

# Toras Aish

## Thoughts From Across the Torah Spectrum

**RABBI LORD JONATHAN SACKS**

### Covenant & Conversation

**T**wo words we read towards the end of our parsha – na'aseh ve-nishma, “We will do and we will hear” – are among the most famous in Judaism. They are what our ancestors said when they accepted the covenant at Sinai. They stand in the sharpest possible contrast to the complaints, sins, backslidings and rebellions that seem to mark so much of the Torah's account of the wilderness years.

There is a tradition in the Talmud<sup>1</sup> that God had to suspend the mountain over the heads of the Israelites to persuade them to accept the Torah. But our verse seems to suggest the opposite, that the Israelites accepted the covenant voluntarily and enthusiastically: Then [Moshe] took the Book of the Covenant and read it to the people. They responded, “We will do and hear [na'aseh ve-nishma] everything the Lord has said.” (Ex. 24:7)

On the basis of this, a counter tradition developed, that in saying these words, the assembled Israelites ascended to the level of the angels.

Rabbi Simlai said, when the Israelites rushed to say “We will do” before saying “We will hear,” sixty myriads of ministering angels came down and fastened two crowns on each person in Israel, one as a reward for saying “We will do” and the other is a reward for saying “We will hear.”

Rabbi Eliezer said, when the Israelites rushed to say “We will do” before saying “We will hear” a Divine voice went forth and said: Who has revealed to My children this secret which only the ministering angels make use of?<sup>2</sup>

What, though, do the words actually mean? Na'aseh is straightforward. It means, “We will do.” It is about action, behaviour, deed. But readers of my work will know that the word nishma is anything but clear. It could mean “We will hear.” But it could also mean, “We will obey.” Or it could mean “We will understand.” These suggest that there is more than one way of interpreting na'aseh ve-nishma. Here are some:

[1] It means “We will do and then we will hear.”

This is the view of the Talmud (Shabbat 88a) and Rashi. The people expressed their total faith in God.

They accepted the covenant even before they heard its terms. They said “we will do” before they knew what it was that God wanted them to do. This is a beautiful interpretation, but it depends on reading Exodus 24 out of sequence. According to a straightforward reading of the events in the order in which they occurred, first the Israelites agreed to the covenant (Ex. 19:8), then God revealed to them the Ten Commandments (Ex. 20), then Moses outlined many of the details of the law (Ex. 21-23), and only then did the Israelites say na'aseh ve-nishma, by which time they had already heard much of the Torah.

[2] “We will do [what we have already been commanded until now] and we will obey [all future commands].” This is the view of Rashbam. The Israelites' statement thus looked both back and forward. The people understood that they were on a spiritual as well as a physical journey and they might not know all the details of the law at once. Nishma here means not “to hear” but “to hearken, to obey, to respond faithfully in deed.”

[3] “We will obediently do” (Sforno). On this view the words na'aseh and nishma are a hendiadys, that is, a single idea expressed by two words. The Israelites were saying that they would do what God asked of them, not because they sought any benefit but simply because they sought to do His will. He had saved them from slavery, led and fed them through the wilderness, and they sought to express their complete loyalty to Him as their redeemer and lawgiver.

[4] “We will do and we will understand” (Isaac Arama in Akeidat Yitzchak). The word shema can have the sense of “understanding” as in God's statement about the Tower of Babel: “Let us, then, go down and confound their speech there, so that they shall not understand [yishme'u] one another's speech” (Gen. 11:7). According to this explanation, when the Israelites put ‘doing’ before ‘understanding’, they were giving expression to a profound philosophical truth. There are certain things we only understand by doing. We only understand leadership by leading. We only understand authorship by writing. We only understand music by listening. Reading books about these things is not enough. So it is with faith. We only truly understand Judaism by living in accordance with its commands. You cannot comprehend a faith from the outside. Doing leads to understanding.

Staying with this interpretation, we may be able

<sup>1</sup> Shabbat 88a, Avodah Zarah 2b.

<sup>2</sup> Shabbat 88a.

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to hear a further and important implication. If you look carefully at Exodus chapters 19 and 24 you will see that the Israelites accepted the covenant three times. But the three verses in which these acceptances took place are significantly different: The people all responded together, "We will do [na'aseh] everything the Lord has said." (Ex. 19:8)

When Moses went and told the people all the Lord's words and laws, they responded with one voice, "Everything the Lord has said we will do [na'aseh]." (Ex. 24:3) Then [Moses] took the Book of the Covenant and read it to the people. They responded, "We will do and hear [na'aseh ve-nishma] everything the Lord has said." (Ex. 24:7)

Only the third of these contains the phrase na'aseh ve-nishma. And only the third lacks a statement about the people's unanimity. The other two are emphatic in saying that the people were as one: the people "responded together" and "responded with one voice." Are these differences connected?

It is possible that they are. At the level of na'aseh, the Jewish deed, we are one. To be sure, there are differences between Ashkenazim and Sefardim. In every generation there are disagreements between leading poskim, halachic authorities. That is true in every legal system. Poor is the Supreme Court that leaves no space for dissenting opinions. Yet these differences are minor in comparison with the area of agreement on the fundamentals of halachah.

This is what historically united the Jewish people. Judaism is a legal system. It is a code of behaviour. It is a community of deed. That is where we require consensus. Hence, when it came to doing – na'aseh – the Israelites spoke "together" and "with one voice." Despite the differences between Hillel and Shammai, Abaye and Rava, Rambam and Rosh, R. Yosef Karo and R. Moshe Isserles, we are bound together by the choreography of the Jewish deed.

At the level of nishma, understanding, however, we are not called on to be one. Judaism has had its rationalists and its mystics, its philosophers and poets, scholars whose minds were firmly fixed on earth and saints whose souls soared to heaven. The Rabbis said that at Sinai, everyone received the revelation in his or her own way: "And all the people saw" (Ex. 20:15): the sounds of sounds and the flames of flames. How many

sounds were there and how many flames were there? Each heard according to their own level of understanding what they were experiencing", and this is what it means when it says (Ps. 29:4) "the voice of the Lord in power, the voice of the Lord in majesty."<sup>3</sup>

What unites Jews, or should do, is action, not reflection. We do the same deeds but we understand them differently. There is agreement on the na'aseh but not the nishma. That is what Maimonides meant when he wrote in his Commentary to the Mishnah, that "When there is a disagreement between the Sages and it does not concern an action, but only the establishment of an opinion (sevarah), it is not appropriate to make a halachic ruling in favour of one of the sides."<sup>4</sup>

This does not mean that Judaism does not have strong beliefs. It does. The simplest formulation – according to R. Shimon ben Zemach Duran and Joseph Albo, and in the twentieth century, Franz Rosenzweig – consists of three fundamental beliefs: in creation, revelation and redemption.<sup>5</sup> Maimonides' 13 principles elaborate this basic structure. And as I have shown in my Introduction to the Siddur, these three beliefs form the pattern of Jewish prayer.<sup>6</sup>

Creation means seeing the universe as God's work. Revelation means seeing Torah as God's word. Redemption means seeing history as God's deed and God's call. But within these broad parameters, we must each find our own understanding, guided by the Sages of the past, instructed by our teachers in the present, and finding our own route to the Divine presence.

Judaism is a matter of creed as well as deed. But we should allow people great leeway in how they understand the faith of our ancestors. Heresy-hunting is not our happiest activity. One of the great ironies of Jewish history is that no one did more than Maimonides himself to elevate creed to the level of halachically normative dogma, and he became the first victim of this doctrine. In his lifetime, he was accused of heresy, and after his death his books were burned. These were shameful episodes.

"We will do and we will understand," means: we will do in the same way; we will understand in our own way.

I believe that action unites us, leaving us space to find our own way to faith. *Covenant and Conversation 5780 is kindly supported by the Maurice Wohl Charitable Foundation in memory of Maurice and Vivienne Wohl z"l* ©2020 Rabbi Lord J. Sacks and

<sup>3</sup> Mechilta 20:15b.

<sup>4</sup> Maimonides, Commentary to the Mishnah, Sanhedrin, 10:3.

<sup>5</sup> See Menachem Kellner, *Dogma in Medieval Jewish Thought* (1986); Marc Shapiro, *The Limits of Orthodox Jewish Theology* (2011) and *Changing the Immutable* (2015).

<sup>6</sup> "Understanding Jewish Prayer", *Authorised Daily Prayer Book*, Collins, 2006, pp20-21; *The Koren Siddur*, Koren Publishers Jerusalem Ltd., 2006, pp. xxxi - xxxii

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**RABBI SHLOMO RISKIN**

## Shabbat Shalom

**I**f your brother becomes destitute and is then sold to you, you shall not make him work like a slave” (Leviticus 25:39) If indeed Judaism gave the world the idea and ideal of freedom – “I am the Lord thy God who took thee out of the land of Egypt, the house of bondage” (Exodus 20:2), how can we justify that our Bible accepts the institution of slavery and even legislates proper and improper treatment of slaves? Why didn’t our Torah abolish slavery absolutely? If we compare the laws of the Hebrew slave as found in Mishpatim (Exodus 21:2-6) to the laws of the Hebrew slave as found in our reading of Behar (Leviticus 25:39-47), our analysis may lead to a revolutionary idea about how the Bible treated the “slave” altogether! At first blush, the two primary sources appear to be in conflict with each other. The portion of Mishpatim explains that if one purchases a Hebrew slave, he may only be enslaved for six years after which he must be completely freed (Ex. 21:2). Secondly, the owner may provide the slave with a gentile servant as his wife, stipulating that the children will remain slaves of the owner after the Hebrew slave (father) is freed (Ex. 21:4).

And thirdly, if the Hebrew slave desires to remain in bondage longer than the six-year period – “Because he loves his master, his wife, his children” – he may continue to be enslaved until the Jubilee 50th year; however, he must first submit to having his ear pierced at the doorpost, so that the message of God’s dominion (“Hear O Israel the Lord is our God, the Lord is one”), rather than human mastery, is not lost upon him (Ex. 21:5,6).

A very different picture seems to emerge from the passage in Behar. Here the Bible emphasizes the fact that we are not dealing with slavery as understood in ancient times, a specific social class of slaves who were captured in war or whose impoverishment caused them to be taken advantage of. Rather, our Torah insists that no human being may ever be reduced to servitude, no matter his social or financial status.

At worst, he must be hired like a hired residential worker with you, and “he shall work with you until the jubilee 50th year. Because they [these hired residential workers] are [also no less than you,] my servants whom I have taken out of the land of Egypt; they may not be sold as one sells a slave. You shall not

rule over them harshly; you must fear your God” (Lev. 25:43). You are not to have slaves, our text is proclaiming; you are merely to have hired residential workers! And upon examining our text in Behar, we find a number of interesting differences between this passage and the text in Exodus. First of all, in our portion there doesn’t seem to be a time limit of six years; the length of time of employment would seem to depend upon the contract between employer and employee.

Second, this passage doesn’t seem to mention anything about the employer providing a gentile servant as wife. And thirdly, our text does not ordain piercing of the ear for a longer stay of employment, and it does tell us in no uncertain terms that our Bible does not compromise with slavery! It only provides for hired residential workers.

The Talmud – which transmits the Oral Law, some of which emanated from Sinai and some of which is interpreted by the Sages (100 BCE – 800 CE) – teaches that each of these biblical passages is dealing with a different kind of “servant” (B.T. Kiddushin 14a): The first (in Mishpatim) is a criminal who must be rehabilitated, a thief who doesn’t have the means to restore his theft to its proper owner. Such an individual is put “on sale” by the religious court, whose goal is to guide a family toward undertaking the responsibility of rehabilitation.

After all, the criminal is not a degenerate, his crime is not a “high risk” or sexual offense, and it is hoped that a proper family environment which nurtures and provides gainful employment (with severance pay at the end of the six-year period) will put him back on his feet. He is not completely free since the religious court has ruled that he must be “sold,” but one can forcefully argue that such a “familial environment/halfway house” form of rehabilitation is far preferable to incarceration.

The family must receive compensation – in the form of the work performed by the servant as well as the children who will remain after he is freed – and the criminal himself must be taught how to live respectfully in a free society. And, if the thief does not trust himself to manage his affairs in an open society, he may voluntarily increase his period of incarceration-rehabilitation.

The second passage in Behar deals with a very different situation, wherein an individual cannot find gainful employment and he is freely willing to sell the work of his hands. The Bible here emphasizes that there is absolutely no room for slavery in such a case; the person may only be seen as a hired, residential laborer, who himself may choose the duration of his contract; his “person” is not “owned” in any way by his employer. Hence, he cannot be “given” a wife, and of course any children he may father are exclusively his children and not his employer’s children! ©2020 Ohr



*Torah Institutions & Rabbi S. Riskin*

### RABBI BEREL WEIN

## Wein Online

**W**hat I find most striking about this very detailed, mainly legal and technical parsha of the Torah, is the brutal acknowledgement it makes of human nature and its weaknesses. One would think that after the exalted moment when the people of Israel accepted the Torah at Mount Sinai, when humankind finally achieved its highest moral and intellectual level, that the Torah would no longer find it necessary to burden us with laws, details and rules regarding murder, theft, damages, law suits and sexual misconduct.

We should have been led to believe that we are past all that. We are a kingdom of priests and a very holy congregation. Yet, immediately after the lofty description of granting the Torah to Israel at Sinai, it follows immediately with a legal penal code that is based on the worst behavior and attitudes of human beings. The Torah harbors no illusions about human nature. It proclaims to us, at the very beginning of its teachings in Genesis, that the nature and desire of humans is evil from the very first moments of life. In fact, the Torah poses the challenge to overcome the struggle against our own evil impulses and base desires. The Torah was granted to us to serve as a handbook, to instruct us how this is to be accomplished. But the Torah never promised us that this struggle would ever disappear from our human existence.

There are other faiths, social ideas and programs that are based on the idea that human nature can be altered and changed by fiat, legislation, persuasion and, if necessary, even by coercion. Perhaps human behavior can indeed be so controlled, but it cannot be manipulated. It contains many attributes, but it certainly is never to be viewed as being wholly negative in its attitudes and desires. Human nature desires freedom of mind, body and society. It is optimistic and forward looking. It desires continuity of family and nationhood, and it pursues love and well-being.

Human nature desires structure and has a real appreciation of the fleeting gift of time. All these facets of human nature are also exhibited in the rules and laws promulgated in this week's Torah reading. The Torah teaches us that there is no escape from human nature but that the good in our nature – which Lincoln called "our better angels," can make us into the holy people envisioned for us at Sinai.

Part of the nature within us is our longing for immortality and a connection with what is eternal. The laws and rules that appear in this week's Torah reading are meant to help foster that drive for eternity. Jews view these laws and rules as complementary

companion to the Ten Commandments of Sinai and the guidebook for Jewish life and society throughout all the ages of our existence. ©2020 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

**A**s the Jews stood at Mt. Sinai receiving the Torah, they "ate and drank." (Exodus 24:11) Isn't this inappropriate, especially when considering the holiness of the moment?

Rashi, in fact, maintains that the people acted improperly. Only because of divine mercy were the Jews spared a punishment. At the very moment of revelation, God manifests Himself as loving and forgiving.

Unlike Rashi, Targum insists the Jews did not literally eat and drink – for it would never enter their minds to do so at such a powerful time. Still, he suggests that the moment of revelation was so exalting, it was as if they ate and drank.

Although Rashi and Targum disagree as to whether the Jews actually ate or drank, both maintain that it is wrong to do so during a deep spiritual experience.

Ramban sees it differently. He maintains that while the Jews did eat and drink, it was not inappropriate. They ate the peace offerings, and drank, making it "an occasion for rejoicing and festival... Such is one's duty to rejoice at the receiving of the Torah."

Ramban's position reflects the mainstream of Jewish philosophical thought. While some insist that the pathway to spirituality is suppression of the body, Judaism maintains that the pathway to Godliness is to sanctify the physical. In fact, the very essence of halakhah teaches that the body is not to be exalted or subjugated, but sanctified, lifting earth to heaven, and bringing heaven down to earth. The Jewish goal is to bring spirituality into earthliness.

Once, Rabbi Samson Raphael Hirsch decided to vacation. He was asked by his followers how he could indulge himself in such frivolity. Rabbi Hirsch responded that when, after death, he would come before God, God would ask him, "Shimshon, why didn't you see my Alps"? For Hirsch, the Alps are manifestations of God's creative power. Through the joy of seeing God's world, he was able to experience the divine.

Revelation at Sinai teaches that Torah is not meant to separate us from the real world of physical needs and desires. Eating and drinking can enhance the most holy of moments. ©2020 Hebrew Institute of Riverdale & CJC-AMCHA. Rabbi Avi Weiss is Founder and Dean of Yeshivat Chovevei Torah, the Open Orthodox

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**RABBI DAVID S. LEVIN**

## Situation of Need

**H**aRav Shamshon Raphael Hirsch points out that the beginning of our parasha deals with laws that involve personal freedom and the Rights of Man. These sentences begin with the words, “when a man sells a Jewish slave,” and, “when a man sells his daughter as a maidservant.” For the Torah to begin discussing Rights with cases that limit those Rights seems unusual. Hirsch views the Torah as only an aid to memory and a reference to the Oral Law which is the law in its complete form. The Oral Law is a living embodiment of the concepts and ideas of the freedom of Man. Since the Oral Law was to be the main text of study, the Torah’s statement of these laws was merely a reminder of the law, and the unusual nature of the parasha’s opening can be dismissed.

Hirsch describes the difference between the Torah She b’al Peh, the Oral Law, and the Torah Shebichtav, the Written Torah, as comparable to having attended a thorough and extensive scientific lecture and taken short notes while listening carefully. The notes would be sufficient to spark one’s memory of the entire lecture but if read by someone who had not attended would be incomprehensible and useless. The laws within the “short notes” of the Written Torah cannot be comprehended without having “attended the lecture” of the Oral Law. The Torah’s words, however, do enable one who has studied the Oral Law to remember all of its intricacies from the few words that are written. As we study the laws of the eved ivri, the description of these differences will become clear.

The laws begin, “when you purchase a Jewish slave (eved ivri), he will work for six years and in the seventh year he will go out to freedom for nothing (no cost).” The “short notes” tell us, “when you purchase” instead of “when you will sell”. We understand that we are discussing here a Jew who is sold by the courts, rather than an individual who decides to sell himself. The eved ivri that this section discusses is a poor Jew who stole and cannot pay the fine for his theft. The thief is sold for a maximum of six years, whereas a poor Jew who sells himself is sold until yovel, the Jubilee (50th) year. Since this section in our parasha only refers to the “purchased slave”, the laws that apply here do not apply to a Jew who sells himself.

The “short notes” also make us aware of any machloket (difference of opinion) that occurs because of vagueness in the text. This is evident in the next sentence in the Torah. “If he (the slave) came in by himself he will go out by himself, if he is married his wife will go out with him.” From this pasuk a whole set of laws concerning the wife and family of this slave is gleaned. “Rabbi Shimon asks, ‘if he is sold is his wife

also sold?’ [And what does the Torah say ‘and his wife will go out with him’.] From this we learn that the owner is responsible for providing food for the slave’s wife (and children) (Kiddushin, 28a).” Our laws here equate the owner of the slave with the slave as husband to this wife. There is a basic principle in the Torah that a man is responsible for the food of his wife and children. From this law we also learn that any earnings of the wife and children belong to the husband. But what if the wife chooses to keep her earnings and live off her own money? Then she may keep these earnings and provide food for herself. In our case, there is another “ba’al, husband” who has responsibility to provide food for her. Is the owner of the slave entitled to the slave’s wife’s earnings? The Rambam says that he is not entitled to these earnings just as he is not entitled to any other wifely relationships from her. The Ramban acknowledges this distinction but focuses on the financial aspects of their relationship alone. He argues that as the “ba’al” replaces the husband in his financial responsibility to feed the wife and children he also replaces the husband in this aspect of the relationship. The wife can still choose to be fed by the owner but only if she agrees to give him her earnings. Thus, the Ramban learns that the words in the “short notes” indicates that the wife now also goes out from this two-sided relationship when her husband goes out from slavery.

By studying the Torah alone, one would miss a vital question concerning the eved ivri. The Talmud in Kiddushin 22a discusses the treatment of a Jewish slave by his master. Here it discusses that a master may give over to the slave a shifcha Cana’anit (a Canaanite slavewoman) as a semi-wife in order to gain slaves from this union. This can only be done if the slave is already married and has children. The children that he has together with the shifcha belong to the owner and will not go out with the slave. But if the slave does not want to leave his shifcha wife or his shifcha children he may choose to remain with his master until the Jubilee Year.

The Talmud explains another benefit of the Jewish slave. The owner’s relationship to the slave is clear. “That it will not be that you will eat bread made of fine flour and he will eat bread made of inferior flour, that you will not drink old wine and he will drink new wine (inferior), that you will sleep on soft mattresses and he will sleep on straw, from here it is said anyone who purchases a Jewish slave it is as if he purchased a master for himself.” We also know that the eved ivri may not be asked to do any kind of work other than the type of work with which he is already familiar. If he was a carpenter, he may only be asked to do carpentry. With this in mind, we must question why anyone would choose to be a master. It is clear that these laws are a serious burden on the master. We learn that the master could easily be angry with himself for not seeing

the slow deterioration of the poor Jew's condition. Now the master faces his responsibility and is willing to suffer a loss in order to assist this poor man and his family.

The owner's response was too late to prevent this slave from stealing to provide for his family. He was not aware nor did he make himself aware of the plight of this fellow Jew. His response at this time should cause him to become sensitive to others in the future. The premise is clear; Hashem creates the situation of need, not as a punishment, but as a sensitizing experience for all. We must first cause ourselves to recognize the needs of others and then do what we can to alleviate that need. We must calculate how to stop the suffering and then act. May we each learn from the lesson of the Jewish slave and do what we can to help our fellowman. © 2020 Rabbi D.S. Levin

### 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 JONATHAN GEWIRTZ

## Migdal Ohr

**"[C**ompensation of] an eye for an eye, [of] a tooth for a tooth, [of] a hand for a hand, [of] a foot for a foot." (Shmos 21:24) One of the most famous lines in the Torah or "Bible," this posuk does not mean what many people think it means. Most people who quote, "an eye for an eye" are talking about revenge or at least exacting payment from someone who wrongs them. Though the posuk sounds like we put out the assailant's eye, the Torah She'Baal Peh teaches us that we do not inflict harm to him as he did to his victim, but that we require monetary recompense.

The procedure for determining how much money one needs to pay has several different components. In addition to actual damage, one needs to pay for pain and suffering, lost wages, and medical bills, much as one thinks of today's legal obligations.

For the damage, the Torah teaches that we estimate the monetary value harmed by the loss of a limb were the person a slave being sold in the marketplace. He must pay the difference between what a whole person would fetch and one who is disfigured. One opinion in the Gemara suggests that we don't calculate the value of the victim, but of the aggressor, and it is his eye that is used as the barometer of damage.

When it comes to pain, as Rashi tells us on the next posuk, when there is no damage or blood lost, we must estimate differently. If, for example, a fellow was burned with a hot poker on his fingernail, it is painful. We therefore calculate how much money a person would require to allow himself to have this done to him and tolerate the pain.

This is curious. Instead of looking at it after the fact, "How much would a person have to receive to forgive one who pained him?" we ask, "What would I have to pay you to go through such-and-such?" This is a much higher amount.

If we asked someone who lost an eye, "How much would you pay to have it back?" it would depend on his situation and his means. Regardless of that, if you asked a poor man, "How much do you want to let

me poke out your eye?" his answer would be, "There's not enough money in the world for that!" Nobody is going to let someone pain them or maim them for even absurd amounts of money. And that may be the lesson.

When the Torah talks about paying for wronging another, it's not about the victim being able to get what they're owed. It's true they are going to be receiving compensation, but the point is for the one who pained the other to realize how egregious his act was.

We use his own eye so that he puts himself in the place of the other and thinks about how he would feel if it happened to him. We gauge how much he would want to accept to let us do it to him, and he should understand that he wouldn't want to let anyone do it for any amount of money. Hopefully he recognizes the gravity of his actions and not only repents but never does anything like that again.

*The Gemara in Bava Kama (37a) relates the story of a wicked fellow named Chanan. He was brought before Bais Din for having slapped someone.*

*The judge in the case, Rav Huna, ruled that for doing so, he had to give a half-zuz coin to the fellow he hit. Chanan had a beat-up zuz coin (how appropriate!) but he could not find anyone willing to take it and give him change. © 2020 Rabbi J. Gewirtz and Migdal Ohr*

#### **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

#### HARAV SHLOMO WOLBE ZT"L

### **Bais Hamussar**

**W**hen Adam was created, good and evil were clearly defined. After he sinned by eating from the eitz hadaas, the evil entered his body. It became part of his spiritual makeup, thereby causing the ability to distinguish between good and evil to become much more difficult. Fortunately, as we will

see, this confusion is a malady which is limited to the confines of the heart.

The Chovos Ha'Levovos tells us (Avodas Ha'Elokim chap. 5) that our intellect does not suffer from this difficulty. Moreover, it is clear from his words that the intellect is the tool that we were given to enable us to properly navigate our way through this world without crashing into the roadblocks of evil that were erected after Adam's sin. "One is to acknowledge Hashem by way of his intellect... What brings a person to this acknowledgment is one's clarity of the fact that Hashem implanted in the intellect the ability to recognize the praiseworthiness of truth and the deceit of falsehood, and the value to choose good and to refrain from evil." What people refer to as one's "conscience," should more correctly be labeled "the intellect granted to him by his Creator."

However, says Rav Wolbe (Daas Shlomo), there is a hitch in the intellect's ability to guide a person. This obstacle is spelled out in this week's parsha. "Do not accept a bribe (shochad), for a bribe blinds the eyes of the wise" (Shemos 23:8). The Gemara in Kesubos (105b) explains that the word "shochad" is actually a compound word -- "she'hu chad" -- "that he is one." A judge who accepts a bribe becomes one with the person who offered the bribe, and consequently does not have the ability to evaluate the situation objectively.

When one's hand accepts a bribe, his intellect becomes paralyzed. Additionally, a bribe does not have to come solely by way of the transfer of money from hand to hand. Our heart's desires are one of the biggest bribes that will ever be offered to us. These too have the ability to cause our hearts and minds to become one and cause the intellect to no longer be able to properly appraise life's circumstances.

Our intellect can be compared to a compass. The needle of a compass always points to the north. However, put a small magnet next to the compass and it will throw off its sense of direction. Likewise, when we place a small desire next to our intellect, it throws off our sense of direction and thus our ability to navigate through the world.

So what are we supposed to do? How can we be guaranteed that what our intellect tells us is really true? The answer to this question can also be found in the Chovos Ha'Levovos (ibid. chap. 3). It was for this reason that we were given the Torah. The Torah is the ultimate compass. It was given to us from the hand of the Creator and therefore it is certainly not adulterated by human desires. He Who created the maze, also gave us the guide to find our way. Even if we ourselves



have not succeeded in mastering the information, we always have our Torah leaders who are happy to show us the way. ©2016 Rabbi S. Wolbe zt"l & AishDas Society