

Toras Aish

Thoughts From Across the Torah Spectrum

RABBI BEREL WEIN

Wein Online

This week's parsha is in itself an exception to the entire pattern of the book of Dvarim. Whereas all of the other parshiyot deal with the past history of the Jewish people and with the future destiny of Israel - both in their land and in exile - this week's parsha resembles the previous parshiyot of Mishpatim and Kedoshim which are replete with mitzvot, commandments and halachic issues.

Why did Moshe interrupt his flow of the Jewish story, which in reality is the leitmotif of the entire book of Dvarim, with a discussion of mitzvot and halachic matters? I believe, at the least that the subliminal message in this is that all of Jewish history, life and destiny lie in the people's relationship to mitzvot, observance and their respect and willingness to abide with halachic standards.

The parsha of Ki Teitzeh lies almost exactly in the middle of the book of Dvarim. It is the linchpin upon which the entire book rests. Halacha and mitzvot define the Jewish past and certainly are the ultimate guarantees of the Jewish future. All of Jewish life inexorably collapses if there is no respect or adherence shown towards halachic norms and observance of mitzvot.

Moshe does not see the inclusion of this parsha of detailed and numerous mitzvot and halachic issues as being an interruption in the flow of his final oration to Israel. Instead, he sees it as serving to reinforce everything that has gone before and everything that will occur after his departure from the leadership of the Jewish people, which is the general subject matter of his oration and this book.

Our rabbis have commented that the first issue raised in the parsha regarding war with our enemies refers not only to a struggle with foreign physical and national enemies but it also deals with the inner struggles that face each and every one of us on a daily basis. The parsha of Ki Teitzeh invariably falls in the month of Elul - the month of introspection and self-assessment. It is difficult to gain a perspective on the general picture of Jewish life and its meaning and mission as a people if one does not have some idea as to where he or she fits into the grand picture and immortal story. And mitzvot and halacha are the keys to arriving at such an understanding of one's Jewish self.

The Torah indicates that, in reality, this is a never ending struggle in which we are engaged - the struggle within ourselves against destructive temptations and foolish decisions. Just as the national struggles of the Jewish people against its enemies seemingly never abate, so too is our inner war - with all of the ups and downs invariably associated with such a long and wearing struggle. And, as we all know, the devil in life is always in the details. Moshe in this week's parsha of Ki Teitzeh emphasizes the details of mitzvot and halacha in all of Jewish life and I believe it is especially worthy of our study and merits inculcation into our daily lives. © 2008 Rabbi Berel Wein- Jewish historian, author and international lecturer offers a complete selection of CDs, audio tapes, video tapes, DVDs, and books on Jewish history at www.rabbiwein.com. For more information on these and other products visit www.rabbiwein.com/jewishhistory.

RABBI AVI WEISS

Shabbat Forshpeis

This week's portion touches upon the controversial issue of spouses who refuse to grant a Jewish divorce (get).

The Torah states "and he [the husband] shall write her a bill of divorce and place it in her hands" (Deuteronomy 24:1). In other words, the giving of a get is the husband's exclusive domain. While it is difficult to pinpoint why the Torah so decreed, it could be suggested that since women in biblical times found it difficult and even impossible to fend for themselves socio-economically, they would never desire a get. Yet, as pointed out to me by Rabbi Shlomo Riskin, the pendulum swung as time went on.

The unilateral right of the husband to divorce his wife was limited by the advent of the ketubah (marital contract) which details the many obligations that a husband has to his wife, including an amount of money that his wife would receive in case of divorce. In this way, a husband's absolute power to divorce his wife was severely restricted through this financial obligation.

The unilateral power of the husband to give the get totally disappeared one thousand years ago when Rabbenu Gershom declared that a get could not be given without the wife's consent. If the ketubah made it difficult for a husband to unilaterally divorce his wife, Rabbenu Gershom obviated that unilateral power in its

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entirety. The get became a bilateral process rather than a unilateral one.

With time, the get process entered yet a different stage, a stage in which women could initiate a get. In the middle ages, for example, central communities in Europe were governed by the Va'ad Arba Aratzot, the committee of the four major Jewish population centers. Jews there had their own political sovereignty and judicial autonomy. If the bet din found a wife's claim reason for divorce, it was powerful enough to order the husband to give the get. As long as the bet din was strong enough, the agunah matter was resolved.

The situation here in the United States is different. Because of the principle of separation of Church and State, the bet din has no legal power to implement its decisions. This has created a situation where a husband could blackmail his wife by demanding exorbitant sums of money or custody of their child(ren) before giving his wife a get, even when the bet din believes the get should be issued.

While America has seen an unprecedented amount of Jewish life and activity, it has not reached the level of the Va'ad Arba Aratzot. Both the leadership and the people are at fault. The population refuses to submit to the will of the Bet Din, and the Bet Din has not worked hard enough to earn the respect its constituents. Until this vicious circle is broken, the agunah problem, a problem that has been successfully addressed in the past, will remain one of the most painful issues we face today. © 2008 Hebrew Institute of Riverdale & CJC-AMCHA. Rabbi Avi Weiss is Founder and Dean of Yeshivat Chovevei Torah, the Open Orthodox Rabbinical School, and Senior Rabbi of the Hebrew Institute of Riverdale.

RABBI DOV KRAMER

Taking a Closer Look

One of the mitzvos taught in this week's Parasha is "shiluach hakain," sending away the mother bird before taking her offspring from their nest (Devarim 22:6-7). It is forbidden to capture the mother with her children (Yoreh Dayah 292:4) or to capture just the mother bird while she is roosting (292:5). Several reasons are given for this mitzvah, many of them revolving around the idea that the purpose of sending

the mother away (i.e. not taking her when she is protecting her young) is to teach us not to be cruel.

The Rambam (Moreh Nevuchim 3:48) tells us that the maternal love for the fruit of her womb is instinctual, not intellectually based, and is the same in the animal world as it is for humans. It is therefore inappropriate to take young chicks or eggs while the mother can see it happen and feel the pain, and we were commanded to first send her away. (He further suggests that since there is little that can be eaten of the young-especially since the fertilized eggs aren't kosher-if we are not allowed to capture the mother, chances are the entire nest will be left intact.) The Ramban (Devarim 22:6) says that wiping out an entire nest is cruel, and therefore something the Torah does not want us to do, so that we do not develop "a cruel heart, and do not have pity." The Rambam (Hilchos Shechita 13:7, see Or Sameach there and Chasam Sofer on Chulin 139b) implies that there is yet another aspect of cruelty that the Torah wants us to avoid: using the eggs or chicks as "bait" to capture the mother. Since she will try to protect her young from being taken, it is easier to capture her when she is roosting (than in the wild). The Torah therefore commanded us to "send her away" from the nest, forbidding us from capturing her while she is trying to protect her family. It seems that the Tur and Shulchan Aruch agree that the Torah was trying to prevent this type of cruelty, as they teach the requirement to "send her away" as many times as necessary (even if she keeps returning) as part of the prohibition against capturing only the mother (292:5), not as part of the prohibition against capturing her along with her young (292:4), or as a separate law that would apply to both.

The idea that "shiluach hakain" stems from being merciful is so obvious that the Talmud must tell us that whoever includes "your mercy reaches the nest of a bird" in a prayer to G-d is silenced. Most commentators understand the reason this is problematic to be because G-d's individualized supervision ("hashgacha pratis") does not extend to individual animals, only to each species as a whole. Nevertheless, it is because this commandment shows mercy to the mother bird that people would have otherwise referenced it when mentioning how merciful G-d is.

In any case, the notion of not being cruel is very central to "shiluach hakain." However, the Zohar (Chadash, Rus 77b, quoted by many commentators, including Rabbeinu Bachye, Tzror Hamor, Rikantay and the Shach) gives a different reason for the mitzvah, one that seems to take the opposite approach. After the mother bird is chased away, she is so upset that her young were taken from her that she cries and tries killing herself. The administering angel in charge of all fowl then complains to G-d, asking how The Merciful One could have included such a mitzvah in His Torah,

since it causes the mother bird such anguish. This "reminds" (as it were) G-d that there is no administering angel to plead before him on behalf of the Jewish People, since they are His people and He is in charge of them. Every other nation, and every species in the animal kingdom, has an angel in charge that can be their advocate, but we have none. G-d then laments the suffering we are experiencing, with the end result being that the cries of the mother bird start a chain reaction that leads to G-d having mercy on us. How can the purpose of sending the mother bird away be to avoid becoming cruel if it makes the mother feel so bad that its cries cause its administering angel to complain to G-d about it? Isn't this really an act of cruelty?

The Rikantay asks why sending the mother bird away when she is trying to protect her young isn't considered an act of cruelty. This does not seem to be as difficult a question, though, as since we are allowed to take the young, the options are either to do so in front of the mother or to chase her way. Of these two, chasing her way is much less cruel. If, however, the choice is to capture both or send the mother away to cry over her lost offspring, why is capturing a mother together with her offspring considered more cruel than chasing her away?

Despite the fact that not being cruel is so central to "shiluach hakain," the commentators stress that the point is not to avoid being cruel to the mother bird. If it were, slaughtering it for food wouldn't be allowed either. The point is to avoid doing something that will get us into the habit of doing cruel things. Slaughtering animals for food may not be pleasant for the animal (or their lovers), but it cannot be considered being "cruel" since it is being done for sustenance. (Hunting for sport is a separate issue; I will only point out that there is a difference between hunting because of the thrill of the chase and any "sport" where the only "thrill" is seeing the animal suffer.) Wiping out an entire nest, taking the young away from the mother, and/or using the mother's maternal instinct as a means of capturing her are all acts of cruelty, acts that can get us into the habit of being cruel to others. Causing the mother bird to suffer when she realizes that her young have been taken is not a direct "act of cruelty," only the (unfortunate, which leads to a fortunate) result of an act no different than any other means of capturing animals. Since it is specifically taking the young from the mother (while she is watching), or along with the mother, that can bring about getting a "cruel heart," it was only these things that were prohibited. © 2008 Rabbi D. Kramer

RABBI SHLOMO RISKIN

Shabbat Shalom

“**W**hen a man takes a woman to a wife and becomes her husband....” (Deut. 24:1) Is there a positive commandment in the Bible to get married? If there is, where is it to be found? What

about polygamy, and the possibility of "legal mistresses?" And finally, how seriously do we take the Talmudic principle, "One cannot completely remove a verse from the context of its plain and simple meaning?" (Ein mikra yotzei midei p'shuto).

The verse we quoted above, describing what is liable to happen when a man 'takes' a woman, provides the Rambam with the basic source for the Biblical commandment for a man to marry a woman (Book of Commandments, Positive Commands 213). Interestingly enough however, the "Rosh," Rabbenu Asher, basing himself upon the unique and unusual blessing of the groom under the nuptial canopy, which is not at all the usual blessing preceding a commandment, insists that the Biblical command is "You shall be fruitful and multiply;" for this great decisor, marriage is merely the means (and perhaps only one of several means) for performing the commandment to procreate (Rashi to B.T. Ketubot, commentary to Chapter 1,12).

This difference of opinion continues in our codes of law: the Shulhan Arukh Even HaEzer (16th Century Set Table Code of Jewish Law, Laws of Procreation and Marriage, 1,1) opens with the words: "It is incumbent upon every individual to marry a woman in order that he may procreate, and whoever does not occupy himself with procreating is likened to someone who sheds blood; he is lessening the image of G-d within humanity, and causing the Divine Presence to be removed from Israel." Clearly Rav Yosef Karo agrees with the Rosh: the major purpose of marriage is procreation.

However, the Ramah, Rav Moshe Isserless of Krakow, the great 16th Century Ashkenazi decisor, seems to be taking his Sefardi counterpart to task, when he adds to his words (in his comments which are called the "Table Cloth" to the "Set Table" i.e. the Shulchan Aruch): "Whoever is without a wife is left alone without blessing and without Torah and cannot be called a whole person..." (Ibid). And Rabbenu Asher's own son, Rabbenu Yaakov author of the Turim, seems to depart from his father's position, when he opens the Laws of Procreation in his codified Halakhic forerunner to the "Set Table," the "Four Turim:" "Praised be the name of the Holy One blessed be He, who wishes only for the good of his creatures, and who understood that it is not good for the human being to be alone. Therefore, He created for him a counterpart (in the form of woman and in the institution of marriage). And additionally, since the purpose of creation is for the human species to procreate (and continue the species) which would be impossible without his female counterpart, the human being is commanded to cleave unto his counterpart whom He created for him..." Apparently, for the Ramah procreation is an additional - but not the main, reason for marriage.

There are many ramifications to this difference between these great halakhic commentaries and decisors: the basic purpose of marriage (and therefore what one must look for in a life's partner), the permissibility of birth control, the possibility of marriage even if a young couple is not yet ready (for valid reasons) to have children and the role of sexual relations within married life, etc.

Fascinatingly, however, although Rav Joseph B. Soloveitchik has spoken and written widely about marriage (see for example "The Lonely Man of Faith" and "Family Redeemed"), he has not (at least in these writings) made reference to this fundamental dispute. The axiom of all of the Rav's thought is the tragedy of human loneliness, human redemption through the marital relationship (which must include a meeting of souls and minds as well as of bodies) and the necessity of profound communication between husband and wife in order for a family to ultimately enter into community with the Divine.

It seems to me that for the "Rav," the Biblical description of the first marriage between Adam and Eve must be considered as the deciding statement regarding the meaning of marriage for Judaism. "It is not good for the human being to be alone," and the formation of Eve from Adam's side pictures husband and wife as two parts of one whole, demanding a relationship of mutual respect rather than unilateral conquest. They are "flesh of one flesh, bone of one bone." And the concluding crescendo, "Therefore shall a human being leave his/her father and mother, cleave unto his/her spouse, and they shall be one flesh" (Gen 2:18-25), made the positive commandment of marriage a foregone conclusion, with polygamy and mistresses an aberration which was perhaps necessary during certain periods and societies.

Story Post-Script:

It is told of Moses Mendelssohn, 18th Century German Jewish philosopher and Biblical commentator, that he fell in love with a student whom he was tutoring, Frumit Guggenheim. The problem was that Mendelssohn, albeit scholarly, was poor, short and hunchbacked, whereas Frumit was tall, beautiful, rich and accomplished. One day he began his lesson telling her how he had dreamt the night before that - as the Talmud explains it - he heard the Divine announcement forty days before his birth that the two of them had been ordained to marry. However, he also saw in his dream that she was to be born a deformed hunchback. He then went before the Divine throne, argued that since a husband and wife are truly "one flesh," one human being, he would request that her hunchback go to him, and G-d granted his request. She then demurely said, "If this is a proposal of marriage, I accept." © 2008 *Ohr Torah Institutions & Rabbi S. Riskin*

RABBI BORUCH LEFF

Kol Yaakov

If we had to link two commandments in the Torah, there are many that would come to mind easily. What about the commandments of honoring one's parents and of sending away the mother bird before you take her young? Not exactly on the top of your list, is it? Yet there is a strong connection between the directive of "shliuach hakain," sending away the mother bird before you take her young, which is discussed in Parshat Ki Tetzei, and "kibud av va'aim," honoring one's parents.

The Torah says that if one finds a bird's nest where the mother bird is sitting and watching the eggs or the chicks, the finder is not allowed to take both the mother and the eggs, but must first send away the mother and then take the eggs. The reward for this is "length of days" [Devarim 22:6-7]. As we may be aware, there is only one other place where the Torah uses the expression "you will have length of days" as a reward, and that is concerning the Mitzvah of honoring one's parents [Shemot 20:12, Devarim 5:16].

There must be some kind of common denominator between these two commandments which otherwise appear totally dissimilar and unrelated. That common denominator is self-sacrifice. The Torah recognizes and grants great reward for commandments which involve our recognition of mesirat nefesh (self-sacrifice). When the Torah instructs us to honor our parents, it is telling us that parents exhibit tremendous mesirat nefesh for their children. Beginning with being woken up at all hours of the night, during infancy and childhood, to the financial stresses of paying for the wedding, parenting by definition is about sacrificing your own comforts for your children. The Torah prescribed the great reward of "length of days" for honoring one's parents, in order to cause people to appreciate the mesirat nefesh that parents exhibit.

This is exactly the same concept we find concerning shiluach hakain, sending away the mother bird before you take her young. Anyone who has ever tried to catch a bird knows that it is a virtually impossible task. So when does a person ever encounter a situation where he can catch a bird? Won't the bird fly away? The answer is that the bird is a mother. Like all mothers, she is willing to sacrifice and give over her own freedom in order to remain with her children. For one to grab the bird and take advantage of the self-sacrifice present in the maternal instinct of the mother to her offspring is prohibited. By granting the mother her freedom and sending her away, we avoid utilizing her attribute of self-sacrifice against her.

By not taking advantage of her mesirat nefesh, we show our appreciation for the concept of self-sacrifice for children. Therefore, here as well, as a reward for that recognition and appreciation of parents'

love and concern towards offspring, one is entitled to "length of days."

One's students are described in the Torah as one's children (see Rashi Devarim 6:6, for example). Rabbi Yaakov Weinberg, of blessed memory, treated his students as his children and exhibited tremendous self-sacrifice for them. Although he was the spiritual guide for thousands, constantly being called regarding life and death issues, and issues involving the well-being of the Jewish nation as a whole, he was able to live the maxim that a Jew must always be concerned for 'Klal Yisrael and Reb Yisrael'-meaning that a Jew must care deeply about the great issues and problems facing the Jewish nation, but he can't do so at the expense of ignoring the 'smaller' issues of his next door neighbor.

Whether the issue was of grand, national scale or one where his students needed assistance with things of lesser significance, Rav Yaakov was always self-sacrificing. Let us cite a few examples from Rav Yaakov's life.

For a number of years, Rav Yaakov traveled every week to a small community in East Lexington, near Baltimore. A small band of young couples had invited him to expound on Judaism, secular and isolated though they were. The group eventually built a synagogue. Due to a lack of funds, they built it themselves. One of the members related that she remembered Rav Yaakov nailing shingles on the roof and stringing electric wire for the new Sanctuary. She further related that many of that group later had become Sabbath observant and sent their children to day schools.

Rav Yaakov once went missing from the Yeshiva for two days because a student expressed an intent to divorce his wife. For two days, Rav Yaakov counseled them in an effort to save the marriage. Another time, a young teacher phoned from out-of-town because he was lacking success in his new position. Convinced that he could not help him over the phone, Rav Yaakov flew at his own expense to observe the teacher in action, met with the principal and the teacher, and made suggestions.

During the week of the shiva mourning for Rav Yaakov, an old woman phoned the house, apparently unaware of Rav Yaakov's passing. She inquired as to why she did not receive the money for her medicine that week. The family immediately surmised that their father must have been personally sending the money. Not wishing to burden her yet with the tragedy, they explained that perhaps the address had been lost. "For 20 years you have been sending money to the same place and now you lost the address?" she replied incredulously.

There was a time when Rav Yaakov, at the frantic request of a small Yeshiva, spent a few months as its 'temporary Rosh Yeshiva, Dean'. Rav Yaakov

slept in a house owned by the Yeshiva, but the house had no heat. An electric heater was installed in his room. The students became concerned when Rav Yaakov caught a winter cold that did not go away. One student went into Rav Yaakov's room to make sure the heater was working properly. When he checked, the heater was nowhere to be found.

The yeshiva's cooks, a Russian immigrant couple, slept in another part of the house, and for some unknown reason, no one had thought to take care of the heat in their quarters. Rav Yaakov had secretly moved the heater from his room to theirs because, "I didn't want them to catch a chill," he later explained.

Yitzchak studied with Rav Yaakov every Thursday night for many years. He would anxiously wait all week, gathering and saving all the his questions to ask Rav Yaakov. One Thursday, Rav Yaakov went to Atlanta for a family celebration and Yitzchak did not expect Rav Yaakov to be at the session so he didn't come to Rav Yaakov's house that night. On Friday night, Yitzchak wished Rav Yaakov his usual 'Good Shabbos'. Rav Yaakov asked him "Where were you last night? I was waiting for you."

Yitzchak said, "I thought you were out of town."

Rav Yaakov replied, "I was away but I left the celebration early and took an earlier flight so I could be back for our session." Rav Yaakov knew how much Yitzchak enjoyed their weekly study time together so he cut short his own pleasure for the sake of his student.

It was a hectic Friday afternoon and the Siyum Hashas (Sept. 1997), the grand celebration of the completion of the worldwide 7-1/2 year Daf Yomi-one page of Talmud daily-program held at Madison Square Garden, Nassau Coliseum, and broadcast live to numerous places around the world, was to be held on Sunday evening. David had tickets for his wife, himself and three kids at Nassau Coliseum. They had been talking about this all summer with their kids as a very special event to be a part of. They had plans to drive from Baltimore to New York on Sunday and drive back that night or the next morning. For three weeks leading up to the date, David was swamped by a major deadline at work and was probably averaging 3-5 hours of sleep per night. He was very tired.

On Thursday night before the big event, Joanne, his wife said, "You're too tired to drive, it's not safe for you to make this trip. We can't do it." Joanne had a cast on her ankle at the time. Prospects of going to the celebration seemed dim. Yet, they had made a very big deal about it with the kids for the whole summer.

They checked out plane flights, train, hotels etc. The best scenario they could come up with was significantly beyond their budget. They were agonizing. Should they spend money they can't really afford? What should they tell the kids?

Finally, Friday afternoon, Joanne said something she had said so many times before, "Just call Rav Yaakov." Whatever advice he would recommend, they would follow with 100% confidence and serenity.

David called Rav Yaakov, explained to him the scenario, and Rav Yaakov said, "Please hold on for a moment." Then David heard him call to his wife, the Rebbetzin, "The Goldman's need a ride to the Siyum Hashas on Sunday. Who can we find to help give them a ride?"

When Rav Yaakov got back on phone, David was speechless. The last thing he had intended was to have Rav Yaakov spend time finding him a ride to New York. After a brief conversation Rav Yaakov said that it was worthwhile to spend the extra money to take the kids to the Siyum. He insisted, however, that if it was a financial hardship, David should call back and he would make sure we got a ride there and back.

Rav Yaakov had many other things on his mind that Friday afternoon. His own health, family needs, Yeshiva needs, national needs, many calling him for one pressing reason or another, and yet it was like he had nothing else to do with his time other than to find David a ride. That is an example of the love Rav Yaakov showed his students.

May we learn from the extraordinary sacrifices that our parents and teachers made for us, and do the same for our own children and students. © 2008 Rabbi Z. Leff & aish.com

MACHON ZOMET

Shabbat B'Shabbato

by Rabbi Amnon Bazak, Yeshivat Har Etzion

This week's Torah portion has two prohibitions which limit the power of one who lends money to another. First, the lender is not allowed to go into the house of a borrower who cannot repay his loan and take an item to be used as collateral. Rather, he must wait outside the house. "When your colleague has a debt with you, do not go into his house to take collateral. Stand outside, and the man who owes you money will bring his security to you outside." [Devarim 24:10-11]. Second, the lender must return the item whenever the borrower needs it. "And if he is a poor man do not lie down on his security. Return the security to him when the sun sets and he will lie in his own clothing and bless you." [24:12-13]. The second command seems reasonable, but what is the point of the first one? What does it matter exactly how the lender takes an item as collateral for his loan?

Evidently there are two main reasons for this prohibition. On a simple level, this practice gives the borrower the ability to choose the item that he will give the lender as collateral. If the lender could go into the borrower's house he would be able to put pressure on the borrower to give him a specific valuable item. This

verse is in fact the Talmud's source for the rule that a loan can be paid off with low-quality land. Since the Torah left the decision in the hands of the borrower, it is obvious to the Talmud that "a person's usual practice is to bring out the worst of his utensils" [Gittin 50a].

At a deeper level, it seems likely that the Torah was trying to protect the borrower's self respect by not giving the lender the authority to enter his house by force. Entry into the borrower's home would be an invasion of his privacy and therefore harmful to his self respect. The Torah wants to teach us that even though the lender has the right to demand the return of his loan and to guarantee it with collateral, it is still necessary to maintain the dignity of the needy borrower.

Both of these elements can be seen in the story of King Achav's war against Ben Hadad (Melachim I 20). Achav was ready to surrender to Ben Hadad, King of Aram, and to give him all of his money in addition to his wives and his sons. However, Ben Hadad wanted not only to obtain the physical possessions but also to humiliate Achav and the nation of Yisrael. "As I have written to you, you will give me your gold and silver, and your wives and sons. And at this time tomorrow I will send my slaves to you to search your house and the houses of your slaves, and they will take everything that is precious to you." [20:5-6]. But Achav refused to accept this. "I will do everything that you sent to me the first time, but I cannot do this thing." [20:9]. In the end, Achav fought the mighty Ben Hadad and won the war. This shows us how serious an offense it is to invade somebody's private home. In the case of a loan, it is very important to maintain the borrower's self respect, even for a poor man who depends on the good will of others to survive.

DR. AVIGDOR BONCHEK

What's Bothering Rashi?

Among the many laws we find in this week's parsha are the laws of returning lost articles to their owner. It should be noted here that the civil laws of other countries rarely if ever include laws that require the citizen to help his fellow man. Their laws revolve around not harming others. Our laws add the positive dimension of helping our fellow man. Let us see how righteous and wise laws are derived from an implied message.

Regarding recovering and returning a lost article we have the following verse: "And if your brother is not near to you and you don't know who he is, then you must take it into your house and it should remain with you until your brother seeks it, then you shall return it to him." (Deuteronomy 22:2)

"And you shall return it to him"-RASHI: "So that there is a [real] returning (restoration). The [animal] should not eat in your house the worth of its own value. And you would then claim this [from the owner]. From here [the Sages] derived the principle: Anything that

works and requires food (like an ox) should work and eat. Whatever does not work but requires food (like a sheep) should be sold (and that money returned to the owner)."

Rashi is telling us to understand the spirit, and not just the words, of the law. When a person loses something and someone finds it and returns it to him, he has done him a great service. The man's loss was retrieved. However, if a man finds a sheep and keeps it until its owner seeks it out, this could take weeks, maybe months, before its owner claims it. During all that time the finder must feed the sheep and keep it healthy, otherwise what kind of chesed is it to return an emaciated, sickly sheep to its owner? But feeding the animal costs money. Should the finder pay for this out of his own pocket? No, Torah law does not require this of a person. To demand such expenditures from a person would probably discourage most people from "getting involved," and they would pass by the lost article, which they saw on the way. So the Sages gave the following advice. If the animal can do work, like an ox, put it to work, until the owner comes; that would more than cover its eating expenses. But if the animal is one that cannot do work, like a sheep, then in order to "return it" to its owner, you had best sell the sheep (the money received from the sale doesn't cost anything to hold), and give that money to the owner when he comes. This is brilliant advice. This gets at the spirit of the law, which is to help a person retrieve his loss, without causing him other losses in the process.

An example of how serious the Sages took the mitzvah of returning the value of the lost article, and not just the article itself, is the following incident (recorded in the Talmud, Taanis 25a): "It happened that someone passed the home of Rabbi Chanina the son of Dosa, and left there roosters. His wife found them and Rabbi Chanina said to her 'Don't eat those eggs.' The eggs increased and they sold them and with the money they bought goats. Later the man who had forgotten his roosters passed by Rabbi Chanina's home and said to his friend, 'It is here that I forgot my roosters.' Rabbi Chanina overheard this and said to him 'Do you have identification that the rosters are yours?' He gave him a sign and Rabbi Chanina 'returned' to him 'his' goats!"

We see that the Sages' dedication to living by the spirit of the Torah is no less than their wisdom in interpreting it. © 2008 Dr. A. Bonchek & aish.com

RABBI PINCHAS WINSTON

Perceptions

You will surely send away the mother and the young you make take for yourself. (Devarim 22:7)

If someone says in his prayer, "Have mercy on us, for You are the Compassionate One, since Your mercies extend [even] to a bird's nest," he is to be silenced. (Brochos 33b)

The mitzvah to send away the mother bird before taking its young might seem like an act of mercy. Everyone knows that a mother, in just about any species, is greatly pained when she sees her young endangered. So, therefore, it would seem, that when the Torah commands us to spare the mother bird the torment of watching her valued eggs taken from her nest, it is a commandment to be merciful.

However, the Talmud is quick to point out that this is not the reason for the mitzvah. On the contrary, says the Sefer HaChinuch, the basis of the mitzvah is something altogether different:

At the root of this mitzvah is the goal of setting in our hearts that the watchful care of G-d, Blessed is He, is over the human species individually-as it is written, "For His eyes are upon the ways of man..." (Iyov 34:21)-and for the other kinds of living creatures, over the species in a general way. In other words, His desire, Blessed is He, is for the endurance of his [man's] species. Therefore, no species among all the kinds of creatures will ever become extinct; for, under the watchful care of the One who lives and endures forever, Blessed is He, about the matter, it [every species] will find enduring existence through Him...

What this means is that, by permitting the young, G-d is sending two messages to man. The first is that He is concerned about man's well-being, and the second message is that, He will see to it that the species of the world will survive. This is the reason why the Talmud silences the one who uses this mitzvah as an example of G-d's mercy; for though G-d is All-Merciful, that is not what He is trying to convey about Himself here. On the contrary:

... Of something like this the rabbis, may their memories be blessed, would apply the expression of "measure-for-measure" (Shabbos 108b). For, if man comes to realize that his continuing existence and well-being are through the providence of G-d in all matters, and from no other source, he will merit that G-d should then do good for him, by maintaining him. As a reward for this mitzvah... a man merits to have sons (Devarim Rabbah 6:6)... They have deduced the matter from the words in the Torah, "You will surely send away the mother and the young..." [that is, sons] "... you make take for yourself." (Sefer HaChinuch, Mitzvah 545)

The Rambam seemed to disagree with this, even stating that the above Talmudic statement is only one side of an argument that we don't hold of. We, on the contrary says the Rambam, hold that there is a reason for every mitzvah, the reason for this one being:

"It is because animals have great anxiety when they see the suffering of their young, just as human beings do. For the love of a mother for its young is not something dependent upon logic; it is, rather, one of the results of the mental powers found both in animals as in man." (Moreh Nevuchim 3:48)

The Maharal has a way to bring both opinions together: It is possible to explain that G-d made His decrees so that man should not become insensitive; the intention of the rabbis of the Talmud was to make it clear that it was not because G-d had mercy on the mother bird that the mitzvah was given... (Tifferes Yisroel, Chapter 6)

In other words, though it is true that mitzvos help to refine us and make us sensitive to others like G-d Himself-and this is true of every mitzvah-there is another, more prominent reason for this mitzvah, as the Sefer HaChinuch teaches. © 1998 Rabbi P. Winston & Project Genesis, Inc.

RABBI MORDECHAI KAMENETZKY

Soup Opera

Love. It is a word that is supposed to explain the feelings that bind two individuals, parent and child, man and wife, G-d and His creations. The love between a man and his wife is the constant symbol used in Shlomo HaMelech's Shir Hashirim (Song of Songs) to declare the unshakable love G-d has for His nation.

But divorce is also a fact of life and in this parsha the Torah, albeit very succinctly, discusses the method of divorce. It also tells us why marriages end. "It will be if she does not find favor in his eyes for he found in her an ervas davar then he may write a divorce..." (Deuteronomy 24:1). The Mishna in Tractate Gittin discusses the meaning of ervas davar in different ways. Bais Shammai, who is known for a strict opinion in most matters says that divorce should only occur over a matter of immorality. Bais Hillel says, that divorce is permitted "even if she burns his soup." And Rabbi Akiva, whose devotion and gratitude to his wife is legendary, says that "even if he finds a nicer woman, (he may divorce)."

It is most difficult to understand the Mishna. It seems to go against the grain of every teaching. How do Bais Hillel, those who spoke of loving peace and pursuing peace say that one may get divorce over burned soup? Rabbi Akiva once pointed to his wife in front of 24,000 students and announced, "Whatever I have and whatever you have, it is all due to her." How could he say that one could get divorced if he found a more lovely woman? It seems preposterous!

My father, Rabbi Binyomin Kamenetzky, Dean of the Yeshiva of South Shore, once told me a wonderful story. Reb Dovid was happily married to his dear and loving wife, Chayka, for nearly half a century. Her sudden death cast him into a terrible depression for which there was almost no cure. His son and daughter-in-law, Roizy, graciously invited him to stay at their home and share everything with them. Reb Dovid's daughter-in-law, cooked every meal for him but Reb Dovid was never pleased. No matter how deliciously prepared the meals were, he would sigh and

mutter to himself, loud enough for his son to hear, "this was not the way Momma made the soup."

Roizy poured through her mother-in-law's old recipe books and tried to re-create the delicious taste for which her father-in-law longed. But Reb Dovid was still not pleased.

One day, while the soup was on the fire, Reb Dovid's grandchild fell outside. In her haste to get to the child, Roizy almost dropped in the entire pepper shaker. In addition, by the time the child was washed and bandaged, the soup was totally burned!

There was nothing for Reb Dovid's daughter to do but serve the severely spiced, burnt soup.

She stood in agony as her elderly father in-law brought the soup to his lips. This time he would probably more than mumble a complaint. But it was not to be. A wide smile broke across Reb Dovid's face. "Delicious my dear daughter," said Reb Dovid with a tear in his eye. "Absolutely delicious! This is exactly how Momma made the soup!"

My grandfather, Rabbi Yaakov Kamenetzky, in his sefer Emes L'Yaakov explains the Mishna in an amazing fashion: it is giving us a sign, when a marriage is disrepair. If a man tastes burnt soup that his loving wife cooked and he is repulsed, then he is missing the love that the Torah requires. Rabbi Akiva, who was separated from his wife for 24 years while he studied Torah, declared that if a man finds a woman whom he thinks is better, then his marriage needs scrutiny! Because a person must think that there is nothing tastier than what his wife prepared, and that there is no one more beautiful than the woman he married.

Reb Aryeh Levin, the Tzadik of Jerusalem, once entered a doctor's office with his wife and spoke on behalf of both of them. "Her leg hurts us," he said.

The Mishna is not defining how to get divorced. That is easy. It is teaching us an attitude that defines love. Because love is a lot more than not having to say I'm sorry. It's always believing that the soup is delicious. Even if it's burnt. © 1998 Rabbi M. Kamenetzky & torah.org



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