

Toras Aish

Thoughts From Across the Torah Spectrum

RABBI SHLOMO RISKIN

Shabbat Shalom

“**A**nd you shall serve the Lord your G-d, and He will bless your bread and your water; and I will remove sickness from your midst” (Exodus 23:25) Maimonides, the great Sefardi jurist-philosopher (11th -12th Centuries), begins his Laws of Prayer, "It is a positive commandment to pray every day, as it is written 'and you shall serve the Lord your G-d.' They taught from Tradition that this 'service' refers to prayer, as it is written 'to serve Him with all your heart' (Deuteronomy 11:13), regarding which our Sages have taught, What is the service of the heart? Prayer!" Hence, the Biblical source for prayer is derived from our Biblical portion of Mishpatim (literally, Laws).

It is interesting to note that prayer, which seems to be such a cardinal religious experience is not derived from a more explicit source which clearly teaches, "thou shalt pray;" but no such verse exists in our Bible. Moreover, many people find prayer to be a difficult experience, especially to pray each day with meaning and intent (kavannah).

It is recorded that when Rav Shneuer Zalman of Liadi (1745-1812), the founder of Habad Hassidut decided to enroll at the Hassidic center of Mezritch rather than the Yeshiva of Volozhin, he explained to his disgruntled father-in-law, "In Volozhin I would learn how to study difficult texts properly; whereas in Mezritch I would learn how to pray. It is far more difficult to learn how to pray than it is to learn how to study."

I would imagine that in choosing our particular verse as the Biblical source for prayer, Maimonides is teaching us an important lesson about the act of prayer. What is that message? And how ought we define prayer? Is it an act of human surrender to G-d, or is it rather a human search for empowerment from the Divine.

In order to extract that lesson, I would like to remind you of Rashi's difficult interpretation of a verse which we read two Sabbaths ago: the Egyptians are pursuing the Israelites in order to bring them back to Egypt as slaves, whilst in front of our people lies the Reed Sea. Seized by terror, they pray to G-d. Moses attempts to allay their fears, and he too cries out to G-d, but the response that he receives from G-d is surprising; "And the Lord said to Moses, 'Why are you crying out to Me? Speak to the children of Israel, and let

them get moving [into the waters of the Sea]" (14:15). Rashi (ad loc) expands the dialogue: "The Holy One, Blessed be He, said [to Moses], 'this is not the time for lengthy prayer, when the Israelites are in such distress.'" But then when ought we to engage in lengthy prayer; when the Israelites are not in distress? What does Rashi mean to teach us?

I believe that Rashi wrote this commentary with a striking Aggadic passage in mind. It takes place after the destruction of the Second Temple, Rabbi Yossi enters the ruins of a destroyed Synagogue to pray for redemption and he is chided by Elijah the prophet who tells him; "You should have prayed for redemption, while planting, building, or even waging war for redemption "on the road" rather than in a hopeless ruin". If one is afraid of an enemy, then one may pray a shortened prayer, but it should be a prayer combined with human efforts, with human action! (BT Berachot 3a) This is precisely what G-d is saying to Moses: this is not the time for lengthy prayer; let the Jews begin to act and enter the waters of the sea. Once Israel initiates the movement towards redemption, G-d will assuredly respond.

From this perspective, we can much better understand Maimonides' Biblical source for prayer, which comes at the end of a segment which begins five verses earlier, "Behold, I shall send a messenger [Moses] before you to guard you on the road (to the conquest of the Land of Israel), to bring you to the place which I have prepared for you... My messenger will go before you [in battle], and bring you into the Amorite, Hittite, Perizite, Canaanite, Hivite and Jebusite [lands], and I will cut them off... and you shall serve the Lord your G-d..." (Exodus 23: 20-25). From the context of this passage, it becomes clear that prayer is not meant to be an expression of total dependency upon G-d by a powerless nation or individual; it is rather a request for strength and courage, a desire for empowerment from our "Senior Partner" who has covenantally joined Himself to us in the grand march of humanity towards redemption.

It is also fascinating that Nachmanides, a younger contemporary of Maimonides, disagrees with Maimonides as to the source, and frequency of prayer. He maintains that it is only Biblically mandatory for the individual to pray in times of stress. (I once heard from my revered teacher Rav J.B. Soloveitchik that practically speaking there is no dispute between them: Nachmanides understood that existentially the individual

**TORAS AISH IS A WEEKLY PARSHA
NEWSLETTER DISTRIBUTED VIA EMAIL AND THE
WORLD WIDE WEB AT [HTTP://AISHDAS.ORG](http://AISHDAS.ORG).
FOR MORE INFO EMAIL YITZ@AISHDAS.ORG**

The material presented in this publication was collected from publicly available electronic mail, computer archives and the UseNet. It is being presented with the permission of the respective authors. Toras Aish is an independent publication, and does not necessarily reflect the views of any given synagogue.

**TO DEDICATE THIS NEWSLETTER PLEASE CALL
973-472-0180 OR EMAIL YITZ@AISHDAS.ORG**

is in distress every day, three times a day). His Biblical proof-text is: "When you go to wage war in your land against an enemy who oppresses you, you shall sound the broken staccato sounds of the trumpets, and you shall be remembered before the Lord, and you shall be saved from your enemies" (Numbers 10:9). Here, too, it is prayer within the context of action!

In most Sefardi Prayer Books, the opening Biblical invocation before one begins daily prayer is neither of the two proof-texts we have just cited, but rather, "You shall love your friend like yourself, I am the Lord" (Lev. 19; 18). This introduction to prayer, initiated by Rav Haim Vital, would be completely inexplicable were it not for the thesis of "prayer as a request for Divine empowerment" which we have just offered. If indeed prayer is an attempt to come close to the Divine (Korban, sacrifice, stems from the Hebrew karov - to come close), then the purpose of prayer is to enable us to be like G-d: to create a more perfect world, to show love, patience and kindness towards every being created in the Divine Image. From this perspective, the most meaningful prayer ought to be, "Dear Parent in Heaven, I don't ask You to make my life easy; I only pray that you help me to be strong."

The Talmud (BT Sotah 49b) gives frightening signs of what will occur at the end of the days: "Insolence will reign supreme, inflation will increase... leadership will be involved in harlotry... Wisdom will be vitiated... truth will be absent... a person's enemies will be his family members... the face of the generation will be the face of a dog... and the only one we will have to rely upon is our Parent in Heaven." It seems to me that the last thing mentioned "The only One we will have to rely upon is our Parent in Heaven" is not a solution, but rather the worst of the problems; when we feel ourselves powerless to act, our troubles have really intensified! © 2010 *Ohr Torah Institutions & Rabbi S. Riskin*

RABBI YAAKOV NEUBURGER

TorahWeb

Reflecting the words of our Sages, our singular and definitive response (Mishpatim 24:7) "kol asher diber Hashem na'aseh venishma" is translated by the Rashbam to proclaim that "all that Hashem has said we will do and all that He will ask of us in the future, we will study and observe". This declaration has long been

celebrated for the unconditional commitment and absolute faith that it carries. Yet there is one disturbing feature of this moment which becomes apparent when comparing it to a similar pronouncement of a few days earlier. You see that the moment of "na'aseh venishma" according to Rashi, took place on the Thursday before matan Torah and followed Moshe's public review of our story from creation to Sinai. Just a few days before, on the Monday of that week, we similarly responded to Hashem's invitation to become His people and it is recorded (Yisro, 19:8): "The entire people responded together and they said, "Everything that Hashem has spoken we shall do..."

What do I find troubling? The Torah emphasizes the unity with which we responded on Monday by saying that we answered "yachdov-as one". Yet the Torah drops this specific description of our response on Thursday. Is it possible that in just a few days we already began to unravel? Gone was the unity that descended upon us as we came to Midbar Sinai, so powerful that we were said to have encamped as one, with one heart and as one person. Gone were the lessons that we thought we had absorbed through our mutual suffering and deliverance.

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

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

Perhaps there is another idea that is communicated through the omission of the "yachdov" on Thursday, also one that is not indicative of contrariness. In a remarkable passage of the Ohr Sameach (Hilchos TalmudTtorah chapter 1) Harav Meir Simcha, the twentieth century giant of Dvinsk, points out that the basic requirements of each mitzvah are indeed

identical. Simply picking up the lulav in fact fulfills the mitzvah and the minimal amount of matzo is identical for all. Indeed, the minimal obligations and behaviors of any mitzvah can be a unifying force. However the minimal forms of any mitzvah are rarely practiced and he goes as far as suggesting that for this reason, minimal parameters of mitzvos are relegated to the oral law. We, who embrace mitzvos, each one in our own way and with our own spin, will rarely witness the minimal form of any mitzvah. Once we are committed to the "nishma" and understand the deeper aspects of any mitzvah we will choose favorites to emphasize and choose behaviors that make a mitzvah particularly meaningful to us.

I would suggest that the "yachdov" was lost after we studied the narratives of the distant creation and the not so distant patriarchs and the recent events of Mitzrayim. We then realized how differently we perceived the very same facts, how they touched us distinctively and inspired us idiosyncratically. Through the appreciation of meaningful Torah study we allowed ourselves to cede the "yachdov" and embrace, through the practice of the very same mitzvos, a depth that was private and personal. © 2010 Rabbi Y. Neuburger and The TorahWeb Foundation

RABBI DOV KRAMER

Taking a Closer Look

Towards the end of Parashas Mishpatim, the "bris" (covenant, or contract) between G-d and the Children of Israel is enacted (Shemos 24:6-8). Certain details are explicit, such as blood from the offerings brought (24:5) going on the altar Moshe built at the foot of Mt. Sinai (24:4), Moshe reading from the "book of the bris," and, upon it's acceptance, the "bris" taking affect. Beyond that, there is much discussion as to what occurred.

The biggest issue under discussion is probably when the "bris" was enacted. Rashi (24:1) tells us that this entire piece of narrative (24:1-11) took place in the days before the public revelation at Sinai, a view based on the Talmud (Shabbos 88a) and the Mechilta (Yisro, Bachodesh 3). The Ramban (24:1) is among the early commentators that disagree, saying that this section was taught in chronological order, occurring after the nation heard the "Ten Commandments." Although the Ramban maintains that there is an opinion in the Mechilta (Rabbi Yosi the son of Rabbi Yehudah) who also says this took place after the public revelation, a straight-forward reading of the Mechilta seems to indicate that the only point he differs about is which day before the Sinai revelation things took place, not whether it took place before or after the revelation (see Netziv on the Mechilta). Nevertheless, the Targum Yonasan (24:1) says that this part of the narrative occurred on the 7th of Sivan, while the public revelation had already occurred on the 6th of Sivan (19:16).

Among the ramifications of whether this "bris" was enacted before or after the nation heard the "Ten Commandments" is what they meant when they said "we will do" (24:3 and 24:7). Since saying "they will do" can only apply to things they had already been told about, if said beforehand it can only include the seven Noachide laws, the laws taught at Marah, the laws commanded in Egypt (such as declaring the new month, the Passover offering, circumcision, consecrating the first born, and possibly wearing tefillin), not eating the "gid hanesheh," and the prohibitions relevant to the revelation (such as separating from spouses and keeping their distance from the mountain). Any future commandments could only be included in their commitment to keep what "they will hear" (24:7). If, however, "we will do" was said after hearing the "Ten Commandments," they would also be included in "we will do" since they had already heard them. [Whether only the civil laws taught in Parashas Mishpatim were originally taught at Marah is unclear to me. It is possible (even likely) that when they were re-taught at Sinai (see Rashi on 21:1), other laws, such as shemita (23:10-11), the holidays (23:14-17) and kashrus (23:19) were added. It is clear, though, that according to those commentators who insist that this narrative was taught in chronological order, all of the laws contained in Parashas Mishpatim were included in "we will do." If anyone has any insight into precisely which laws in this parasha were taught at Marah and which were added in the "review lesson," please share it with me at RabbiDMK@yahoo.com.] More significant, perhaps, is whether G-d spoke to us publicly before or after we were fully committed to keeping His laws. If the "bris" wasn't enacted until afterwards, and Moshe verified they were still interested (24:7) before "sealing the deal" (24:8), then the public revelation wasn't a result of our commitment, the rest of the Torah (taught to Moshe over the next 40 days atop Mt. Sinai) was.

Other issues under discussion include how many vessels were used to collect the blood from the two types of offering (only two vessels, with the blood that went onto the altar going straight from the animals, two vessels that were reused for each "half," or four vessels, two for each "half"), whether these "bowls" were the same as would be used in the Mishkan/Temple, a different type of vessels, or two that were the same and two that were different, and whether both "halves" of the blood went onto the altar (one "half" representing G-d's part of the commitment and the other "half," on behalf of the nation and atoning for them, representing the nation's part of the commitment) or if the second "half" went "onto the nation" (24:8). Even if it went "onto the nation," it could have gone onto each and every one of them (Rabbeinu Chananel), only on the 70 elders (Ibn Ezra), or "in front of them," but not literally "on them" (Rabbeinu Bachye).

Chazal (Vayikra Rabbah 6:5 and the previously mentioned Mechilta) tell us that the "half" that went onto

the altar represented the nation's commitment to G-d, while the "half" that represented G-d's commitment to us went onto the people. Since this "half" didn't get sprinkled "onto the nation" until after they said "we will do and we will listen" (24:7-8), the sequence of events were as follows: First the nation said "they will do" (24:3), allowing Moshe to put the "half" that represented their commitment to G-d onto the altar (24:6). After Moshe read them what they just committed to and they upped their commitment by adding "we will do and we will hear" (24:7), the "half" that represented G-d's commitment to us was sprinkled onto us.

Another issue worth discussing is how the blood was divided. Rashi (24:6) tells us that an angel divided it. Why couldn't it have been Moshe that divided it? One suggestion (see Gur Aryeh) is that it would be impossible for a human to divide the blood (although it is unclear that this is really an issue, see Tosfos on Chulin 28b, d"h lefi), while the Rosh (see also Netziv) says that the issue was that the first half went straight from the animal onto the altar before the second half was put into vessels; there would be no way for Moshe to know how much blood was in the animal, so he couldn't have known when to stop putting the blood onto the altar and start emptying it into a vessel. Another suggestion (see Mizrahi) is that the Torah never says that Moshe divided it, implying that he took the previously divided halves, putting one half into vessels and the other half onto the altar (24:6). Some ask how any suggestion but the first can be made, since Rashi's source (Vayikra Rabbah 6:5) is specifically trying to answer how Moshe knew how to divide it. However, the question should be asked the other way; why did Rashi choose this answer over the others that are provided in the Midrash (i.e. it divided by itself, one half was darker than the other so Moshe could tell by the color, a heavenly voice told Moshe when the halfway point was reached, Moshe was such an expert he knew how to divide it, or that Moshe used vessels equal in size so could measure them exactly)? Aside from the possibility that several of the answers suggested in the Midrash could be said to be included in Rashi's wording of "an angel came and divided it," I would suggest that it was precisely because there are other issues that needed to be resolved (mainly the implication that the blood had already divided for him) that led Rashi to choose this approach, making the other explanations for Rashi just as valid. © 2010 Rabbi D. Kramer

RABBI SIR JONATHAN SACKS

Covenant & Conversation

Behind Jewish belief in Torah she-be-al Peh, the "Oral Law", lies a fundamental truth. The meaning of a text is not given by the text itself. Between a text and its meaning lies the act of interpretation-and this depends on who is interpreting, in what context, and with what beliefs.

Without an authoritative tradition of interpretation-in Judaism, the Oral Law-there would be chaos. To be sure, there were sectarian groups within Judaism-Sadducees, Karaites and others-who accepted the Written Torah but not the Oral Law, but in reality such a doctrine is untenable.

The Babylonian Talmud demonstrates this elegantly and with humour. It tells of a certain non-Jew who sought to convert to Judaism, and went to the great sage Hillel to do so. He made one proviso. "Convert me on condition that I accept the Written but not the Oral Law." He was willing to be a Jew, but only a heretical one.

Hillel made no protest, and told the man to come to him for instruction. The first day, Hillel taught him the first four letters of the Hebrew alphabet: aleph, bet, gimel, dalet. The next day he taught him the same letters in reverse order: dalet, gimel, bet, aleph. "But yesterday," protested the man, "you taught me the opposite." "You see," said Hillel, "you have to rely on me even to learn the alphabet. Rely on me also when it comes to the Oral Law." (Shabbat 31a). Without agreed principles, there can be no teaching, no learning, no authority, no genuine communication.

One passage in this week's sedra shows how differences in interpretation can lead to, or flow from, profound differences in culture. Ironically, the subject concerned-abortion-remains deeply contentious to this day.

The text deals not with abortion per se, but with a fight between two people in which a bystander-a pregnant woman-is hit, with the result that she miscarries. What is the punishment in such a case? Here is the text: "If men who are fighting hit a pregnant woman and she has a miscarriage but there is no other fatal damage [ason], the offender must be fined whatever the woman's husband demands and the court allows. But if there is fatal damage [ason], you are to take life for life..." (Ex. 21:22-23)

The word ason means "mischief, evil, harm, calamity, disaster". Jacob uses it when his sons tell him that the second-in-command in Egypt (Joseph) insists that they bring their youngest brother Benjamin with them when they return, if they are to be cleared of the charge of spying. With Joseph missing, Benjamin is the only son left of Jacob's beloved wife (by then dead), Rachel. Jacob refuses to give permission for Benjamin to leave home, saying: "If you take this one from me, too, and he meets with disaster (ason), you will send my white head down to the grave in sorrow" (Gen. 44:29).

The meaning of the law about fighting men, then, is this: If the woman miscarries but suffers no other injury, the person responsible must pay compensation for the loss of the unborn child, but suffers no other penalty. If, however, the woman dies, he is guilty of a much more serious offence (the sages, in Sanhedrin 79a, disagreed as to whether this means that he is liable to capital punishment or not).

One thing, however, is clear. Causing a woman to miscarry-being responsible for the death of a foetus-is not a capital offence. Until birth, the foetus does not have the legal status of a person.

At the same time that the sages in Israel were teaching this law, there was a significant Jewish community in Alexandria, Egypt. A passage in the Talmud describes the great splendour of the synagogue there. The Alexandrian Jewish community- whose most famous member was the first century philosopher Philo- was highly Hellenized. It developed its own traditions, at times quite different from those of the rabbinic mainstream. In one of his works, Philo, explaining the main principles of Jewish law to a non-Hebrew-reading public, turns to the biblical passage under review, and paraphrases it in these words:

"But if anyone has a contest with a woman who is pregnant, and strike her a blow on her belly, and she miscarry, if the child which was conceived within her is still unfashioned and unformed, he shall be punished by a fine, both for the assault which he has committed and also because he has prevented nature, who was fashioning and preparing that most excellent of all creatures, a human being, from bringing him into existence. But if the child which was conceived had assumed a distinct shape in all its parts, having received all its proper connective and distinctive qualities, he shall die; for such a creature as that, is a man, whom he has slain while still in the workshop of nature, who had not thought it as yet a proper time to produce him to the light, but had kept him like a statue lying in a sculptor's workshop, requiring nothing more than to be released and sent out into the world." (The Special Laws, III: XIX)

Philo understands the word *ason* to mean, not "calamity", but rather "form". The meaning of the two verses is now completely different. In both cases, they are talking about damage to the foetus only. In the first case, "there is no *ason*" means, the foetus was "unformed"-i.e. at an early stage of development. The second verse speaks of a foetus "that has form", i.e. at a later stage of pregnancy. Philo puts this rather finely when he compares the developed foetus to a sculpture that has been finished but has not yet left the sculptor's workshop. On this view foeticide-and hence abortion-can be a capital crime, an act of murder.

Philo's interpretation-and the views of the Alexandrian Jewish community generally-were to play a significant part in the religious history of the West. This was not because they had an impact on Jews: they did not. Rather, they had an impact on Christianity. The decisive victory of the Pauline Church over the Jerusalem Church, headed by Jesus' brother James, meant that Christianity spread among gentiles rather than Jews. The first Christian texts were written in Greek rather than Hebrew. They were, at the same time, intensely dependent on the Hebrew Bible. In fact the one serious attempt to divorce Christianity

completely from the Hebrew Bible- made by the 2nd century Gnostic Marcion-was deemed to be a heresy.

Christians were therefore dependent on Greek translations of and commentaries to Tanakh, and these were to be found among Alexandrian Jewry. The result was that early Christian teaching on abortion followed Philo rather than the sages. The key distinction was, as Augustine put it, between embryo *informatus* and embryo *formatus*-an unformed or formed foetus. If the foetus was formed (i.e. more than forty or eighty days had passed since conception: there was argument over the precise period), then causing its death was murder. So taught Tertullian in the second century. So the law remained until 1588 when Pope Sixtus V ordained that abortion at any stage was murder. This ruling was overturned three years later by Pope Gregory XIV, but re-introduced by Pope Pius IX in 1869.

This is not to say that Jewish and Catholic views on abortion are completely different. In practice, they are quite close, especially when compared to the cultures of ancient Greece and Rome, or the secular West today, where abortion is widespread and not seen as a moral evil at all. Judaism permits abortion only to save the life of the mother or to protect her from life-threatening illness. A foetus may not be a person in Jewish law, but it is a potential person, and must therefore be protected. However, the theoretical difference is real. In Judaism, abortion is not murder. In Catholicism, it is.

It is fascinating to see how this difference arose-over a difference in interpretation of a single word, *ason*. Without tradition and all the sages meant by "the Oral Law", we would simply not know what a verse means. Between a text and its meaning stands the act of interpretation. Without rules to guide us-rules handed down across the generations-we would be in the same position as Hillel's student, unable even to begin. © 2010 Rabbi Sir J. Sacks and torah.org

RABBI AVI WEISS

Shabbat Forshpeis

The Talmud states that the source of prayer is the biblical phrase: "And you shall serve Him with all your heart." (Deuteronomy 11:13) Service is usually associated with action. One can serve with his or her hands or feet but how does one serve with the heart? The Talmud concludes that service of the heart refers to prayer. (Ta'anit 2a)

Interestingly, Maimonides quotes a slightly different text from this week's portion as the source of prayer. He states that "It is an affirmative commandment to pray every day as it says 'and you shall serve the Lord your G-d.'" (Exodus 23:25) (Rambam: Laws of Prayer 1:1). What is the conceptual difference between using this source as the basis for prayer and using the text quoted in the Talmud?

Rabbi Yosef Caro suggests that the verse from Deuteronomy cited by the Talmud may be understood as simply offering good advice rather than requiring daily prayer. It may alternatively refer to the service of learning Torah. The text in Exodus, however, deals clearly with prayer. (Kesef Mishneh on Rambam, *ibid*)

Another distinction comes to mind. Rabbi Shlomo Riskin notes that the text quoted by Maimonides is found in the context of sentences that deal with liberating the land of Israel. It is possible that Maimonides quotes this text to underscore the crucial connection between prayer and action. Prayer on its own is simply not enough.

It can be added that the Talmudic text quoted as the source for prayer may be a wonderful complement to the text quoted by Rambam. Remember the sentence quoted in the Talmud states and you shall serve your G-d "With ALL your heart." Note the word all. In other words, while one should engage in action, prayer has an important place. Even in a life full of action, the prayer that one must find time for, must be with one's entire, full and complete devotion. It may be true that quantitatively, prayer may have to be limited, but qualitatively it must be deep and meaningful.

The balance between action and prayer is spelled out in the Midrash when talking about Ya'akov (Jacob). The Midrash insists that when Ya'akov prepares to meet Esav (Esau) he prays deeply. Yet, at the same time, he is fully active by preparing for any outcome of this most unpredictable family reunion. The balance between prayer and action comes to the fore. (See Rashi Genesis 32:9)

More than ever, we need to internalize the integral connection of productive action with deep prayer. In that way we could truly serve G-d with all our heart. © 2010 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 MORDECAHI KAMENETZKY

Mind Your Own Tzedaka

This week's Parshas Mishpatim contains myriad laws that deal with monetary issues, torts and property laws as well as a variety of capital issues. In the Torah, every nuance of expression is exact and deems expounding upon. That is why, when many years ago when I read the posuk (Exodus 22:24) When you will lend money amongst my nation, the poor with you, I was bothered. Why when it mentions the actual loan to whom I seem is a middle-class person does the Torah say, lend amongst my nation while when it refers to the poor, the Torah states, he poor with you. Why not reverse it and say when you lend money to those with you or give to the poor amongst my nation?

A few years back a friend of mine who has a yeshiva went to get an interest-free loan from a very well known philanthropist. The man was very

accommodating and set up very amenable repayment terms that the yeshiva fulfilled. But before issuing the loan, the man became very austere as if he was about to complete a major transaction. I cannot recall all the details of the transaction, but I vaguely remember that it was a very difficult process. He called in his comptroller and asked if he could afford to make the loan. When he was informed that he is liquid enough, he asked to have the payments given in advance with post-dated checks. He also asked for people to guarantee the loan. He needed one co-signer for every twenty percent of the loan. After doing a D & B on them, they each had to sign a document guaranteeing the full amount of the loan and then have the guarantee notarized. The loan document had to be signed by two witnesses and the signature notarized.

During the meeting, the benefactor was interrupted by a phone call from a poor man from Israel. It seemed that the fellow on the other end of the line was in dire straits and needed to marry off a child. In an instant, the philanthropist reassured him that he would issue an overseas wire of an extremely large amount equal to nearly the amount of the entire loan that his Yeshiva were receiving!

My friend recounted how he was in awe and mustered the courage to ask, Do you know this man? The man responded, Vaguely which prompted a to brazen challenge. I dont understand, he began. You know me. You know my yeshiva. Yet you insist on having so many different people involved in our transaction. However, you hardly know this man to whom you just gifted tens of thousands of dollars; you did not even bring anyone else into your confidence. How is that possible?

The man smiled. You did not ask for tzedakah. You asked for a loan. A loan is business. When I do business, I do my utmost to ensure that my interests are protected. Thus I have to involve many people. When I give charity is a different matter. What I give and to whom I give is solely a decision between me and the recipient. I do not have to involve anyone else.

The Imrei Mordechai explains: perhaps that is the deeper intent of the verse.

When you will lend money amongst my nation, If you are lending money then it cannot be a private affair. In fact the Talmud says that whoever lends without witnesses (and I assume documentation) is almost inducing his friend to renege on his commitment and is transgressing the prohibition, do not put a stumbling block before the blind. Thus a loan should be made, truly amongst my nation. However, tzedakah, charity is a very private affair the less amount of people who are involved the holier is the act. Thus, the gift to the poor is not an act to be displayed among the entire nation. It is only for, as the Torah alludes to, the poor with you. A matter for you and the pauper and no one else. © 2010 Rabbi Y. Kamenetzky and torah.org

RABBI YISSOCHER FRAND

RavFrand

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

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

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

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

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

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

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

This recognition is the hardest adjustment to married life. Until that point, a young man only has to worry about his own coat, his own comfort, his own life.

Marriage introduces responsibility for taking care of the needs and comforts of someone else as well.

The Greatest IRA Investment

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

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

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

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

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

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

The greatest thing in the world is to keep busy. A person only dies out of idleness. Sociologists and medical professionals can back this idea up with one

study after another. People work and work and are productive and have energy. They retire and suddenly they start getting sick and depressed. They do not know what to do with themselves.

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

We have an answer to the ubiquitous dilemma of retired people: What am I going to do today? The answer is-learn Torah! Let it be Daf 23 (in Talmud) or Siman 23 (in Shulchan Aruch) or Chapter 23 (in Tanach) or anything else. Learning how to appreciate Torah learning when young is the greatest possible IRA investment! © 2010 Rabbi Y. Frand and torah.org

RABBI BEREL WEIN

Wein Online

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

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

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

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

and opinions that form Jewish Talmudic and rabbinic legal decisions.

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

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

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

I think that is what Justice Minister Yaakov Neeman meant when he stated that the basic principles of Israeli law should be based on the principles of Jewish law as derived from the Torah, the Talmud and the millennia-long challenges met by the rabbis of Israel to create a just legal system for the Jewish people. This is inherent in the opening words of this week's parsha: "And these are the laws that you shall place before them" - these laws and not other laws and legal systems. © 2010 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

