

Toras Aish

Thoughts From Across the Torah Spectrum

RABBI LORD JONATHAN SACKS ZT"l

Covenant & Conversation

First in Yitro there were the Aseret Hadibrot, the “ten utterances” or general principles. Now in Mishpatim come the details. Here is how they begin: If you buy a Hebrew servant, he is to serve you for six years. But in the seventh year, he shall go free, without paying anything . . . But if the servant declares, ‘I love my master and my wife and children and do not want to go free,’ then his master must take him before the judges. He shall take him to the door or the doorpost and pierce his ear with an awl. Then he will be his servant for life. (Ex. 21:2-6)

There is an obvious question. Why begin here? There are 613 commandments in the Torah. Why does Mishpatim, the first law code, begin where it does?

The answer is equally obvious. The Israelites have just endured slavery in Egypt. There must be a reason why this happened, for God knew it was going to happen. Evidently He intended it to happen. Centuries before He had already told Abraham it would happen: As the sun was setting, Abram fell into a deep sleep, and a thick and dreadful darkness came over him. Then the Lord said to him, “Know for certain that for four hundred years your descendants will be strangers in a country not their own and that they will be enslaved and mistreated there. (Gen 15:12-13)

It seems that this was the necessary first experience of the Israelites as a nation. From the very start of the human story, the God of freedom sought the free worship of free human beings, but one after the other people abused that freedom: first Adam and Eve, then Cain, then the generation of the Flood, then the builders of Babel.

God began again, this time not with all humanity, but with one man, one woman, one family, who would become pioneers of freedom. But freedom is difficult. We each seek it for ourselves, but we deny it to others when their freedom conflicts with ours. So deeply is this true that within three generations of Abraham’s children, Joseph’s brothers were willing to sell him into slavery: a tragedy that did not end until Judah was prepared to forfeit his own freedom that his brother Benjamin could go free.

It took the collective experience of the Israelites, their deep, intimate, personal, backbreaking, bitter experience of slavery – a memory they were

commanded never to forget – to turn them into a people who would no longer turn their brothers and sisters into slaves, a people capable of constructing a free society, the hardest of all achievements in the human realm.

So it is no surprise that the first laws they were commanded after Sinai related to slavery.

It would have been a surprise had they been about anything else. But now comes the real question. If God does not want slavery, if He regards it as an affront to the human condition, why did He not abolish it immediately? Why did He allow it to continue, albeit in a restricted and regulated way? Is it conceivable that God, who can produce water from a rock, manna from heaven, and turn sea into dry land, cannot change human behaviour? Are there areas where the All-Powerful is, so to speak, powerless?

In 2008 economist Richard Thaler and law professor Cass Sunstein published a fascinating book called *Nudge*. In it they addressed a fundamental problem in the logic of freedom. On the one hand freedom depends on not over-legislating. It means creating space within which people have the right to choose for themselves.

On the other hand, we know that people will not always make the right choices. The old model on which classical economics was based, that left to themselves people will make rational choices, turns out not to be true. We are deeply irrational, a discovery to which several Jewish academics made major contributions. The psychologists Solomon Asch and Stanley Milgram showed how much we are influenced by the desire to conform, even when we know that other people have got it wrong. The Israeli economists, Daniel Kahneman and Amos Tversky, showed how even when making economic decisions we frequently miscalculate their effects and fail to recognise our motivations, a finding for which Kahneman won the Nobel Prize.

How then do you stop people doing harmful things without taking away their freedom? Thaler and Sunstein’s answer is that there are oblique ways in which you can influence people. In a cafeteria, for example, you can put healthy food at eye level and junk food in a more inaccessible and less noticeable place. You can subtly adjust what they call people’s “choice architecture.”

That is exactly what God does in the case of slavery. He does not abolish it, but He so circumscribes it that He sets in motion a process that will foreseeably, even if only after many centuries, lead people to

abandon it of their own accord.

A Hebrew slave is to go free after six years. If the slave has grown so used to his condition that he wishes not to go free, then he is forced to undergo a stigmatising ceremony, having his ear pierced, which thereafter remains as a visible sign of shame. Every Shabbat, slaves cannot be forced to work. All these stipulations have the effect of turning slavery from a lifelong fate into a temporary condition, and one that is perceived to be a humiliation rather than something written indelibly into the human script.

Why choose this way of doing things? Because people must freely choose to abolish slavery if they are to be free at all. It took the reign of terror after the French Revolution to show how wrong Rousseau was when he wrote in *The Social Contract* that if necessary people have to be forced to be free. That is a contradiction in terms, and it led, in the title of J. L. Talmon's great book on the thinking behind the French revolution, to totalitarian democracy.

God can change nature, said Maimonides, but He cannot, or chooses not to, change human nature, precisely because Judaism is built on the principle of human freedom. So He could not abolish slavery overnight, but He could change our choice architecture, or in plain words, give us a nudge, signalling that slavery is wrong but that we must be the ones to abolish it, in our own time, through our own understanding. It took a very long time indeed, and in America, not without a civil war, but it happened.

There are some issues on which God gives us a nudge. The rest is up to us. *Covenant and Conversation* is kindly supported by the Maurice Wohl Charitable Foundation in memory of Maurice and Vivienne Wohl zt"l © 2024 The Rabbi Sacks Legacy Trust rabbisacks.org

RABBI SHLOMO RISKIN

Torah Lights

“These are the statutes which you must place before them.” (Exodus 21:1) If two religiously observant Jews are engaged in a disagreement which has financial ramifications, are they permitted to go to a secular court to arbitrate their dispute or must they go to a religious court or bet din? Is the law different in Israel, which has a religious as well as a secular court system, but where even the secular court judges are Jewish? And if indeed Jews are religiously ordained to go to religious courts exclusively, why is this the case? After all, secular courts in America are certainly fair and equitable!

The Torah portion of Mishpatim provides interesting responses to all three questions. It opens with the command: “These are the statutes which you [the Israelites] shall place before them [the religious judges]” (Ex. 21:1). Rashi immediately cites the Talmudic limitation (Gittin 88b): “Before the religious judges and not before gentile judges. And even if you know that

regarding a particular case, they [the gentile judges] would rule in the exact same way as the religious judges, you dare not bring a judgment before the secular courts. Israelites who appear before gentile judges desecrate the name of God and cause idols to be honored and praised.” (Tanchuma Mishpatim 3)

According to this passage, it would seem that the primary prohibition is to appear before gentile judges who are likely to dedicate their legal decision to a specific idol or god; it is the religion of the judge rather than the content of the judgment which is paramount. From this perspective, one might legitimately conclude that Israeli secular courts – where the judges are all Jewish – would not be prohibited. (*This is the conclusion reached by Jerusalem Magistrate Court Judge Jacob Bazak, in ‘Courts of Law in the State of Israel – Are They Indeed Secular?’, *Tehumin* 11 (5741) pp. 523–528.)

Moreover, secular courts in America – where there is a clear separation between religion and state in the judiciary – may very well likewise be permitted.

However, the great legalist and philosopher Maimonides would seem to support another opinion. Although he begins his ruling, “Anyone who brings a judgment before gentile judges and their judicial systems... is a wicked individual” – emphasizing the religious or national status of the judge rather than the character of the judgment – he then concludes, “...and it is as though he cursed and blasphemed [God], and lifted his hand against the laws of Moses.” (Laws of the Sanhedrin 26:7)

Apparently, Maimonides takes umbrage at a Jew going outside the system of Torah law, thereby disparaging the unique assumptions and directions of the just and righteous laws of God.

In order for us to understand exactly what is unique about the Jewish legal system, permit me to give an example of the distinctive axioms of Torah law from another passage in this Torah portion, the prohibition against charging or accepting interest on a loan.

“If you will lend money to my nation, to the poor person with you, you may not be to him as a creditor, you may not place upon him an interest rate [neshekh]; and if you accept from him your friend’s cloak as security for the loan you must return the cloak to him before sunset. Because, after all, it may be his only cloak and [without it], with what [cover] will he lie down? And if he cries out to Me, I shall hear because I am gracious.” (Exodus 22:24–26)

In addition to noting the touching poignancy of the latter portion of the passage, I would like to ask four questions, one on each of the four earlier phrases of the commandment. First of all, the prohibition against interest begins, “If you will lend money to my nation.” Although Rashi cites the teaching of Rabbi Yishmael that this is one of the three biblical instances where the usage of the Hebrew ‘im’ is not to be understood as being volitional – if – but is rather to be taken as an imperative

– “When you lend money to my nation,” as you should do – nevertheless, one might legitimately query why the Bible chooses to use such an ambiguous term for an act of lending, when it is clearly God’s desire that we perform this act!

Second, the Bible seems repetitious: “...to my nation, to the poor person with you.” One or the other of these two phrases would have been sufficient to teach the point!

Third, “You may not be to him as a creditor,” says the Torah. This is interpreted by our sages to mean that not only is it forbidden for the creditor to remind the debtor of the loan, but the creditor must go out of his way not to cause the debtor embarrassment; if the creditor sees the debtor walking towards him it is incumbent upon the creditor to change direction. Why? After all, the debtor took money from the creditor, didn’t he? Why not remind the debtor that the loan must be repaid?

Fourth and finally, the specific prohibition against interest itself seems problematic. The Hebrew word used in the Bible for interest – “neshekh” – also means the bite of a snake, which our sages compare to interest since the serpent initially injects his venom painlessly but it ultimately consumes the entire individual and takes his very life! Maimonides goes so far as to codify: “Anyone who writes a contract with an interest charge is writing and causing witnesses to testify that he denies the Lord God of Israel... and is denying the exodus from Egypt.” (Laws of Lenders and Borrowers, 4:7)

What is the logical reason for the prohibition against interest – and why the hyperbolic comparisons? After all, there is no prohibition against charging rent for the use of my house! Why should there be a prohibition against charging rent for the use of my excess funds?

Rabbi Haim ibn Attar, in a most brilliant illumination, beautifully explains this passage in his commentary *Ohr Hachayim*. In an ideal world, he maintains, there ought to be no rich and no poor, no lenders and no borrowers; everyone should receive from the Almighty exactly what they require to live. But, in His infinite wisdom, this is not the manner in which the Lord created the world. He provides certain individuals with excess funds, expecting them to help those who have insufficient funds, appointing them His “cashiers” or “ATMs.” Hence you must read the verse as “If you have [excess] money to lend to my nation, [understand] that what ought to have gone to the poor individual is with you.” You were merely given the poor person’s money in trust; your extra funds actually belong to him!

If you understand this fundamental axiom – that the rich person is actually holding the poor person’s money in trust as an agent of the divine – then everything becomes clear. Of course, the lender may not act as a creditor, because she is only giving the poor man what is in actuality his. And of course one dare not charge interest, because the money you lent out was never

yours in the first place.

This is the message of the exodus from Egypt, the seminal historic event which formed and hopefully still informs us as a nation: no individual ought ever be owned by or even indebted to another individual. We are all owned by and must be indebted only to God. This fundamental truth is the foundation of our traditional legal system which is uniquely just and equitable: it is especially considerate of the needs of the downtrodden and enslaved, the poor and the infirm, the orphan and the widow, the stranger and the convert, the “chained wife” and the indigent forced to sell their land. From this perspective, not only must we submit to Jewish law, but it is crucial that our judges be certain that Jewish law remains true to its ethical foundations. *The above article appears in Rabbi Riskin’s book Bereishit: Confronting Life, Love and Family, part of his Torah Lights series of commentaries on the weekly parsha, published by Maggid. © 2024 Ohr Torah Institutions & Rabbi S. Riskin*

RABBI BEREL WEIN

Wein Online

The Torah reading of this week deals with the difficulties and pettiness of human life. I find this to be extraordinary since only last week the Torah dealt with the exalted principles and values system of holiness as represented by the Ten Commandments.

It seems to be a letdown to have to speak about oxen goring and people fighting, enslaving and damaging one another when we were apparently just elevated to the status of being a kingdom of priests and a holy nation.

The beginning point of the education of many a Jewish child in Mishna and in Talmud is located in the very prosaic laws of torts and damages discussed in this week’s Torah reading. In effect the law book part of the Torah begins by showing us people at their worst behavior and weakest moments. Would it not be more inspiring if the Torah somehow began this detailed part of Jewish law with more inspiration and spirituality?

Yet we are all aware that the most studied volumes of the Talmud - the real meat and potatoes - are those tractates that deal with many of the laws presented in this week’s Torah reading. The rabbis in fact advised us to study these laws of torts and of human failures, translated into negative actions and behavior, in order to sharpen our brains and somehow make us wiser.

And most of the study effort concerns itself with how to deal with the damage and hurt that has already been done and very little time and effort, so to speak, with the moral strength necessary to prevent these very damaging events from occurring.

The Torah is a book of reality. It does not gloss over situations nor is it in the least bit hagiographic in dealing with the main characters that appear in its narrative. The perfect Torah speaks to a very imperfect world. The Torah does not allow us to have illusions

about how people will behave when money, emotions, negligence and spite are present in society and in the lives of people.

Slavery is wrong, perhaps the greatest wrong, but it has been a fact of life in human history till and including our time. Slavery breeds inequity and as we have witnessed time and again ending slavery does not in any way end bigotry.

The Torah comes to address the how and why of overcoming this inequity and of making slavery subject to such rigorous legal restraints as to prompt the Talmud to say that he who acquires a slave for himself in reality is acquiring a master for himself.

People will be people, damages and hurts will occur and the temptation of wealth and money will not disappear from the face of this earth. We have to have a set of rules and an ability to deal with these problems so that they do not completely consume us. The Torah, of necessity, must propose a program of compensation to help the victims and restrain the perpetrators. It is this recognition of human behavior that sets the Torah apart from all other so-called spiritual and religious texts. These assume the best of behavior and values. The Torah makes no such assumption. It is the book of reality and the most holy of all works. ©2024 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

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 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 the portion of Mishpatim to identify the source of prayer. He states, “It is an affirmative commandment to pray every day, as it says, ‘And you shall serve the Lord your God’ (Exodus 23:25)” (Maimonides, Mishneh Torah, Laws of Prayer 1:1). What differs conceptually about these two sources as the basis for prayer?

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, clearly deals with prayer (Kesef Mishneh on Maimonides, *ibid.*).

Another distinction comes to mind: Note that the text quoted by Maimonides comes in the midst of sentences about liberating the land of Israel (Exodus 23:20-33). Perhaps Maimonides quotes this text to

underscore the crucial connection between prayer and action. Prayer on its own is simply not enough.

The balance between prayer and action is articulated in the Midrash about Jacob’s preparations for meeting Esau. At that time, he prays but also prepares for any eventuality, even active confrontation (Rashi, Genesis 32:9, based on Midrash Tanchuma).

Indeed, built into some prayers is a call to act on behalf of ourselves, the Jewish people, and the larger world. Note these sentences in the morning Pesukei De’Zimra: “Who secures justice for those who are wronged, gives food to the hungry. The Lord sets prisoners free; the Lord restores sight to the blind; the Lord makes those who are bent stand straight; the Lord loves the righteous; the Lord watches over the stranger; He gives courage to the orphan and widow, but makes the path of the wicked tortuous” (Psalms 146:7-9). This is what yedidi Rabbi Saul Berman calls a “reverberating prayer.” As we recall God’s concern for all, we should ask ourselves: are we doing the same, acting on behalf of the other – especially the most vulnerable.

The source from Mishpatim teaches that one should pray with all one’s heart while simultaneously serving or acting on behalf of others. Prayer and action are interdependent. Both are necessary. To expand a well-known maxim: pray as if everything depends on God, while remembering to act as if everything depends on us. ©2024 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

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Fire

Translated by Rabbi Mordechai Weiss

"When a fire is started and spreads . . . the one who started the fire must make restitution” (*Shemot* 22:5). A number of scenarios can result in fire causing damage. In the three cases discussed below, the person lighting the fire or fanning the flame is responsible for the damage done.

1. A person lights a fire on his own property, and it spreads beyond the fence enclosing his property and damages his neighbor’s property. The fence could not have been expected to stop the fire.

2. A person lights a fire on his own property and there is a fence which should have been able to stop the fire, but unfortunately did not.

3. A fire was already burning on a neighbor’s property. Someone fanned the flames and the fire spread, ultimately destroying the neighbor’s property.

Rav Yochanan and Resh Lakish disagree on the reason a person is liable if he starts a fire which causes damage.

Rav Yochanan states that he is liable because “his fire is like his arrows” (*isho mishum chitzav*). Someone who shoots an arrow is accountable for any

damage the arrow does. Similarly, a person who starts a fire is accountable for any damage his fire causes. If this is correct, though, in Case 2 the person should be exempt. The fact that the fence should have stopped the spread of the fire should be the equivalent of his arrows having come to rest (*kalu lo chitzav*), at which point he is exempt from damages.

Resh Lakish disagrees. He maintains that fire cannot be compared to an arrow, because fire can spread on its own. Rather, the reason the fire-setter is liable is that just as a person is responsible for damage done by something he owns (like his ox), so too he is responsible for damage done by a fire he set. In other words, “his fire is like his property” (*isho mishum mammono*). If this is correct, though, then in Case 3 the person should be exempt since he did not set the fire. We can resolve this problem if we assume that it is the additional fire (which he caused by fanning the flames) which is considered his property that caused damage.

This disagreement is not absolute. For in some instances, Rav Yochanan agrees that one can become liable because the fire is deemed his property. For example, in Case 2, although *isho mishum chitzav* might not apply, the person is still responsible because *isho mishum mammono* applies.

If this is so, would Rav Yochanan assert that a person is liable if he fanned the flames of someone else’s fire, which then spread beyond a fence that should have been able to stop it? Commentators disagree. Some say that if neither *mammono* nor *chitzav* can apply, Rav Yochanan would exempt the person from liability. ©2017 Rabbi M. Weiss and Encyclopedia Talmudit

RABBI DOV KRAMER

Jewish Geography

The fourth stop the Children of Israel made after leaving Egypt was Marah (Shemos 15:23, Bamidbar 33:8). “There (in Marah), [G-d] placed [before them] decrees and laws” (Shemos 15:25). Which “laws” were “placed” before them in Marah? Well, since our Parasha starts with G-d telling Moshe “and these are the laws which you shall place before them” (21:1), followed by the civil laws, it would seem that the “laws” taught in Marah were the civil laws. And this is how most commentators (e.g. Rashi on 15:25, based on Seder Olam Zuta) and Midrashim (e.g. Sanhedrin 56b and Midrash HaGadol on Shemos 15:25) explain it. However, Rashi also tells us (Shemos 21:1 and 31:18) that the laws taught in our Parasha were taught on Mt. Sinai, during Moshe’s first set of 40 days there. So which one was it? Were the civil laws taught in Marah, or on Mt. Sinai (which was seven stops later)?

[Adding to the confusion is that at Mt. Sinai, before those first 40 days, Moshe relayed the civil laws to the nation (24:3). But this was part of the preparation for agreeing to enter into a covenant with G-d, so “all the laws” that had already been given were included there,

not just the civil laws, as a refresher about what the obligations under this covenant would be, based on what had already been commanded.]

When Rashi tells us that the laws in our Parasha were taught at Sinai, he doesn’t provide the full context. All he shares is that the “vav” of “and these are” (21:1) teaches us that just as the previous laws were taught at Sinai, so too were these laws taught there. Rashi’s source is the Mechilta, which brings two opinions, R’ Yishmael and R’ Yehuda. (In Midrash HaGadol the order is reversed, first quoting R’ Yehuda – more extensively – then R’ Yishmael. Although R’ Yehuda’s opinion, as quoted there, is self-explanatory, I will explain R’ Yishmael the way Malbim does.) Both say that the “vav” teaches us that these laws were taught at Sinai, but they differ as to what we would have thought had there been no “vav.”

R’ Yehuda tells us that the civil laws taught in our Parasha had already been taught in Marah. Because we might have thought they were only taught in Marah, the connecting “vav” teaches us that they were also taught at Sinai.

R’ Yishmael (see Zevachim 115b) is of the opinion that, generally speaking, only the general principles of the Mitzvos were taught at Sinai; their full details were taught later, in the Mishkan. Therefore, if there was no connecting “vav,” we would have assumed that the detailed laws taught in Parashas Mishpatim were not taught at Sinai. Because of the connecting “vav,” we know that – like the previous laws – these were also taught at Sinai, and are an exception, with even their details taught there.

[From Rashi’s perspective, it didn’t really matter what we would have otherwise thought; he just wanted us to know that these laws were taught at Sinai. True, we know from Vayikra 25:1 that Rashi followed Rabbi Akiva’s opinion, that even the details of every Mitzvah were taught at Sinai, so the connecting “vav” would only be needed to tell us that the civil laws were repeated at Sinai, not that for this Mitzvah even the details were taught there. But Rashi’s point was made without getting into this dispute, since according to both opinions these laws were taught at Sinai. Why Rashi limits what was taught during Moshe’s first 40 days on Mt. Sinai is not clear; perhaps he was just excluding the details of the Mishkan, or perhaps he thought the details of the other Mitzvos were taught during the third set of 40 days. Whether Rashi is consistent throughout his entire commentary is a matter of discussion. If he isn’t, he could just be quoting Toras Kohanim in his commentary on Vayikra 25:1, while avoiding getting involved in the dispute between R’ Yishmael and R’ Akiva in his commentary on Shemos 31:18, just as he avoided the dispute between R’ Yishmael and R’ Yehuda on Shemos 21:1.]

Our original question may have been answered – the civil laws were taught both in Marah and at Sinai –

but not all of the laws taught in our Parasha are civil laws. If, as R' Yehuda posits, our Parasha is a repetition of the laws taught in Marah, how are these other laws, which were taught only at Sinai – some interspersed within the civil laws (e.g. 22:27-30), others at the end, albeit without any break or demarcation (see 23:6-19) – included in this repetition? Although it could be suggested that our Parasha only consists of the laws as they were taught at Sinai, the wording (“these are the laws that you shall place”) matching the wording at Marah (“there laws were placed”) precludes this. [As does the “hint” mentioned by Paanayach Raza – that the end-letters of the first three words of our Parasha (“וּזְאֵלָה הַמִּשְׁפָּטִים אֲשֶׁר”) spell out “מרה.”] If our Parasha consists of the laws as they were taught in Marah, how does it morph into the laws as they were taught at Sinai?

As I have previously alluded to, the Torah sometimes layers multiple messages within the same words. Included in this mechanism is layering multiple instances of something that occurred more than once within a single narrative or teaching. [Another example of this is Shemos 34:6-7, where first G-d called to Moshe and taught him His 13 attributes, and then Moshe called to G-d using His 13 attributes to ask for forgiveness for the nation's sin, with both being portrayed within the same words; see page 2 of AishDas.org/ta/5766/kiSisa.pdf.] The civil laws were taught at Marah, which is how our Parasha begins (adding the connecting “vav” so that we know they were taught at Sinai too). But as the laws themselves are taught, it isn't only what was taught at Marah that is being communicated, but also – at the very same time, within the very same words – what was taught at Sinai. Therefore, the additional laws that were only taught at Sinai were included too, without any noticeable demarcation. ©2024 Rabbi D. Kramer

RABBI DAVID LEVIN

The Jewish Handmaiden

Parashat Mishpatim contains many laws that were given on Mt. Sinai along with the Ten Commandments but were not recorded at the same time. Moshe remained on the mountain for forty days and nights while Hashem taught him the other laws of the Torah as well as the Oral Law which explained and clarified the written law that is called the Torah. Parashat Mishpatim begins with the laws of a Jewish slave and then discusses the sale of one's daughter as an amah ivriya, a Jewish maidservant. Upon initial reading of this section, one can have a very negative reaction to the daughter's sale, but that reaction will change with understanding and clarification.

The Torah tells us: “When a man shall sell his daughter as a handmaiden, she shall not go free like the release of slaves. If she is displeasing in the eyes of her master, that he did not designate her for himself, he shall have her redeemed; he shall not have authority to sell

her to a strange people (a non-Jew) in his betrayal of her. If he will not designate her for his son, he shall deal with her according to the law of the young women. If he shall take another to him, her food, her clothing, or her (marital) time, he shall not decrease. If he will not perform these three for her, she shall go free without charge, without payment.”

The concept of a Jewish maidservant cannot be understood by reading only the words of the Torah; it requires a study of the Oral Law. HaRav Zalman Sorotzkin explains that a woman is not sold as an amah ivriya by the court (like a male) for stealing and not being able to pay the appropriate fine. Only a young girl could be sold as an amah ivriya by her father, with the understanding that yi'ud, a form of marriage to the master or his son, is part of the purpose of this sale. Ibn Ezra says, “that he (the master) would take her for himself or espouse her to his son, or her father or someone in his family would redeem her.” But not every father had the right to sell his daughter in this fashion. HaRav Sorotzkin points out that the father not only had to be poor, but he had to be so poor that he must have sold everything he owned, even his last shirt, before he could sell his daughter as a maidservant. HaRav Sorotzkin explains that it is not normal for a father to sell his daughter into servitude, and he quotes the Gemara Kiddushin (20a) that the father must first have sold all of his moveable objects, his house, and his fields before he was permitted to sell his daughter. HaRav Shamshon Raphael Hirsch explains that the Torah regards the “exalted position of Jewish women, ...the relation of parents to children, as well as the care and considerations which parents must have in the suitable marriage of their children, (which) forces us immediately to the conclusion that the case, ‘When a (Jewish) man shall sell his (little, immature) daughter as a handmaiden’ for her eventually to be married, can only be, that the most extreme, bitterest necessity can have brought him to it.”

We must not confuse this sale with a shidduch (an arranged marriage). This is not a sale, although it is normally accompanied by a dowry which is agreed upon by both fathers. In the case of an amah ivriya, only a young girl from the age of three up until the age of twelve and a half can be sold, as during this span of time, she is still under her father's control. Once the young girl has shown signs of maturity, her father loses that control and she may not be sold as a handmaiden. If her master decided that he did not like her for himself or his son, she must be redeemed by her father or his relatives. Rashi explains that if he did marry her off to his son, there is no need for a second wedding, as the father's purchase of the young girl as a provisional wife (yi'ud) is considered to be for himself or his son once that choice is made. There is no consummation of the marriage until the purchaser decides between himself and his son.

HaRav Hirsch deals with the concept of yi'ud,

which he translates as provisionally destined her for marriage. The word *yi'ud* indicates a mutual coming together, to fix a coming together, or in the form *mo'ed*, the time or place for such a meeting. The Jewish holidays of Pesach (Passover), Shavuot (Pentecost), and Succot (Tabernacles) are called *mo'adim*, fixed times when the B'nei Yisrael would gather together in Jerusalem at the Temple. Hirsch explains, "In accordance with the underlying idea of the word *yi'ud*, although in general cases the father has the right to accept the betrothal gift and bind his little daughter to marriage without asking her consent, here in this case, the consent of the maid is required, there is no *yi'ud* without her acceptance." Here the term is in the past tense when describing whether the master consents to the marriage that he provisionally accepted when he purchased the young girl from her father. He has the right to refuse to marry her to himself or to his son, but then the father has the right to redeem her from this provisional marriage without a divorce document. It is considered improper for the master to not marry this girl to himself or his son, but she may not grow into the type of woman that he expected. Still, he should feel bound to the agreement as this was one of the conditions of the father's sale of his daughter. This reluctance to deviate from the accepted behavior may lead to the last section of our paragraph.

The Torah states, "If he shall take another to him, her food, her clothing, or her (marital) time, he shall not decrease. If he will not perform these three for her, she shall go free without charge, without payment." At the time of the Torah, a man could marry several women, though this was later revised. Here the Torah explains that if a master accepted upon himself or his son the responsibility of *yi'ud* with this *amah ivriya*, he might tire of her or even begin to resent having married her. If he took a second wife, he must not diminish from this former *amah ivriya* wife the three requirements of every husband to his wife: food, clothing, and marital relations.

HaRav Hirsch explains that there is only one place in the Torah where it speaks of a man's duty to his wife. The Torah "picks out for its example a woman of the very lowest social grade, the child of a beggar, of a man who has had to sell the very shirt off his back, and then, to save his child and himself from starvation, has had to sell her as a slave! ... Then the Torah takes this wife, and sets her beside an ordinary bride, a girl married out of a free rich family." It does not matter whether one wife came with a large dowry or in tattered clothing from a desolate family, she must be treated "in accordance with the husband's station in life."

The sale of a daughter as an *amah ivriya* was a desperate act, yet the result of that sale was a benefit to all. The father would receive money to feed his family and lead them out of poverty, the daughter would marry into a wealthy family and rise to a social level that she would never have reached otherwise, and the master

would raise a young girl to become worthy of marriage to himself or his son. And we can marvel at Hashem's plan.
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RABBI JONATHAN GEWIRTZ

Migdal Ohr

"Be careful before him and listen to his voice; do not defy him for he will not pardon your offenses, for My name is inside him." (Exodus 23:21) Hashem announced to the Jewish People that He would send his angel before them, to guide them and protect them. This also informed them that at some point, they would sin and be unworthy of having Hashem, Himself, in their midst. Here, Hashem warned them not to disobey the angel, for he would not be merciful.

There is some discussion as to the nature of this angel. Some say it was an actual angel, like Michael or Mitatron, while others say it was like "the angel that redeemed me, shall watch over the lads." In other words, it was Hashem's guidance through various forces, but not a direct connection to Hashem like they had previously had.

The Jews are warned to heed the angel and not cross him, for if they do, they will suffer the consequences. The reason given, "for My name is in him," can refer to the names of Hashem listed in the mitzvos, which the angel was entrusted with guarding. Perhaps the angel was even created by the mitzvos the Jews kept, and that's how he was infused with Hashem's name.

The Sforno explains that Hashem's name is in the angel, meaning that the angel represents Hashem by being His messenger, the angel was bound to uphold Hashem's honor. He had no power to forgive or allow any slights against Hashem's name.

This is how the world is set up. There are natural rules of how things work, and when scientists study the world, they are actually studying the structure Hashem put in place. According to these rules, the world operates. Fire burns wood but not stone, gravity functions, and all the other fact and laws we recognize.

There are also spiritual rules. When we follow the Torah, we become worthy of Divine blessing, and when we don't, we earn the consequences of our actions. The world operates according to these rules because they, like the angels, bridge the gap between the spiritual and the physical dimensions. But there is an exception.

The angel cannot forgive us or give us a reprieve, but Hashem can! When Hashem is the One guiding us directly, all bets are off. When He, not an angel, took us from Egypt, the laws of nature were upended and suspended. When we live on a plane in which Hashem interacts with us, we can rise above nature and achieve miracles.

This, then, should be our approach to life. While we should acknowledge the laws of nature and

probability as we go through life, we should never put all our energies or hopes directly on those. We should be aware that Hashem can and wants to be intimately involved in our lives, if we only welcome Him in properly. Then, no matter what we face, there is no reason for despair, because Hashem is the One who makes the rules, and He can break the rules.

A man was writing a sefer on the questions of R' Akiva Eiger. He had spent much time and rigorous study in trying to answer or explain these issues. One night, his wife awoke to find him jumping on his bed, nearly dancing in joy. "What on earth are you doing?!" she asked.

"R' Akiva Eiger came to me in a dream tonight and told me that the explanation I wrote today was wrong," he explained excitedly. "If he said you were wrong," she asked querulously, "why are you so happy?"

"Didn't you hear what I said?" he asked. "I said he told me that what I wrote today was wrong. That means that everything else was right!" © © 2024 Rabbi J. Gewirtz & Migdal Ohr

HARAV SHLOMO WOLBE ZT"L

Bais Hamussar

When 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

RABBI KALMAN PACKOUZ Z"L

Shabbat Shalom Weekly

The Torah states: "If a person steals an ox or a sheep and slaughters it or sells it, he must pay five oxen for an ox and four sheep for the sheep" (Exodus 21:37). Why is the fine for stealing a sheep less than the fine for stealing an ox? What lesson can we learn from this for our lives?

Rashi, the great 13th century commentator, cites the Sages of the Talmud that the reason the thief pays less for a sheep is because he has to carry it on his shoulders to run away faster when stealing it. Running with a sheep on one's shoulders in public is embarrassing and this embarrassment is a partial punishment in itself. Rabbi Simcha Zissel of Kelm comments that if even a coarse thief experiences a slight embarrassment which lightens the punishment, then all the more so if one suffers embarrassment or humiliation while doing a good deed, the action is elevated and the reward will be very great!

Our lesson: According to the pain and difficulty of performing a mitzvah is the reward. If others mock or denigrate your efforts to do a mitzvah, then focus not on the temporal pain but the greatness and the eternity of the reward! *Dvar Torah based on Growth Through Torah by Rabbi Zelig Pliskin*
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