**S.A.L.T. – PARASHAT MISHPATIM**

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Motzaei Shabbat

The Torah in Parashat Mishpatim (23:19) introduces for the first time the prohibition of *basar be-chalav* – mixing milk with meat. This prohibition in also mentioned in two other places in the Torah – once later in Sefer Shemot (34:26), and once in Sefer Devarim (14:21). The Gemara in Masekhet Chulin (115b) cites Rabbi Yishmael as establishing that the three instances of this prohibition refer to the three manifestations of the law of *basar be-chalav*: it is forbidden to cook meat and milk together, to eat them together, and to derive any form of benefit from a mixture of meat and milk.

The Rambam, in a famous passage in his commentary to the Mishna (Keritut 3:4), raises a question concerning the case of one who took meat that was already forbidden for consumption due to some Torah prohibition, and cooked it with milk. An example would be a piece of *neveila* – meat taken from an animal that died through means other than proper *shechita* – that was then boiled in milk. The famous rule of “*ein issur chal al issur*” establishes that once an item is forbidden by force of some Torah prohibition, it cannot then become subject to an additional prohibition. Thus, for example, one who partakes of the meat of a non-kosher animal is liable to punishment only for eating a non-kosher species, and not for the prohibition of *neveila*. Since the meat is already forbidden due to the animal’s species, it cannot also be forbidden by force of the prohibition of *neveila*. The exception to this rule is the case of an “*issur mosif*” – when the second prohibition is more inclusive than the first. If the second prohibition forbids more than the first, then the item becomes forbidden by force of both prohibitions. And thus if one commits the act that is forbidden by force of both prohibitions, he is liable to punishment for both.

In light of this rule, one might naturally assume that if a piece of *neveila* is boiled in milk, it is then forbidden by force of both the prohibition of *neveila* and that of *basar be-chalav*. Since the second prohibition – *basar be-chalav* – is more expansive than the first, in that it forbids not only consumption, but also all forms of benefit, the second prohibition takes effect upon the meat, even though the meat had already been forbidden by force of the prohibition of *neveila*. Therefore, we would conclude, one who eats this meat is liable to punishment for both prohibitions.

However, the Rambam writes, this is not the case. A piece of *neveila* that is boiled in milk is forbidden only by force of the prohibition of *neveila*, and not due to the prohibition of *basar be-chalav*. The reason, the Rambam writes, is because of the relationship between the prohibition of eating *basar be-chalav* and the prohibition of deriving other forms of benefit from *basar be-chalav*. While it is true that the prohibition of *basar be-chalav* is more expansive than that of *neveila*, in that it is forbidden for consumption and also for other forms of benefit, it does not qualify as an “*issur mosif*” because these two prohibitions are closely related to one another. Specifically, the Rambam writes, “Meat with milk is forbidden for benefit because the verse forbade it for consumption.” The prohibition against other forms of benefit is an outgrowth, if you will, of the prohibition against consumption. Therefore, since the primary prohibition is a prohibition of consumption, the law of *basar be-chalav* does not qualify as an “*issur mosif*” that can be added onto the prohibition of *neveila*. The Rambam famously describes this theory as a “*nekuda nifla’a*” (literally, a “wondrous point”), suggesting that the principle underlying this distinction is a significant and profound concept.

The Rambam’s comments seem difficult to understand. Why does this relationship between the prohibitions of *basar be-chalav* undermine its eligibility to serve as an “*issur mosif*”? After all, once a piece of *neveila* is cooked in milk, it then becomes forbidden for all kinds of benefit, whereas previously it was forbidden only for consumption. Why does it matter that the prohibition against benefitting from *basar be-chalav* is merely an outgrowth of the prohibition against eating *basar be-chalav*?

Rav Asher Weiss (*Minchat Asher*, Bereishit, 44) explains the Rambam to mean that the prohibition against benefitting from *basar be-chalav* is the result of the prohibition against eating, and these “roles” of cause and effect cannot be reversed. Applying the “*issur mosif*” principle in this case would mean that the prohibition against eating *basar be-chalav* would take effect as a result of the prohibition against benefitting from *basar be-chalav*. As the prohibition of benefit is what makes *basar be-chalav* more inclusive than *neveila*, it would end up being the cause of the application of the prohibition against eating *basar be-chalav* in this case. The Rambam asserted that since the prohibition against benefit is, at its core, the product and outgrowth of the prohibition against consumption, it cannot serve as the cause of the prohibition against consumption taking effect. For this reason, the general rule of “*issur mosif*” cannot apply in this instance.

Rav Weiss speculates that this might perhaps be the “*nekuda nifla’a*” to which the Rambam refers. The fundamental concept developed here is that when one *halakha* is the cause of another, these roles cannot be reversed. A *halakha* that gives rise to another *halakha* cannot ever become the product of that second *halakha*, as evidenced by the case discussed here by the Rambam.

Sunday

The Torah in Parashat Mishpatim establishes that intentional murder constitutes a capital offense, punishable by execution. It commands that if a person schemes to murder his fellow, “you shall take him away from My altar to be killed (21:14). *Chazal* (*Mekhilta*, Yoma 85a) explain this verse to mean that even if the killer was a *kohen*, and at the time he is to be executed he is needed to perform the service on the altar, the execution is to proceed. (Elsewhere (Makkot 12a), the Gemara instructs that this applies only to cases of intentional murder. If a person accidentally kills and fails to flee to a city of refuge as required, then although a relative of the victim who kills the killer is not liable for murder, he is liable if the killer is a *kohen* performing the service on the altar at the time.)

The *Mekhilta De-Rashbi* infers a different law from this verse, namely, that capital punishment is administered only when the altar is in place – meaning, when the *Beit Ha-mikdash* stands. The presence of an altar where sacrifices are offered to God is a prerequisite for courts to have the authority to execute violators of capital offenses, and thus once the Temple was destroyed, courts lost the authority to administer capital punishment.

Rav Yehuda Leib Ginsburg, in his [*Yalkut Yehuda*](http://hebrewbooks.org/pdfpager.aspx?req=2888&st=&pgnum=99), explains this *halakha* based on the concept that the divine presence assists judges to ensure that their decisions and sentences are correct and just. Capital punishment – people taking a person’s life for a Torah violation – is justified only under conditions in which it can be assumed that they receive God’s special assistance. Once the *Mikdash* fell, and the divine presence no longer rests among the Jewish Nation to the extent it did when the Temple stood, the courts can no longer lay claim to this special divine assistance, and thus they no longer have the right to execute violators.

The concept underlying this provision can be applied beyond the narrow context of capital punishment, to other forms of punitive measures. We cannot sharply condemn misconduct unless we are fully confident that the behavior in question indeed warrants such condemnation. Jewish tradition teaches that causing a person shame is, on some level, akin to taking his life. Hence, just as *Beit Din* cannot take an offender’s life when it cannot definitively ascertain that this is deserved, similarly, we may not inflict emotional harm upon somebody for his misconduct unless we are absolutely certain that this harm is an appropriate response to the act in question. Only when we have an “altar,” when we can confidently lay claim to perfect clarity of judgment, can we then assume the right to criticize others for their wayward behavior.

Monday

The Torah in Parashat Mishpatim (22:19) establishes that offering a sacrifice to any being other than the Almighty constitutes a capital offense, punishable by death (“*Zovei’ach la-elohim yacharam bilti le-Hashem le-vado*”). In the very next verse, the Torah establishes the prohibition against oppressing or causing distress to a foreigner (“*Ve-ger lo toneh ve-lo tilchatzenu*”).

Chizkuni (see also Ibn Ezra, *Peirush Ha-Arokh*) offers an insightful explanation for the juxtaposition between these two commands. The gravity with which we are to treat foreign worship may lead us to reject and hold in contempt those who had engaged in such worship in the past and have now embraced Jewish faith. If the Torah instructs us to regard idolatry as a capital offense, we might have assumed, then we are entitled, if not expected, to cause anguish to those who are guilty of this offense, even once they have committed themselves to monotheistic belief. The Torah therefore commands us that just as we must resoundingly reject idolatry, we must lovingly embrace former idolaters who have denounced their past and now seek to join our ranks.

Chizkuni would likely explain in this vein the conclusion of the verse: “for you were foreigners in the land of Egypt.” The prophet Yechezkel (20) describes how *Benei Yisrael* were submerged in the idolatrous culture of Egypt, a concept that is further developed in numerous Midrashic passages. Our very nation was forged in an environment of idol-worship in which we were very involved. And despite our submergence in foreign worship, God lovingly rescued us, extricated us from the spiritual morass of ancient Egypt, and embraced us. Hence, we must not reject a former idolater seeking acceptance in our communities, as our entire nation began as idolaters.

Not even the gravest sin consigns a person to a permanent state of rejection and exclusion. Our nation’s origins teach us that regardless of what we’ve done in the past, God encourages us to work to grow and improve, whereupon we will be warmly and lovingly embraced by Him and by the rest of the nation. People’s past mistakes should not stand in the way of their acceptance in the present and future. Just as *Benei Yisrael* were embraced by God despite their having been entrenched in paganism, we, too, must accept and embrace those who seek to grow in faith and observance, regardless of their origins.

Tuesday

Parashat Mishpatim begins with the laws of *eved ivri* – an indentured servant, who is to be released from service after six years, but has the option of remaining beyond six years. If he decides that he prefers the life of a servant and wishes to stay with his master, a special ritual is performed whereby his ear is pierced as a symbol of his status of permanent servitude (21:6). Rashi famously cites the Gemara’s comment (Kiddushin 22b) that the piercing of the servant’s ear is done as a punishment, of sorts, either for the his having stolen, on account of which he was forced to sell himself into servitude (to earn the money to repay what he stole), or for voluntarily extending his undesirable state of servitude.

Chizkuni, after citing and discussing Rashi’s comments, adds a different explanation for why the servant’s ear is pierced, noting that it serves to distinguish him from non-Jewish servants. Whereas Jewish servants must be offered to be released after six years, non-Jewish servants remain permanently in the master’s service unless the master is physically abusive. Therefore, Chizkuni comments, after a Jewish servant chooses to remain permanently in his master’s control, people who see him serving the master beyond six years might mistake him for a non-Jewish servant. For this reason, the Torah requires making a permanent, visible sign on his body that will make it clear to one and all that he is a full-fledged member of the Jewish Nation, despite his state of permanent servitude.

While at first glance it seems that this approach disagrees with *Chazal*’s explanation cited by Rashi, the Tolna Rebbe suggests that they in truth go hand-in-hand. Even as the servant is punished, he is given a very public reminder that he is still to be regarded as part of *Am Yisrael*. Although he has done something wrong warranting a painful, punitive measure, nevertheless, he should not be disrespected. Despite his wrong decision and his lowly status, we must nevertheless ensure to treat him with respect and not as an outsider.

The Rebbe added that Chizkuni’s comments remind us about the need to preserve a child or student’s dignity and self-respect even when punitive measures or harsh criticism is warranted. When a child’s “ear” requires “piercing” due to misconduct, he must be reassured that he will still continue to be loved and embraced. Even as he is censured or punished, he must be reminded that he will never be treated as an outsider, that he is still forever cherished and respected. Just as the servant is given a sign of his membership in God’s cherished nation at the very moment he is punished, we, too, must give children reassurance, encouragement and love even when disciplinary measures become necessary.

Wednesday

After establishing that murder is a capital crime punishable by death, the Torah in Parashat Mishpatim (21:13) briefly addresses the case of accidental murder, when a person did not plan to kill, but “*Elokim ina le-yado*” – God arranged it that he inadvertently killed somebody. In such a case, the person must flee to a place of refuge where he would be protected from the victim’s relatives seeking to avenge their kin’s death.

Rav Mordechai Yosef Leiner of Izhbitz, in [a surprising passage in his *Mei Ha-shiloach*](http://www.hebrewbooks.org/pdfpager.aspx?req=19936&st=&pgnum=55), suggests that the Torah’s formulation in this verse – “*ha-Elokim ina le-yado*” – seems to describe the accidental murder as a gift, of sorts, to the killer. The Torah speaks of God bringing this misfortune into the “hands” of the killer, as though presenting him with a gift. The *Mei Ha-shilo’ach* explains that when a person has a negative quality in his character that has not yet caused him to act improperly, an unfortunate incident which brings this quality to the fore can be a “gift” of sorts. The mistake has the effect of awakening the individual to this negative quality so he can address this fault and work towards eliminating it. And thus in the case of accidental murder, this tragedy has the effect of alerting a person to a negative quality – such as, perhaps, recklessness – so he can work to improve himself. Hence, the Torah describes this misfortune as being given to the killer as a “gift,” in that it will serve as an impetus to change.

The *Mei Ha-shiloach*’s comment must be approached off the background of his general, controversial view regarding the limits of free will and the possibility of God causing a person to sin. For our purposes, however, it suffices to note the lesson of retroactively viewing our mistakes and failures as opportunities for growth and change. The mistakes we make – not to mention mistakes that result in tragedy, as in the case of murder – are certainly not “gifts,” but the Rebbe of Izhbitz here teaches us that we can, and must try, to make the most of our mistakes after the fact. Reflecting on the causes of our mistakes and failures, and how they could have been avoided, helps us become better people and improve ourselves in the future. We can gain from our misdeeds by using them to better understand ourselves and our faults, which will lead us along the road of self-improvement. And thus it is possible for even our gravest mistakes to offer us a valuable “gift” – the gift of introspection and self-awareness, which holds the key to making ourselves better people.

Thursday

The Torah in Parashat Mishpatim (23:19) introduces the prohibition of *basar be-chalav*, which forbids cooking meat with milk, as well as eating or deriving any other form of benefit from meat cooked with milk. As we know, *Chazal* enacted that beyond avoiding meat that had been cooked with milk, one must also refrain from consuming milk (or foods prepared with milk) for a period of time after eating meat (Chulin 104b-105a). Different views exist as to the precise duration of time that one must wait before consuming milk after eating meat, but the most common custom is to wait six hours, the opinion codified by the *Shulchan Arukh* (Y.D. 89:1). The *Rishonim* explain that this duration is needed to ensure that one’s mouth is clean of meat residue before he consumes milk.

Conceptually, this requirement can be understood in two ways. The simpler understanding, perhaps, is that *Chazal* merely imposed a prohibition against eating meat during this six-hour period as a safeguard against eating meat and milk. Alternatively, however, one could suggest that *Chazal* imposed upon meat consumed during this period a status of *basar be-chalav*. While the Torah assigned this status only to meat and milk that had been cooked together, *Chazal* extended it to include even milk that one consumes within six hours of eating meat and thus mixes with residual meat particles in one’s mouth.

One possible practical ramification of this question relates to the situation of one who mistakenly recited a *berakha* over milk or cheese within six hours of eating meat, and before consuming the milk or cheese, he remembered that he may not consume the food at that point. Several halakhic authorities addressed the question of whether a person in this situation should take a sip of the milk (or a bite of cheese), despite the prohibition against drinking milk at this time, in order that the *berakha* would not have been recited in vain. The work *Zekhor La-Avraham* (*Ma’arekhet Basar Be-chalav*) states that one should taste the milk in this case, since some views do not require waiting six hours between the consumption of meat and milk, and thus one can rely on these views to avoid the recitation of a *berakha le-vatala* (blessing recited in vain). Seemingly, this ruling reflects the perspective that views the requirement to wait before consuming milk as nothing more than that – a requirement to wait. When this requirement conflicts with the prohibition against reciting a *berakha* in vain, then it is conceivable that we would opt for suspending the law requiring refraining from meat for this period to avoid the recitation of a *berakha le-vatala*. If, however, we view meat during this six-hour period as having the status of *basar be-chalav*, food forbidden for consumption by *Chazal*, then this ruling seems difficult to understand. After all, the *Shulchan Arukh* (O.C. 196:1) rules explicitly that if a person, for whatever reason, eats forbidden food – regardless of whether the food is forbidden by force of Torah law or by force of rabbinic enactment – he does not recite a *berakha* over the food. Seemingly, then, in the case of one who mistakenly prepared to eat dairy food within six hours of eating meat, eating the food would not “protect” his *berakha* from having been recited in vain. Since this food is forbidden for consumption, it does not warrant a *berakha*, and so the *berakha* has been recited in vain regardless of whether the person partakes of the dairy food upon which he recited the *berakha*. The ruling of the *Zekhor Le-Avraham*, then, reflects the view that *Chazal* did not impose a forbidden status upon dairy foods during this six-hour period, but rather imposed a requirement upon the individual to refrain from dairy foods during this period – a requirement which, at least according to some opinions, is overridden by the desire to avoid a situation of *berakha le-vatala*.

(Based on [*Umka De-parsha*, Parashat Mishpatim, 5774](http://beinenu.com/sites/default/files/alonim/25_18_74.pdf))

Friday

The Mishna in Masekhet Chulin (103b) notes the provision enacted by *Chazal* forbidding people from eating meat and cheese on the same table. Even if one eats only meat and the other eats only cheese, they nevertheless should not use the same table. This is permitted only if they do not know each other, or if they make some separation between them. The reason for this provision is the concern that friends eating together may share their food with one another, and thus if one eats meat and the other cheese, they may end up violating the prohibition of *basar be-chalav* (eating meat with milk). The Ran (cited by the *Ma’adanei Yom Tov* commentary to the Rosh) explains that since meat and cheese are each independently permissible, people are not accustomed to refraining from them. Therefore, a person eating cheese who is offered meat by his friend at the table is prone to inadvertently eating them together.

The Rashash finds it significant that the Mishna speaks in this context specifically of eating cheese, as opposed to drinking milk. The Mishna forbids two people from eating meat and cheese at the same table, but not of a situation where one person eats meat and the other drinks milk at the same table. The reason for this distinction, the Rashash suggests, is because milk, as a liquid, is always contained in its own utensil, and thus necessarily remains separate from the food. It is therefore unlikely that the person eating meat will eat it together with his friend’s milk, and for this reason *Chazal* forbade only two people eating meat and cheese at the same table. This view is accepted as *Halakha* by the *Darkhei Teshuva* (Y.D. 85:5).

Rav Yosef Shalom Elyashiv, however (cited in [*Umka De-parsha*, Parashat Mishpatim, 5774](http://beinenu.com/sites/default/files/alonim/25_18_74.pdf)), disagreed with this ruling. He noted that in Masekhet Shabbat (14a), in the context of the laws regarding the status of impurity of foods and beverages, the Gemara specifically states that it is very common for people to drink as they eat. Therefore, Rav Elyashiv claimed, there is indeed reason for concern that a person eating meat with a friend who drinks milk may take some milk from his friend. Rav Elyashiv felt that to the contrary, the Mishna addresses the case of two people eating meat and cheese because it is more obvious that this rabbinic enactment applies when one person eats meat and the other drinks milk. One might have thought that when one person eats meat and the other eats cheese, there is no need to forbid them from eating together, as they are not likely to share their food. Certainly, though, this law applies even when one person eats meat and the other drinks milk.

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