**S.A.L.T. – PARASHAT MISHPATIM**

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Motzaei Shabbat

The Torah in Parashat Mishpatim presents the command of “*lo tiheyeh lo ke-nosheh*” (22:24), which the Gemara (Bava Metzia 75b) interprets as forbidding a lender from pressuring or even subtly asking the borrower to repay the loan if he is incapable of repaying. This prohibition is listed by the Rambam as one of the Torah’s 613 commands (*lo ta’aseh* 234), and is codified in the *Shulchan Arukh* (C.M. 97:2), who writes, “It is forbidden to pressure the borrower to repay if he [the lender] knows that he does not have [with what to repay], and it is forbidden even to appear before him, because he is ashamed when he sees the lender and he cannot afford to repay.”

The *Minchat Chinukh* (67) notes the implication of the *Shulchan Arukh*’s ruling that this prohibition applies only if the lender knows for certain that the borrower is unable to repay the loan. But if he is unaware of the borrower’s financial situation, and as far as he knows, the borrower might be in a position to repay, then he is permitted to remind the borrower to pay the money. This is the conclusion of Rav Avraham David of Butchach, in his *Kesef Ha-kodashim* (97:2).

By contrast, Rav Eliezer Papo, in his *Pele Yoetz* (“*chov*”), writes:

One who is owed by his fellow is commanded not to claim his fellow…if he knows he does not have [the ability to repay]… Even if he suspects him of being dishonest, that he has [enough money] but pretends he does not, still, he must be concerned that perhaps he is honest, and he should be fearful of violating [this prohibition]…until it is clear to him that he has money or assets – either real estate or moveable items – with which to repay his debt. Then he is not obligated to pity him…

Rav Papo writes explicitly that the prohibition of “*lo tiheyeh lo ke-nosheh*” applies in any case when the borrower is unable to pay, and therefore, a lender must not claim the debt until he has ascertained that the borrower is in a position to pay. Otherwise, he must be concerned about potentially violating this prohibition, which depends solely on the borrower’s financial situation, and not on the lender’s knowledge of the borrower’s financial situation. This ruling is in contrast to the implication of the *Shulchan Arukh*, and the ruling of the *Kesef Ha-kodashim*, that the Torah prohibition does not apply unless the lender knows for certain that the borrower does not have the means with which to repay the loan.

Rav Asher Weiss, in one of his published responsa (*Minchat Asher* 2:102), concurs with the position of the *Kesef Ha-kodashim*, and thus rules that one is permitted to ask a borrower to repay the loan unless he has definitive knowledge that the borrower is unable to do so. The question which Rav Weiss addresses in this responsum was posed by somebody who runs a *gemach* (free loan service), whose beneficiaries very often do not repay the loans on time. This man wanted to know whether he was permitted to periodically remind or urge the beneficiaries of this service to repay their loans, or if this violated the prohibition of “*lo tiheyeh lo ke-nosheh*.” Rav Weiss, following the view of the *Kesef Ha-kodashim*, ruled unequivocally that he was permitted to do so, unless he had specific knowledge about a borrower that he does not have the ability to repay.

Sunday

The Gemara in Masekhet Pesachim (118a) notes the juxtaposition between two prohibitions in Parashat Mishpatim: the prohibition against eating a *tereifa* (the meat of a fatally wounded animal), which should instead be “thrown to the dogs” (22:30), and the prohibition of “*lo tisa sheima shav*” (23:1), which has been understood as prohibiting speaking or accepting *lashon ha-ra* (negative speech about another person). To explain the juxtaposition, the Gemara comments that “anyone who speaks *lashon ha-ra*, and anyone who accepts *lashon ha-ra*…is worthy of being thrown to the dogs.” The Torah introduces the prohibition against *lashon ha-ra* immediately after the requirement to cast *tereifa* meat to the dogs, implying an equation between this meat and a person guilty of *lashon ha-ra*. (The second verse also includes the prohibition of giving false testimony, and thus the Gemara mentions also those who testify falsely as being worthy of this punishment.)

What might be the connection between the sin of *lashon ha-ra* and dogs?

*Keli Yakar* (Bereishit 37:2) explains, very simply, that dogs frequently bark noisily, and so those who fail to restrain their faculty of speech are likened to barking dogs. If so, then the Gemara’s comment resembles the Gemara’s explanation elsewhere (Arakhin 16b) for why birds are involved in the purification process of a *metzora* (Vayikra 14:2), who must atone for the sin of *lashon ha-ra*. The Gemara explains that as bids chirp frequently and loudly, they are brought as part of the process of atoning for the sin of unrestrained gossip and talebearing.

Rav Moshe Alshikh explains that the Gemara refers here to the Midrash’s comment (cited by Rashi to 22:30) associating the *tereifa* prohibition with the night of the Exodus. The Torah earlier in Sefer Shemot (11:7) tells that while the Egyptians were crying in anguish that night over the sudden death of the firstborn, all was quiet and calm among *Benei Yisrael*, to the point where even the dogs did not bark, to underscore the contrast between the Egyptians’ suffering and *Benei Yisrael*’s serenity. The Midrash teaches that the dogs were “rewarded” for restraining their instincts to bark, and forever more are fed *tereifa* meat which God declared forbidden for human consumption. Rav Moshe Alshikh thus suggests that when the Gemara associates the sin of *lashon ha-ra* with the casting of *tereifa* meat to dogs, it seeks to contrast the restraint shown by the dogs on the night of the Exodus with gossips. The dogs’ miraculous behavior in Egypt symbolizes restrained speech, the ability to exercise control and discretion in the way we talk. The Gemara therefore links the prohibition of *lashon ha-ra* with the reward for the dogs to underscore the importance of keeping silent when necessary and restraining ourselves from speaking all that we feel like saying.

Additionally, perhaps, we might note that the Torah introduces the prohibition of *tereifa* by emphasizing *Benei Yisrael*’s unique stature: “You shall be for Me sacred people; and you shall not eat meat of a torn animal in the field…” This introduction likely indicates that *tereifa* meat is forbidden because it is considered unbecoming for a sacred people to eat such food. Meat of a wounded or diseased animal found strewn in the woods is considered beneath the dignity of “*anshei kodesh*” – “sacred people.” By comparing gossips to *tereifa* meat, the Gemara perhaps teaches that indulging in speaking or hearing gossip is, very simply, beneath us. In other contexts, the Gemara emphasizes the grave harm inflicted by spreading negative information about people, which can destroy reputations, friendships, families and careers. In this passage, however, it seems that the Gemara points to not the practical damage of *lashon ha-ra*, but its inherently ugly nature. The Gemara compares the gossip to a diseased carcass which must be discarded, emphasizing that such behavior is undignified and foul, and thus unbefitting the “*anshei kodesh*” that we must aspire to be. As the nation chosen by God to be His servants, we are to see ourselves as above the vain preoccupation with other people’s personal affairs and their flaws. We are expected to reach higher, to focus our attention on our lofty mission of serving God and representing Him to the world, and not to defile our sacred essence by indulging in unseemly chatter about other people.

Monday

One of the commands presented in Parashat Mishpatim (22:30) is the prohibition against eating a *tereifa* – a terminally ill or mortally wounded animal. The literal meaning of “*tefeifa*” is a carcass of an animal whose species is permitted for consumption, but that had been devoured by a wild beast, and is thus forbidden. Our oral halakhic tradition extended this prohibition to all animals suffering from a terminal illness or injury.

The Torah here not only forbids eating the meat of *tereifa*, but specifically commands casting such meat to a dog. (*Minchat Chinukh* (73:3) addresses the question of whether or not this constitutes an actual command. He notes that whereas the vast majority of sources do not mention any such requirement, *Tosafot* in Masekhet Yoma (36a) appear to indicate that feeding *tereifa* meat to a dog is actually a Torah obligation.) Rashi, citing the *Mekhilta*, famously comments that God granted this meat to dogs as a “reward” for the dogs among *Benei Yisrael* that remained silent on the night of the Exodus (Shemot 11:7), in order to maintain an atmosphere of absolute serenity that night.

A much different approach into the significance of this provision – feeding *tereifa* meat to dogs – is offered by the Tosafists, in *Da’at Zekeinim*. They explain that dogs were normally used to guard cattle, and thus, “since the dog risked its life for the dismembered animal when the wolf came to dismember it, do not be ungrateful towards it when you have a dismembered animal – throw it [the carcass] to it [the dog] in reward for guarding it until now…” Specifically when the dog “fails” in its job to protect the herd, and an animal is killed by a wild beast, the owner is to “reward” the dog for its service, by feeding it the meat of the carcass. Casting a *tereifa* to a dog is an expression of gratitude to the watchdog – one which the Torah requires, ironically enough, when the dog’s protection proved insufficient, and an animal was lost.

The Tosafists here teach us a simple but meaningful lesson about appreciation and gratitude – that precisely when somebody errs, and fails to do what was expected, we should express gratitude for all the times when he or she did. Often, when a mistake is made, we focus excessively on the mistake and not on all the occasions when things were done correctly. The law of *tereifa*, as explained by the Tosafists, shows us that the infrequent failure should be an occasion for appreciating the frequent successes. The rare instance when a beast succeeded in attacking a sheep is the time to appreciate the watchdog’s devoted care – because all people are going to make mistakes, and their mistakes in no way undermine the debt of gratitude owed to them for all that they do right.

Tuesday

The Torah in Parashat Mishpatim introduces the law of *keifel*, which requires a thief to pay the victim twice the amount he stole: “…if the thief is found, he must pay double” (22:6). However, the Torah distinguishes in this regard between two forms of theft: stealing stealthily, and open robbery. A “*ganav*” – one who steals secretly – is required to pay *keifel*, as indicated by the aforementioned verse (“*im yimatzei ha-****ganav*** *yeshaleim shenayim*”), whereas a “*gazlan*” – who steals openly – must simply return what he stole. The *gazlan*’s requirement is established in Sefer Vayikra (5:23), where the Torah commands, “*ve-heishiv et ha-****gezeila*** *asher* ***gazal***” – obligating the robber to return only that which he forcefully seized from the victim, without incurring the *keifel* penalty.

The Gemara in Masekhet Bava Kama (79b) cites Rabban Yochanan Ben Zakai’s famous explanation of this distinction between a *ganav* and a *gazlan*, asserting that a secretive thief is penalized because “*hishva kevod eved li-khvod kono*” – “he equated the honor of the servant with the honor of its master.” Meaning, secretively stealing expresses the belief that one can conceal his crimes from God just as he can from people, and thus such an action constitutes not only a crime against a fellowman, but also heresy. This is in contrast to a *gazlan*, who makes no attempt to hide his crime, and thus does not indicate any heretical denial of God’s knowledge of his actions perpetrated in secret.

Rav Shimshon Raphael Hirsch, in his Torah commentary (21:37), advances an additional theory:

Robbery is taking property away from its possessor by force; theft, taking it away stealthily. The robber seizes an object which is under the personal guardianship of its owner. The thief finds the object left under the guardianship of the public respect for honesty and law. So that robbery is a simple crime against the individual whose rights of possession have been violated. Theft is a double crime, a crime against the individual rights of possession, and a crime against the general idea of respect for rights of property, under the protection of which the owner had left his property.

When a thief steals secretly, he violates not only the personal rights of the victim, but also the public trust upon which people rely when leaving their possessions outside their watch. The double payment imposed upon the *ganav*, then, reflects the double crime he has committed – a crime against the victim personally, and a crime against the general idea of property rights which the public needs to rely on.

Rav Hirsch proceeds to explain the unique importance of this second crime:

This idea forms the basic principle on which the whole of civilized communal life rests. Without the presumption that the general public has respect for rights of property, no man could leave any moveable property out of his sight for one moment. The thief accordingly has to pay the value of the theft, as restitution to the owner; and then again an equal sum for his contempt of the principle of general honesty against which he has offended. As a member of the general public, the object had been placed under his protection, and instead of justifying the trust, he had betrayed it.

On this basis, Rav Hirsch suggests explaining the unique law known as “*dalet ve-hei*” – requiring a thief who sold or slaughtered an ox to repay five times the animal’s value, and in the case of a sheep, four times the value. He writes that whereas any secret theft violates and betrays the public’s trust, this crime is especially grievous in the case of cattle or sheep, which need to be left out to graze. Rav Hirsch attributes the higher penalty in the case of a stolen ox to the fact that sheep are at least penned at night, such that a higher level of trust is needed when it comes to oxen. This makes the level of betrayal greater when a thief steals an ox – and then sells or slaughters it, such that it can never be returned – thus accounting for the especially harsh penalty which the Torah imposes in such a case.

Wednesday

Towards the end of Parashat Mishpatim, we read that after Moshe communicated to the people the series of laws he had heard from God, he was summoned by God to return to the mountaintop to receive the rest of the laws. The Torah writes, “*Va-yakam Moshe vi-Yehoshua meshareto*” – “Moshe and his attendant, Yehoshua, arose,” and Moshe then ascended to the top of Mount Sinai (24:13). Rashi explains that Yehoshua escorted his teacher to the point beyond which he was not permitted to be.

*Ketav Sofer* notes the significance of the word “*va-yakam*” (“arose”) in this context. This word appears in Sefer Bereishit (23:20) in reference to Avraham’s purchase of the Makhpeila Cave – “***Va-yakam*** *sedei Efron asher ba-Makhpeila*,” and Rashi there comments that the word “*va-yakam*” connotes an elevation of stature. It is used in describing the transfer of ownership over *Me’arat Ha-makhpeila* from Efron to Avraham, Rashi writes, because this property underwent an “elevation” by leaving the possession of a wicked man, Efron, and coming under the possession of a righteous man, Avraham. Similarly, *Ketav Sofer* suggests, the Torah speaks of Moshe’s ascent to Mount Sinai to receive God’s laws with the term “*va-yakam*” because he experienced an elevation of stature at that time, ascending to the heavens and hearing the Torah directly from God.

*Ketav Sofer* adds that the term “*va-yakam*” here modifies not only Moshe, but also Yehoshua – “*Va-yakam Moshe* ***vi-Yehoshua meshareto***” – indicating that Yehoshua, too, experienced an “elevation” at this moment. The reason, *Ketav Sofer* explains, is because “the greater the master…the more the servant grows.” When a person excels and rises to greater spiritual heights, the people under his sphere of influence rise with him. And so as a result of “*va-yakam Moshe*” – Moshe’s elevation as he made his way to the top of Mount Sinai – his faithful disciple was similarly elevated.

*Ketav Sofer* here instructs that very often, the most effective way of helping other people improve is by improving ourselves. If we want to positively influence the people around us, we should focus, first and foremost, on lifting ourselves higher, which will likely have the effect of lifting others, as well. The example we set through our conduct and lifestyle can be far more influential than direct instruction. And so we must work to elevate ourselves, to always reach higher, and these efforts will then impact upon the people around us, making them – and the world – just a little bit better.

Thursday

Parashat Mishpatim consists of a long series of laws and commands which God presented to Moshe, and concludes with a continuation of the story of *Ma’amad Har Sinai* – God’s revelation to *Benei Yisrael* at Mount Sinai.

The commentators take different views in explaining the relationship between the events described here in Parashat Mishpatim, and the events related in the previous *parasha*, Parashat Yitro, before the presentation of the series of laws. Rashi (24:1) claims that the events described here actually happened before God’s presentation of the laws to Moshe. According to Rashi, the events of *Ma’amad Har Sinai* are described out of chronological sequence, such that the final section of Parashat Mishpatim essentially brings us back to the story of *Ma’amad Har Sinai* told in Parashat Yitro, completing the account which was, for some reason, “disrupted” by the list of laws presented by God to Moshe.

The Ramban disagrees, and, consistent with his general reluctance to explain the Torah’s narrative as arranged out of chronological order, asserts that the presentation here indeed reflects the order in which the events unfolded. After the Revelation, God presented Moshe a series of laws, which Moshe then relayed to the people, as described here in Parashat Mishpatim: “Moshe came and related to the people all of the Lord’s words, and all the laws…” (24:3). According to the Ramban, this refers to the laws presented to Moshe earlier in the *parasha*. The people responded by enthusiastically expressing their acceptance of God’s laws, whereupon Moshe conducted a special ceremony, described here, and then returned to the top of Mount Sinai, where God presented to him the commands which we read in the next several *parashiyot*.

Rashi, of course, is forced to offer a different explanation of the aforementioned verse, which speaks of Moshe relaying to the people “all the laws” (“*kol ha-mishpatim*”). Since, in his view, these events occurred before God’s presentation of the laws earlier in this *parasha*, he cannot interpret this phrase as referring to those laws. Rashi therefore explains that this verse refers to the *mitzvot* which were given even before *Benei Yisrael* arrived at Mount Sinai – namely, the seven Noachide Laws which are binding upon all mankind, and the small group of laws commanded to *Benei Yisrael* when they encamped at Mara shortly after crossing the Sea of Reeds (as Rashi mentioned earlier, 15:25). The Ramban questions Rashi’s reading, noting that there would be no purpose in Moshe reiterating these *mitzvot*, of which *Benei Yisrael* were certainly already well aware.

Rav Levi Yitzchak of Berditchev, in *Kedushat Levi*, offers a novel reading of the verse in defending Rashi’s view from the Ramban’s challenge. He draws our attention to the unusual usage of the word “*va-yesaper*” (“he related”) in this verse – a verb which is not normally used in reference to the issuing of a command or instruction. The root *s.p.r.* commonly denotes the telling of a story, of an event that took place. (In Parashat Yitro (18:8), for example, we read, “***Va-yesaper*** *Moshe le-choteno*” – that Moshe “related” to his father-in-law all of *Benei Yisrael*’s experiences.) It seems strange, Rav Levi Yitzchak writes, that the Torah would use this word in reference to Moshe’s relaying God’s commands to the people. Rav Levi Yitzchak therefore creatively suggests that, according to Rashi, Moshe did not simply issue commands to the people. Instead, he told them about how much God cherishes their observance of all the *mitzvot* which they currently performed. He was not, as the Ramban understood Rashi to mean, simply reiterating the commands which the people already knew about and observed. Rather, he was describing to them God’s delight, as it were, in their fulfillment of those commands. And it is for this reason, Rav Levi Yitzchak added, that the people reacted with such enthusiasm, announcing their eager, passionate commitment to observe all that God would now be commanding. Having heard of the precious value of each and every *mitzva*, they wanted more.

Like many chassidic teachings, Rav Levi Yitzchak’s clever reading of this verse seeks to address the all-too-common fatigue and lethargy surrounding *mitzva* performance, and inject greater excitement and enthusiasm into religious observance. Rav Levi Yitzchak here urges us never to underestimate the value or importance of any *mitzva*, and to recognize that even the seemingly small and trivial acts of goodness we perform are, in truth, priceless. The more we recognize the significance of each and every *mitzva*, the less likely we are to grow bored with *mitzvot*, or to become weary from or disinterested in them. Instead, we will eagerly and enthusiastically embrace every *mitzva* opportunity, and celebrate the privilege we have to serve our Creator each and every day of our lives.

Friday

Twice in Parashat Mishpatim, the Torah warns against mistreating a *ger* – a foreigner who joins *Benei Yisrael*: “And you shall neither abuse nor oppress a foreigner, for you were foreigners in the land of Egypt” (22:20); “And you shall not oppress a foreigner, and you know the emotional condition of the foreigner, because you were foreigners in the land of Egypt” (23:9).

*Chatam Sofer* creatively suggests that these two commands actually introduce two separate prohibitions. The second command establishes the general prohibition against mistreating somebody who decides to join the Jewish Nation, whereas the first command addresses specifically *Benei Yisrael*’s condition in the wilderness, when they had among them the “*eirev rav*” – native Egyptians who joined them at the time of the Exodus (Shemot 12:38). Some among *Benei Yisrael* may have assumed that they were entitled to taunt and insult these Egyptians who had previously enslaved and oppressed them. After all the suffering *Benei Yisrael* had endured at the hands of the Egyptians for centuries, they might have now reserved for themselves the right to show contempt to Egyptians who had decided to join them and become part of their nation. God therefore warned the people, “You shall neither abuse nor oppress a foreigner – about your having been foreigners in the land of Egypt.” According to *Chatam Sofer*, the second part of this verse – “*ki geirim heyiytem be-eretz Mitzrayim*” – is not the reason for the prohibition, but rather the content of the “abuse” and “oppression” which some among *Benei Yisrael* might have thought to perpetrate. They were warned not to remind the newcomers about their past evils, and instead respect their decision to change their conduct and become part of God’s special nation, without scornfully reminding them of their evil past.

According to *Chatam Sofer*, then, the Torah here conveys a vitally important lesson about respecting penitent sinners who sincerely regret their past and have begun a new chapter. Those who have wronged us deserve a second chance if they are genuinely committed to change. We must be open to forgive and forget, and to leave mistakes of the past in the past. People who have acted wrongly should be granted the opportunity to repent and improve themselves without being forever haunted by past indiscretions. Just as we want those whom we have wronged to be forgiving and grant us a second chance, so must we be forgiving to those who have wronged us, rather than remaining hostile and vindictive.

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