

# Toras Aish

## Thoughts From Across the Torah Spectrum

**RABBI LORD JONATHAN SACKS**

### Covenant & Conversation

**W**illiam Ury, founder of the Harvard Program of Negotiation, tells a marvellous story in one of his books.<sup>1</sup> A young American, living in Japan to study aikido, was sitting one afternoon in a train in the suburbs of Tokyo. The carriage was half empty. There were some mothers with children, and elderly people going shopping.

Then at one of the stations, the doors opened, and a man staggered into the carriage, shouting, drunk, dirty, and aggressive. He started cursing the people, and lunged at a woman holding a baby. The blow hit her and sent her into the lap of an elderly couple. They jumped up and ran to the other end of the carriage. This angered the drunk, who went after them, grabbing a metal pole and trying to wrench it out of its socket. It was a dangerous situation, and the young student readied himself for a fight.

Before he could do so, however, a small, elderly man in his seventies, dressed in a kimono, shouted "Hey" to the drunk in a friendly manner. "Come here and talk to me." The drunk came over, as if in a trance. "Why should I talk to you?" he said. "What have you been drinking?" asked the old man. "Sake," he said, "and it's none of your business!"

"Oh that's wonderful," said the old man. "You see, I love sake too. Every night, me and my wife (she's 76, you know), we warm up a little bottle of sake and take it out into the garden and we sit on an old wooden bench. We watch the sun go down, and we look to see how our persimmon tree is doing. My great-grandfather planted that tree ..."

As he continued talking, gradually the drunk's face began to soften and his fists slowly unclenched. "Yes," he said, "I love persimmons too." "And I'm sure," said the old man, smiling, "you have a wonderful wife."

"No," replied the drunk. "My wife died." Gently, he began to sob. "I don't got no wife. I don't got no home. I don't got no job. I'm so ashamed of myself." Tears rolled down his cheeks.

As the train arrived at the student's stop and he was leaving the train, he heard the old man sighing sympathetically, "My, my. This is a difficult predicament

indeed. Sit down here and tell me about it." In the last glimpse he saw of them, the drunk was sitting with his head in the old man's lap. The man was softly stroking his hair.

What he had sought to achieve by muscle, the old man had achieved with kind words.

A story like this illustrates the power of empathy, of seeing the world through someone else's eyes, entering into their feelings, and of acting in such a way as to let them know that they are understood, that they are heard, that they matter.<sup>2</sup>

If there is one command above all others that speaks of the power and significance of empathy it is the line in this week's parsha: "You shall not oppress a stranger, for you know the heart of a stranger: You were strangers in the land of Egypt" (Ex. 23:9).

Why this command? The need for empathy surely extends way beyond strangers. It applies to marriage partners, parents and children, neighbours, colleagues at work and so on. Empathy is essential to human interaction generally. Why then invoke it specifically about strangers?

The answer is that "empathy is strongest in groups where people identify with each other: family, friends, clubs, gangs, religions or races."<sup>3</sup> The corollary to this is that the stronger the bond within the group, the sharper the suspicion and fear of those outside the group. It is easy to "love your neighbour as yourself." It is very hard indeed to love, or even feel empathy for, a stranger. As primatologist Frans de Waal puts it:

We've evolved to hate our enemies, to ignore people we barely know, and to distrust anybody who doesn't look like us. Even if we are largely cooperative within our communities, we become almost a different



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<sup>1</sup> Adapted from William Ury, *The Power of a Positive No*, Hodder Mobius, 2007, 77-80.

<sup>2</sup> Two good recent books on the subject are Roman Krznaric, *Empathy*, Rider Books, 2015, and Peter Bazalgette, *The Empathy Instinct*, John Murray, 2017. See also Simon Baron-Cohen's fascinating book, *The Essential Difference*, London, Penguin, 2004, on why women tend to be better at this than men.

<sup>3</sup> Bazalgette, 7.

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animal in our treatment of strangers.<sup>4</sup>

Fear of the one-not-like-us is capable of disabling the empathy response. That is why this specific command is so life-changing. Not only does it tell us to empathise with the stranger because you know what it feels like to be in his or her place. It even hints that this was part of the purpose of the Israelites' exile in Egypt in the first place. It is as if God had said, your sufferings have taught you something of immense importance. You have been oppressed; therefore come to the rescue of the oppressed, whoever they are. You have suffered; therefore you shall become the people who are there to offer help when others are suffering.

And so it has proved to be. There were Jews helping Gandhi in his struggle for Indian independence; Martin Luther King in his efforts for civil rights for African Americans; Nelson Mandela in his campaign to end apartheid in South Africa. An Israeli medical team is usually one of the first to arrive whenever and wherever there is a natural disaster today. The religious response to suffering is to use it to enter into the mindset of others who suffer. That is why I found so often that it was the Holocaust survivors in our community who identified most strongly with the victims of ethnic war in Bosnia, Rwanda, Kosovo and Darfur.

I have argued, in *Not in God's Name*, that empathy is structured into the way the Torah tells certain stories – about Hagar and Ishmael when they are sent away into the desert, about Esau when he enters his father's presence to receive his blessing only to find that Jacob has taken it, and about Leah's feelings when she realises that Jacob loves Rachel more. These stories force us into recognising the humanity of the other, the seemingly unloved, unchosen, rejected.

Indeed, it may be that this is why the Torah tells us these stories in the first place. The Torah is essentially a book of law. Why then contain narrative at all? Because law without empathy equals justice without compassion. Rashi tells us that "Originally God planned to create the world through the attribute of

justice but saw that it could not survive on that basis alone. Therefore He prefaced it with the attribute of compassion, joined with that of justice."<sup>5</sup> That is how God acts and how He wants us to act. Narrative is the most powerful way in which we enter imaginatively into the inner world of other people.

Empathy is not a lightweight, touchy-feely, add-on extra to the moral life. It is an essential element in conflict resolution. People who have suffered pain often respond by inflicting pain on others. The result is violence, sometimes emotional, sometimes physical, at times directed against individuals, at others, against whole groups. The only genuine, non-violent alternative is to enter into the pain of the other in such a way as to ensure that the other knows that he, she or they have been understood, their humanity recognised and their dignity affirmed.

Not everyone can do what the elderly Japanese man did, and certainly not everyone should try disarming a potentially dangerous individual that way. But active empathy is life-changing, not only for you but for the people with whom you interact. Instead of responding with anger to someone else's anger, try to understand where the anger might be coming from. In general, if you seek to change anyone's behaviour, you have to enter into their mindset, see the world through their eyes and try to feel what they are feeling, and then say the word or do the deed that speaks to their emotions, not yours. It's not easy. Very few people do this. Those who do, change the world. *Covenant and Conversation 5778 is kindly supported by the Maurice Wohl Charitable Foundation in memory of Maurice and Vivienne Wohl z"l ©2018 Rabbi Lord J. Sacks and rabbisacks.org*

**RABBI SHLOMO RISKIN**

## Shabbat Shalom

"**A**nd he took the Book of the Covenant, and read it into the ears of the nation, and they said, 'Everything that the Lord has spoken we shall do and we shall understand' [Ex. 23:7]. At Sinai, the Jewish nation entered into its second covenant with God, a pact based not on the family-nation of the descendants of Abraham [per Gen. 15] but rather on the common religious commitment of adherence to the word of God revealed at Sinai. My revered teacher and mentor, Rabbi Joseph B. Soloveitchik, z"l, taught that, in fact, the Torah contains two covenantal experiences: the former, our national covenant of fate; the latter, our religious covenant of destiny ["Kol Dodi Dofek"].

An individual is not asked whether they wish to be born into a specific family or nation-state; "accident" of birth is a matter of fate, and the fate of the Jewish nation has long been to suffer far more than its to-be-expected share of persecution, exile and suffering. To

<sup>4</sup> Frans de Waal, 'The Evolution of Empathy,' in Keltner, Marsh and Smith (eds), *The Compassionate Instinct: the Science of Human Goodness*, New York, Norton, 2010, 23.

<sup>5</sup> Rashi to Gen. 1:1.

be Jewish was their fate, and their blood was too often shed as a consequence.

Not so the religious faith of the commandments of revelation. The Torah calls upon each Jew to make a choice: to sanctify the Sabbath or desecrate it; to honor one's parents or disregard them. When the bedraggled ex-slaves who stood before Sinai and cried out "we shall do and we shall understand!" [Ex. 23:7], they were making the Jewish vision their national mission, defining themselves as a "kingdom of priest-teachers and a holy nation," and turning their fate into destiny.

The covenant of fate is imposed; the covenant of faith is chosen. To be born into a particular family-nation is our fate; to choose an ideal and ideology as our life's mission is our destiny. The infant about to be circumcised is an object upon whom a ritual is to be imposed; the bar/bat mitzva and bride/groom who have chosen a life dedicated to the ideals of Torah are subjects actualizing their deepest aspirations.

There are, however, special circumstances when fate and destiny become intertwined. One such moment was in September 1970 in Riga, Latvia, where I was on a special underground mission for the Lubavitcher Rebbe, z"l. I was awakened at 2:30 a.m. with a daunting and marvelous request. Two brothers, one just eight days old and the other one week prior to his bar mitzva, were about to be circumcised. Since the Soviet regime severely punished those who participated in such religious rituals, the two "operations" were to take place in the dead of night at the Rombula cemetery outside Riga.

The ritual ceremony had been timed to coincide with my presence in Riga, since the Jewish doctor who had agreed to risk his license—and perhaps his life—was ignorant of Jewish law.

Words cannot describe the feelings of eeriness, queasiness, admiration and privilege that all converged within me while intoning the circumcision blessings that dark, freezing night in the cemetery. But the most poignant moment of all was yet to come.

After both circumcisions, I uttered the traditional phrase: "Just like [ke-shem] this child has entered the covenant, so may he enter Torah, the nuptial canopy and a life of good deeds." Suddenly, from the depths of silence which one can only sense in a cemetery, the father of the boys emitted a strangled cry in Yiddish: "Nein 'ke-shem'!" ("Not 'just like!'") "I do not want their brides, bar mitzvas and weddings to be just like this, in hiding, in a cemetery. I want them to be in the open, with pride, in our Jewish homeland, in Israel!"

Indeed, the two children I circumcised nearly five decades ago celebrated their weddings in Israel. Both of them, but particularly the young man just before bar mitzva, were expressing not only their Jewish fate but their Jewish destiny. To a certain extent, this is true of every parent who has their child circumcised. And I believe this is also true with regard to living in the Land

of Israel.

On the one hand, every nation, and therefore any national covenant, is dependent upon a specific homeland, in which one is born and about which one generally has little choice. This is not the case, however, with regard to the Jews and the Land of Israel. Because we have been exiled to so many lands for so many generations, our return to Israel depends upon our choice to return to Israel, our willingness to fight for Israel, our understanding that only Israel is our promised land and ultimate home.

Thus, the destiny of the nation of Israel can only be fully realized in the Land of Israel dedicated to the Torah of Israel. The Land of Israel is an integral part of the destiny we accepted at Sinai. We may have returned to Israel as a result of our determination and prayers, but we shall actualize our destiny in Israel only as a result of our efforts and actions. ©2018 Ohr Torah Institutions & Rabbi S. Riskin

#### RABBI BEREL WEIN

### Wein Online

One of the many diverse and detailed subjects covered in this week's Torah reading is that of the laws regarding lending money to a fellow Jew. And though the language of the verse is couched in a conditional manner—"if" or "when" you will lend money—the rabbis of the Talmud interpreted this as an imperative—a positive commandment requiring one to be open to lend money to those who are in need of temporary aid.

There are many laws, details and technicalities attached to this commandment and this short article is not the place to address them. But the overriding principle is clear. Lending money to others and helping them to extricate themselves from otherwise burdensome circumstances is a positive commandment of the Torah.

Though we all know and sense that lending money to someone goes against our emotional and rational sense of being. It is much easier for a person to donate money to another human being or to a cause than to lend that money. We are immediately beset by the problem that perhaps the person will never wish to or be able to repay that debt. If I gave him the money and that is that and I have erased the matter from my mind and consciousness. However when I lend money, that alone is omnipresent with me. The borrower will avert my gaze when I meet him on the street and the lender will feel just as uncomfortable as does the borrower. Lending money to an individual always causes an awkward interpersonal relationship.

Perhaps this may be the very reason why the Torah ordains a commandment to lend money to another individual. The Torah wishes to break down our selfish instincts and self-interest. Whether we wish to or not, we become invested in the life and activities of the

one who borrowed the money. We have reason to pray for his success because only then will he somehow be able to discharge his obligation.

That is why the Torah states that the poor man, the borrower, is "with you." The relationship of borrower and lender is not merely a financial arrangement but it is a deeply personal one that has many ramifications. As King Solomon pointed out, a borrower feels one's self in bondage to the lender.

This is a psychological truism that also has practical halachic consequences. But it is incumbent upon the lender to mitigate such feelings to the extent possible. The lender cannot pursue repayment of his loan in a manner that is too intense. And this is especially true if the lender is aware that the borrower really does not have any extra funds with which to currently repay the loan.

Yet, the Torah does provide strong legal action on the part of the lender to recover his loan. He justifies this on the basis that if it becomes too difficult to collect on a loan then people will stop lending money and that will make for a very selfish and ultimately disastrous society. ©2018 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](http://www.rabbiwein.com). For more information on these and other products visit [www.rabbiwein.com](http://www.rabbiwein.com)

#### **RABBI AVI WEISS**

### **Shabbat Forshpeis**

**T**he 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 God.'" (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 God "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 God with all our heart. ©2018 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 KALMAN PACKOUZ**

### **Shabbat Shalom Weekly**

**T**he Torah states: "And bribery you shall not take, for a bribe will blind those who can see, and distort the words of the righteous." (Ex. 23:8) What is the difference between a person who is blind and a person who is prejudiced because of a bias?

Rabbi Avraham of Sochotchov commented that when a person is blind, he realizes it and will ask someone who can see to help him; if a person has a bias, the bias blinds him to such an extent that he does not even realize that he is blind. He feels that what he perceives is reality and will refuse to listen to others.

Every human being is biased towards himself that he is correct. This keeps us from recognizing our mistakes and faults when people point them out. If you have an emotional knee-jerk reaction to reproof, weigh the matter very carefully. You will benefit in the long run. *Dvar Torah based on Growth Through Torah by Rabbi Zelig Pliskin ©2018 Rabbi K. Packouz and aish.com*

#### **ENCYCLOPEDIA TALMUDIT**

### **Treifa**

*Translated by Rabbi Mordechai Weiss*

**"Y**ou shall not eat flesh of an animal that was torn in the fields" (Treifa- Shmot 22:30) A "Treifa" is defined as any animal that has an injury or a sickness that would cause it to die. The list of

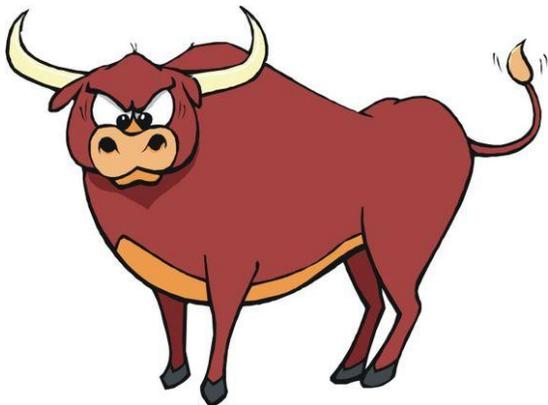
what is considered as a "Treifa" was passed down as an indisputable law from Moshe at Sinai (Halacha L'Moshe M'sinai") and we cannot add or delete from this list. Thus if an animal swallowed poison, though its death is imminent, it is not listed as a "Treifa" and therefore the advice to the owner in such a case by our Sages is to quickly slaughter the animal by a "Shochet" (a Rabbi who received ordination to slaughter animals in a Kosher way) so that it can be eaten. The Raivad adds that a "Treifa" cannot be cured but an animal with any other sickness can be cured.

On the other hand the Gaonim (Rabbis who lived approximately from the sixth until the tenth centuries) and the Rishonim (Rabbis who lived from approximately the tenth until the thirteenth centuries) added to the list of "Treifot" that an animal would likely die from. Maimonides indeed raises that question on animals that are considered as "Treifa" but they could survive. He answers that "All we have is the list that our sages enumerated as it says in the Torah "According to the Torah that they teach you (Al pi Hatorah Asher yorucha").

The Acharonim (Rabbis who lived approximately from the fifteenth until the eighteenth centuries) explain the Rambam that these laws were established based on the knowledge at the time of the giving of the Torah and the redacted laws of the Mishna and the Talmud and any later additions are not considered "Mishna" and we do not follow them.

In addition, if over the centuries there was a physical change in a species of animal and yet there might be an animal that retains the original physical structure, that animal would not be excluded from being kosher.

What do we do with a "Treifa?" The Torah states that you should feed it to the dogs ("Lakelev tashlichun oto"). Some view this as only a suggestion and one is allowed to derive pleasure from it. Others see this as a warning that one who eats a "Treifa" transgresses both a negative and positive commandment. Still others say that it is a Mitzva to preferably give this "Treifa" to a dog to consume before a human being (a non-Jew), to teach one to show appreciation to a dog, the dedicated friend of man. © 2018 Rabbi M. Weiss and Encyclopedia Talmudit



## RABBI YITZCHOK ADLERSTEIN

# Approach-Avoidance Conflicts

"To Moshe He said, 'Go up to Hashem -- you, Aharon, Nadav and Avihu, and seventy of the elders of Israel, and you shall prostrate yourselves from a distance. Moshe alone shall approach Hashem...and the people shall not go up with him.'" (Shemos 23:1-2)

The directives are confusing, even contradictory. They are all told as a group to go up. And they do, as we are told later, "Moshe, Aharon, Nadav etc. ascended." (24:9) Looking more carefully, however, we see that the original instruction did not just orient them in a direction -- up. They were told how far to go, namely, all the way up -- as far up as "to Hashem." Immediately, that directive is withdrawn. They are told to prostrate themselves only from a distance. Moshe is the exception. But his special case is also confusing. We would have expected the Torah to tell us that Moshe alone ascended. Instead, it changes the verb to "approach." And to round out the confusion, the verses conclude with information about a group that hasn't even been mentioned till this point -- the rest of the people. They are explicitly uninvited from what the leaders were doing. But we did they have to be excluded from ascending, if they had never been invited in the first place?

We can cut through the confusion if we employ the assumption of the Maaseh Hashem that the Torah does not refer to spatial ascending and approaching, but to levels of prophecy. "Ascending," he says, refers to a lower level of prophecy; "approaching" to a higher one. This would help us explain an earlier pasuk about the preliminaries to Matan Torah: "Moshe ascended to G-d, and Hashem called to him from the mountain." (19:3) If Moshe already ascended to the top of the mountain, why is Hashem calling to him as if from a distance? Following Maaseh Hashem, however, it makes perfect sense. Moshe readied himself for prophecy. Seeing that, Hashem called to him to move up to an even higher form of nevuah, in which He would speak to him "face to face."

The narrative continues. Hashem's initial offer, so to speak, was to allow "aliyah" to the entire nation. For this reason, in the final pre-event instruction, Moshe is told to warn people not to "break through to Hashem to see." (19:22) It was only "seeing" more than they could handle about which they had to be warned. "Ascending" to a limited level of prophecy could have been available to everyone (This was true only in the allegorical sense. They were explicitly banned from a physical ascent past the boundary line that Moshe was to fix. -- 19:13) The leaders were allowed a greater spiritual gift. They would "approach" Hashem during the

experience of Matan Torah. Moshe, of course, would reach a level that everyone else would understand was unique to him. His special nevuah would bring him closer than anyone before or after.

This inclusion of everyone is the consequence of a reciprocal relationship between Moshe, the Torah leader, and his people. If Moshe would reach the absolutely highest point of his nevuah at Har Sinai, his elevation would redound to his people. It would have been possible for everyone, including the simplest of the people, to "ascend" to some prophetic level, and for the leaders to an even higher level of "approaching."

This was not to be. Moshe realized that not all of the commoners could even "ascend." He tells HKBH that "the people cannot ascend Har Sinai, for You have warned us...set a boundary for the mountain." Clearly, Moshe did not have to "remind" Hashem of a prior instruction. Rather, Moshe understood that the limitation on physical ascent carried over to a spiritual one. The people as a whole could not achieve universal "ascent."

As a consequence of this, however, the other side of the reciprocal relationship became evident. The achievement of the people depended on Moshe's level, but his own level depended upon the people! He was granted specialness only in the merit of his flock. (When they fell at the time of the Golden Calf, Moshe was told, "Go, descend." -- 32:7) If they were not to "ascend," then Moshe would not rise to the pinnacle of his understanding at this point either. And it that was to be the case, then the experience of the leaders would also be curtailed. Moshe is told (19:24) to first "descend" -- as a consequence of the inability of the greater community to rise -- and immediately to "ascend." He would indeed "ascend," but to a lesser level. In the pesukim in our parsha, Moshe is told to prostrate himself from a distance, along with the other leaders. This means that after an ascent, the original goal of an "approach" by the leaders was now a distant one. But Moshe is then told (24:2) to "approach." This made it possible for the other leaders to experience a full "ascent" -- something that alas, was not shared by everyone else.

May it be His Will that we should soon merit to see Moshe at the fullness of his nevuah, leaders "approaching," and the rest of our people all "ascending!" (Based on *Melech Machsheves* by R. Moshe Cheifetz 1663-1711) ©2018 Rabbi Y. Adlerstein & torah.org

**RABBI DAVID S. LEVIN**

## To Be Continued

**P**arashat Mishpatim is a continuation of the laws that were given to Moshe on Har Sinai that form the basis for all of Jewish Law. The parasha begins with laws concerning a Jewish slave and proceeds through several categories of laws which deal

primarily with damages and the compensation for those damages. It is fascinating to see how the non-Jewish world Biblical academicians often misinterpret some of these laws and punishments. Some mistakes are caused by not reading the Oral Law, but even without this source, a careful reading of the text itself together with logic and simple questioning would lead to a proper interpretation of the law and punishments involved.

Let us deal with the most flagrant of these misinterpretations and see how the error could have been understood clearly if logic were used. We read in the Torah, "When men will fight and they will jostle a pregnant woman and she will miscarry, but there will be no fatality (to the woman), he shall surely be penalized when the husband of the woman shall impose upon him and he shall give it through judges' orders. And if there is a fatality (to the woman) then you shall give a life in place of a life. An eye tachat [for (in place of)] an eye, a tooth in place of a tooth, a hand in place of a hand, a foot in place of a foot. A burn in place of a burn, a laceration in place of a laceration, a bruise in place of a bruise."

The problem for many people when approaching these sentences is settling on the appropriate translation. Even in the Hebrew there is difficulty deciding how to explain the simple word tachat. Tachat can mean under, in place of, in exchange for, and the replacement of. The Rabbis differ also on how the words are to be grouped. One could read these words to mean that the punishment for putting someone's eye out or destroying a limb could be that one's own eye or limb would be destroyed (ayin tachat ayin). One could also read the words to mean that the punishment is to pay a replacement value of the limb that is damaged (ayin, tachat ayin). This would be a monetary payment that would cover not only the loss in value of the limb but also a series of other payments such as medical expenses, pain, suffering, loss of work, and embarrassment. How then can one determine what is the correct interpretation of the words and the punishments?

The Ramban suggests that we can best determine the appropriate meaning by examining how the words are used in other contexts that are related. In Parashat Emor we have the following p'sukim, "Any man who strikes a fellowman mortally he shall surely die. And one who strikes an animal mortally shall make it whole (pay restitution) a soul (life) for a soul. And a man that maims a fellowman as he has done so shall be done to him. A break in place of a break, eye in place of an eye, tooth in place of a tooth, as he has maimed a man so shall it be given to him." If the Torah tells a person to pay for an animal that he has killed why would it also call for nefesh tachat nefesh, soul for a soul? Surely one does not give monetary compensation if one is also giving up his life. We must

learn from this that monetary compensation is the tachat with which we are dealing. The ibn Ezra explains that the replacement of a limb with one's own limb is what one would deserve but only if one chose to avoid paying for the loss as prescribed by the Torah.

HaRav Shimshon Raphael Hirsch is able to prove that the Torah indicates payment rather than maiming. Hirsch directs us to the different type of injuries that can occur. The first injury was the death of the person. Here there is no question that we are not dealing with monetary compensation because the compensation would need to be paid to the one who was killed. The injury to an eye or a tooth normally results in a limited functioning of the eye or tooth. Sight would still be possible but impaired. Part of a tooth might still be functioning. When we discuss a hand or a foot the damage could be permanent or temporary. Later when the damage is a bruise or a laceration, this damage will heal. Yet in each case we use tachat, replacement. Were the Torah to insist on an actual bruise as compensation for a bruise it would also require the exact measurement and severity of that bruise. This would become an impossible task to perform. Were we to somehow accomplish this challenge, the victim and the perpetrator would be even. That means that the other payments of medical expenses, embarrassment, pain, or loss of work would not be owed or would need to be compensated on both sides for both injuries. This does not make sense since the victim will not receive compensation for his injury. For this reason it would seem that the Torah is not demanding physical but monetary compensation.

When we look to the laws of compensation for injury it is important to note what this accomplishes. Cutting out an eye or slicing off a hand does nothing to compensate the victim. We are cautioned, "lo takum v'lo titur, do not seek revenge or hold a grudge." Monetary payment shifts the emphasis of the punishment. Here the victim is aided by the compensation so that he will not become a burden on society. If as part of this compensation he has therapy to retool his skills or learn new ones, he will regain a feeling of self-worth even after suffering a permanent loss of a limb. The careless person who committed the injury may also learn to control his actions in light of his monetary punishment. He may learn to eliminate his anger or become much more careful when dealing with others. As we find in Pirkei Avot, "Eizeh hu chacham, haro'eh et hanolad, who is the wise man, the one who can anticipate the results of his actions."



May Hashem protect us from harming others and may we learn that any damage must be corrected. Our Rabbis explain that our words can also cause serious damage to others. May we be careful what we say and how we speak to others, and may we anticipate the harm that our words might cause. The compensation for our harsh words can never be fully calculated, and no amount of compensation could suffice. As we choose to control the physical harm we cause others, may we also choose to control the verbal harm as well. ©2018 Rabbi D.S. Levin

#### RABBI DOV KRAMER

### Taking a Closer Look

**“B**ehold I am sending a messenger before you" (Sh'mos 23:20). Rashi explains this "messenger" to be the angel who would have been sent to lead the nation after the sin of the golden calf had Moshe not pleaded with G-d that He should still lead the nation, not an angel (Sh'mos 33:15-16 and 34:9). This angel was eventually sent to lead the nation after Yehoshua took over as leader (see Ramban on 33:21).

This explanation raises several issues, including why G-d would mention the angel He wanted to send after they sinned if at this point they hadn't sinned yet, and why Moshe didn't protest (this first time) when he was told that G-d didn't plan on leading the nation Himself.

Another issue it raises is based on the borders that G-d set here for the Land of Israel, "from the Sea of Reeds until the Sea of the P'lishtim and from the desert until the river" (Sh'mos 23:31). One of these boundaries is the Sea of Reeds (Yam Suf, or Red Sea), the sea that, immediately after the exodus from Egypt, G-d had miraculously split in order to allow the nation to cross before drowning their former oppressors in it. As this sea surrounds the Sinai Peninsula on three sides, it was the western part that they crossed (into the Sinai Peninsula from Egypt), and the eastern part that (according to most) is referred to here as the eastern border of Israel. However, when the boundaries are described prior to the nation entering the land (Bamidbar 34:3), the southeastern corner is the bottom of the Dead Sea, which is much further north than Etzyon Gever (modern day Eilat), by the Gulf of Aqaba (the northeastern leg of the Red Sea). Why is the border here given as the Sea of Reeds rather than the Dead Sea? Besides, the border never actually reached that far south. Even at Israel's height (during the reign of King Solomon), the nation that lived by Etzyon Gever feared the Kingdom of Israel, and therefore sent it gifts, as well as following whatever it was asked or told to do (see M'lachim I 8:26-28), but was not actually part of the Land of Israel.

It would also be difficult to ascribe this boundary to any time other than Moshe's, as the verses

immediately prior to this are describing the initial conquest of the land. We are even told that they didn't conquer it in its entirety because it was too vast for the size of the nation at the time, with these borders being given in order to show just how vast the Land of Israel was (see Ibn Ezra and Malbim). If the nation never conquered enough land to make the Yam Suf its boundary, why is it mentioned here with the other boundaries?

Many commentaries (i.e. Ibn Ezra, Ralbag, Radak, Metzudas Dovid and Rashi) equate the boundaries listed here with those in Tehillim 72:8 ("and he had dominion from sea to sea and from the river to the edge of land") and/or to Zecharya 9:11 ("and he ruled from sea to sea and from the river to the edge of land"). The Ibn Ezra, Radak and Metzudas Dovid say the former can apply either to King Solomon (which is why he only "has dominion" but doesn't "rule") or to Moshiach, while the latter applies to Moshiach. The question is therefore not why the Yam Suf is given as a boundary at all, but why is it given as a boundary in our Parasha, speaking to the nation that had just come out of Egypt and would (have) shortly start(ed) conquering the land. Similarly, the "river" mentioned as the fourth boundary is the Euphrates, which also wasn't conquered during the initial conquest and usually refers to what the boundaries will eventually be. Why were two boundaries mentioned here that were not relevant to Moshe or Yehoshua?

Rabbeinu Avraham ben HaRambam says that the boundaries given here are those implied in the words "And when G-d will widen your boundaries as he swore to your fathers, and He gives you all of the land that He spoke of giving your fathers" (D'varim 19:8; the second "fathers" referred to here might be the generation that came out of Egypt, while the first "fathers" refers to the Patriarchs). This is how Midrash Lekach Tov and Midrash Aggadah explain the boundaries given in our Parasha, as does the Mechilta (Bo 12). Why were these future boundaries given here? It would seem that since the sin of the golden calf (and of the spies) hadn't occurred yet, these would have actually been the borders had they entered now; it was only after they sinned that the borders were scaled back, to be expanded in the distant future.

Which brings us to the additional issue with Rashi's explanation of the "angel" G-d referred to; How could G-d tell them how the nation will be led after they sin (i.e. by an angel) if just a few verses later He sets the boundaries of the land they will be led to based on them not sinning? Was G-d telling the nation what things will be like because they are going to sin, or how they would have been if they didn't?

Rambam (Moreh Nevuchim 2:34), as well as Ralbag, Rosh, Bechor Shor and Midrash HaGadol (in our Parasha), understand the "messenger" G-d will send to lead the nation to the Promised Land to be a

prophet (i.e. Moshe and then Yehoshua). Vayikra Rabbah (1:1) quotes numerous verses where a prophet is referred to as G-d's "messenger." Sh'mos Rabbah (32:2) says that G-d's was presenting the nation with a choice; "if you merit it, I (G-d) Myself will lead you," but if not, "I will give you over to a messenger." It can therefore be suggested that the word "messenger" in our verse has a dual meaning (see page 5 of [www.aishdas.org/ta/5764/mishpatim.pdf](http://www.aishdas.org/ta/5764/mishpatim.pdf) for another example of a possible dual meaning in our Parasha); if you don't sin, the "messenger" referred to will mean a prophet (Moshe, who will take directions directly from G-d), but if you do sin, it will mean an angel (placing an additional layer between G-d and the nation). Alternatively, it could refer to an angel who is a messenger (such as Micha'el) or the angel who speaks directly for G-d ("Matatron," see Rambam on Sh'mos 12:12 and 23:21), depending on whether or not we sin. Either way, G-d was telling them that there is more than one possibility as to how the nation will be lead, depending on their behavior.

After laying out all of the laws in Parashas Mishpatim, G-d told the nation that the way He will relate to them depends on how they will relate to Him; it could be a more direct relationship or a less direct relationship. If they fulfill the mitzvos properly, it will be a more direct relationship, including inheriting a larger amount of land (with wider boundaries). Moshe didn't protest (yet) because G-d wasn't saying that He will definitely send an angel instead of Him, but that it was a possibility. Unfortunately, that possibility became a reality, at which point Moshe did protest. ©2014 Rabbi D. Kramer

### SHLOMO KATZ

## Hama'ayan

**"A**gainst the great men of Bnei Yisrael, He did not stretch out His hand--they gazed at Elokim, and they ate and drank." (24:11)

Rashi z"l comments: "This implies that they were deserving of Hashem stretching out His hand against them." What was their sin?

R' Mordechai Banet z"l (1753-1829; rabbi of Nikolsburg, Moravia) explains: The Aramaic translation Targum Yonatan states, "They rejoiced at the acceptance of their offerings as if they had eaten and drank." Seemingly this is a good thing, as we read (Nechemiah 8:10), "The enjoyment of Hashem is your strength!" Nevertheless, the great men of Bnei Yisrael were deserving of punishment because the fact that the revelation of Hashem brought them as much joy as



eating and drinking means that they valued eating and drinking too highly. (Derashot Maharam Banet: Drush 5) ©2014 S. Katz & torah.org