It was all he had.

"What is it?" Rav Chaim excitedly pleaded with him. "I have a Gemorah," the man replied. "Let me at least see it," Rav Chaim begged. The man brought out a Gemorah, in which Nedarim and Nazir were bound together. With eyes filled with tears, Rav Chaim hugged and kissed the Gemorah. When he saw it was two Mesechtas bound together, he looked at the man, and his eyes did the rest. They tore the Gemorah in half, and Rav Chaim left with a Meseches Nedarim. The pain, the schlepping, the difficult walk, were all worth it. He now had his life back.