

לעילוי נשמת
מרת עקא עדנה
צפורה ע"ה וסרטל
בת משה מנחם הלוי ז"ל



עֵלֵי דֵשֶׁה

AL EI DESHE

Weekly Torah Insights and inspiration on the Parsha from the Rosh Yeshiva Shlit"za of Gur

Distinct Instinct

וְאֵלֶּה הַמִּשְׁפָּטִים אֲשֶׁר תָּשִׂים לִפְנֵיהֶם.

These are the ordinances that you shall place before them (Shemos 21:1).

The simple meaning of this pasuk, as Rashi explains, is that Moshe should lay out the *mishpatim* of the Torah before the people; he should explain the reasoning behind the laws. The

If we make the Torah paramount, we start to see things in a different light.

Rebbe R' Bunim, whose every word is extremely valuable for our *avodah*, offered an additional explanation: The Torah should be *placed*—should be given priority—*before them*; the mitzvos of the Torah must take priority over our own personal needs. What is it that we care about? Are we doing mitzvos only when they don't interfere with our needs, or do we care primarily about the mitzvos? And when people prioritize mitzvos, are they doing the mitzvos for themselves, to receive the reward that awaits them,

or do they care only about the mitzvah? The Torah tells us that the mitzvos come first; our priority must be the mitzvos.

Rav Shlomo Zalman Auerbach was once present at a Simchas Beis Hashoeivah where one of the participants began singing, and it was clear that his singing ability left much to be desired. It is a natural instinct to laugh in such a situation. Some laugh outright, while those who are more sensitive manage to hold back. There are others yet, who start laughing but will stop as soon as they realize that the singer is embarrassed. And that is exactly what happened: all those present began laughing in one form or another. Everyone laughed—except R' Shlomo Zalman, who paled because of the pain caused to the singer. He sat quietly without the slightest trace of a smile.

Those present asked R' Shlomo Zalman, "How were you able to control yourself? It is natural to laugh!" Rav Shlomo Zalman replied soberly: The Gemara tells us (Bava Metzia 58b) that shaming someone publicly is akin to murder. One should opt to jump into a fiery furnace rather than shame his fellow publicly (Bava Metzia 59a and elsewhere). In fact, some Rishonim understand this Gemara as practical

cont. on page 2

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וְכִי יִגַח שׁוֹר אֶת אִישׁ אוֹ אֶת אִשָּׁה וְמָת סָקוֹל יִסָּקֵל הַשׁוֹר וְלֹא יֵאָכַל אֶת בְּשָׂרוֹ וּבָעַל הַשׁוֹר נָקִי.

If an ox gores a man or woman and they die, the ox will be stoned; its flesh may not be eaten; and the owner of the ox shall be innocent (21:28).

Rashi quotes Chazal (Pesachim 22b and elsewhere) that once *beis din* offers their verdict that the ox must be stoned, the ox is prohibited for eating or for deriving any benefit – *assur b'hanaah* – even if it was subsequently slaughtered. The Rishonim' discuss at what time the *issur hanaah* goes into effect. Does it become forbidden immediately when *beis din* issues its ruling, or does it only become forbidden at the time of *shechitah*?

Generally, there is a rule that once something is prohibited, no additional prohibitions can take effect. One of the *arayos* in the Torah is *chamoso*, one's mother-in-law. Does this prohibition always apply? A married woman is prohibited to every man besides her husband. If a man then marries her daughter, the prohibition of *chamoso* is not enacted. As long as she remains married, retaining her status as an *eishes ish*, no other prohibitions can take effect. There are exceptions to this rule, as we will see soon.²

¹ See *Tosafos* to Zevachim 71a.

² See *Yevamos* 32-34 and others.

cont. on page 2

Distinct Instinct

cont. from page 1

halachah. Embarrassing a person in public is a form of murder, and one would be required to have himself killed rather than to transgress.

This was an extremely grave sin, and R' Shlomo Zalman would have no part in it.

What was R' Shlomo Zalman's secret; how was he able to do this? It is a natural reaction to laugh. How could R' Shlomo Zalman control his instincts at a moment's notice? The answer lies in the words of the Rebbe R' Bunim. Yes, it is natural to laugh, but do we give our instincts precedence, or do we give precedence to the Torah? R' Shlomo Zalman saw the world through the prism of Torah. Hashem's commandments were always foremost in his mind; his instinct saw this as a potential act of murder, and he trembled in fright.

This story sheds light on the words of the Rebbe R' Bunim. If we were to witness such a story, how would we

react? Would we smirk at a person and potentially embarrass them, or would we see an act of murder? Even if we were able to restrain ourselves, would this be a natural reaction? If we make the Torah paramount, we start to see things in a different light.

The story occurred when Rav Shlomo Zalman was already older; to acquire such *middos* takes a lifetime of work. In fact, R' Shlomo Zalman displayed exemplary *middos* already when he was *bar mitzvah* age. There was a boy in his class who was very bright who would constantly upset the other boys by calling out even when no one else knew the answers. They decided to boycott his *bar mitzvah*. Everyone joined the boycott, except R' Shlomo Zalman. Not only that, but he brought a gift—a rarity considering the rampant poverty in Yerushalayim of the time. When a person makes Torah paramount at that tender age, we see where they can reach when they are older.

We should never consider this standard beyond us! The work must begin now. We must be careful not to hurt each other or embarrass each other, and never to gloat at another's mistake. We must remember the severity of these acts—they are tantamount to murder. As *Poishers* we may be handicapped in this area, but that is no excuse.

These days people consider someone who yields to be weak. "Why should you act like a fool and give in?" But Chazal tell us: "Better for me to be considered a fool my entire life, than to be wicked in the eyes of Hashem for even a moment" (Eduyos 5:6).

When the *yetzer hara* comes he does not introduce himself (if he did, no one in their right mind would listen). Therefore, it is very important to constantly review these points. We must constantly put the Torah first and let it guide us. We will view the world in a different light.

(בר מצוה ד' משפטים תשפ"ד)

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cont. from page 1

A live animal is forbidden because it is *ever min hachai* and because it requires *shechitah*. How could the Rishonim entertain the possibility that the *issur hanaah* would take effect while the animal is still alive?³

One exception to the rule is that a broader prohibition can be enacted on top of a narrower prohibition. The part of the prohibition which adds new *issur* is not redundant, and can take effect. And in that case, the redundant portion will take

effect as well. In the aforementioned case: if one's mother-in-law was not married, at the time of his marriage she assumes the prohibition of *chamoso*. Should she subsequently marry, the prohibition of *eishes ish*, which is broader than that of *chamoso*, will take effect in addition to the prohibition of *chamoso*. As a married woman, she becomes *assur* to all other men. As the *issur eishes ish* is enacted regarding the rest of the world, it will apply to the son-in-law as well.

Included in this exception is an *issur hanaah*. An animal has forbidden fats (*cheilev*). It is permissible to benefit from forbidden fats; only eating them is prohibited. If the animal becomes sanctified as *kodshim*, the forbidden fats acquire the additional prohibition of deriving benefit from *kodshim*. Since the sanctification adds the aspect of *issur hanaah*, the new *issur* of *kodshim* is able to take effect with regard to the *cheilev*, as well.

cont. on page 3

3 Chiddushei HaRim Zevachim ibid.

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cont. from page 2

When *beis din* declares an ox deserving of the death penalty, it becomes *assur b'hanaah*. It would seem that this prohibition of *shor haniskal* could be enacted on top of the prohibition of *ever min hachai* (which is limited to eating). However, the Rambam⁴ limits this exception to where the *issur hanaah* is independent of an *issur achilah*. Anything which is *kodshim* becomes *assur b'hanaah*—even if one sanctifies wood or stones for the Beis Hamikdash, they become *assur b'hanaah*. The *issur* of benefiting from *kodshim* is not derived from an eating prohibition, and therefore the *issur hanaah* will be activated on top of the existing *issur* of forbidden fats. A *shor haniskal*, in contrast, may be *assur b'hanaah*, but that *issur* is an extension of the prohibition to eat. It is not considered a broader *issur*; therefore, it cannot be enacted over an existing *issur achilah*. The question remains: how could the prohibition of *shor haniskal* take effect when the animal is still alive, if there are the existing prohibitions of *ever min hachai* and eating without *shechitah*?

The Chiddushei HaRim answers that *shor haniskal* does indeed contain an additional aspect: the commandment for *beis din* to stone it. Since *shor haniskal* has this additional aspect, it is no longer redundant, and it will be enacted on top of the existing *issur*.

However, this is difficult to understand. All broader prohibitions in the Gemara are broader in the sense that there is a greater prohibition. This is understandable; since the new *issur* is not redundant, it can be added on to

the original prohibition. Yet, there is no precedent for a positive commandment broadening a prohibition. The positive commandment is a separate mitzvah; how could it combine with the negative prohibition to broaden it?

Additionally, Rabi Akiva Eiger⁵ discusses what would happen if the second *issur* loses its status as a broader prohibition. Does the second *issur* fall away, or does it remain since it was already enacted? The mitzvah to stone a *shor haniskal* is only relevant until it is stoned. Once *beis din* kills it, there is no longer any commandment, and the *shor haniskal* is now an ordinary *issur*. The Chiddushei HaRim must hold that once enacted, the second prohibition will never fall away.

The Chiddushei HaRim suggests another possible answer, a *shor haniskal* carries an additional *issur* in that it may not be used as a *korban*. This broadens the *issur*, so it should be possible to add it on top of the original *issur* of *ever min hachai*. However, the Chiddushei HaRim rejects this idea: As soon as the ox kills a person, it immediately becomes forbidden for use as a *korban*.⁶ The ruling of *beis din* which makes this ox a “*shor haniskal*” does not add any *issur* in this respect.

There is an opinion in the Gemara (Chullin 102b) that there is no prohibition of *ever min hachai* on a live animal.⁷ The only remaining prohibition on a live animal is that of eating it before it is slaughtered. Would this prohibition alone prevent the prohibition of *shor haniskal* from taking effect? The Chiddushei HaRim reasons

that it should not. The prohibition of *shor haniskal* applies more widely than that of eating an animal that was not slaughtered. The prohibition of eating an animal before *shechitah* is limited; it only applies up until the *shechitah*. The prohibition of *shor haniskal*, which applies even after *shechitah*, can take effect immediately because of its broader scope.

This answer of the Chiddushei HaRim is very difficult. Generally, in order for the second prohibition to be broader in scope, it is not enough for it to outlast the first one. At the time that the first prohibition falls away, the second prohibition should take effect—but not earlier. Even the Chiddushei HaRim seems to agree; otherwise, his answer should apply as well to *ever min hachai*, whose prohibition also only applies while the animal is alive. Why, then, does he limit his answer to the prohibition of eating before *shechitah*?

Yet we can suggest that the prohibition of eating before *shechitah* is different. *Ever min hachai* is not a mitzvah that's limited to a certain time period. It is not integral to the mitzvah of *ever min hachai* that a dead animal is permissible; it's just that once an animal is dead, it no longer meets the requirements of the prohibition. However, the mitzvah to slaughter an animal inherently states that after slaughter it is permissible.

Therefore, the prohibition of *shor haniskal* is broader, and it will take effect while the animal is still alive.

מתוך ליל ש"ק משפטים – שקלים תשפ"ג
– בנאות דשא משפטים תשפ"ד

4 Peirush HaMishnayos Krisos Chap. 3.

5 Sheilos U'Teshuvos vol. 6, 17.

6 See Bechoros 41a, Rashi to Bava Kama 40b s.v. hanogeach.

7 The *issur* only applies to a limb that was removed from a live animal.

Echoes of Ethos

וְהִגִּישׁוּ אֲדָנָיו אֶל הָאֱלֹהִים וְהִגִּישׁוּ אֶל הַדֶּלֶת אוּ אֶל
הַמְּזוּזָה וְרָצַע אֲדָנָיו אֶת אָזְנוֹ בַּמַּרְצֵעַ וְעָבְדוּ לְעַלְמָם.

His master will bring him to the court, and he shall bring him close to the door or the doorpost, and his master shall pierce his ear with an awl, and he shall be his slave forever. (21:6)

The Torah tells us that a Jewish slave remains with his master for six years. Under certain circumstances he may remain longer, but he must undergo a special procedure. He is brought before *beis din* and has his ear pierced upon the doorpost. Why do we pierce his ear and not any other limb? Chazal tell us that this man has a problem with his ears. He heard at Har Sinai that Hashem is his only Master, and disregarding this, he went and sold himself to a different master.

The pasuk, describing *Mattan Torah*, writes, וְכָל הָעָם רָאִים אֶת הַקּוֹלוֹת – *The entire people saw the thunder (20:15)*. Rashi quotes Chazal that at the time of *Mattan Torah*, Klal Yisrael was actually able to see sounds. The *sefarim hakedoshim* explain that before Adam Harishon ate from the *eitz hadaas*, the five senses were not

limited to their unique abilities; all five senses were able to sense anything. וְתָרָא – *The woman saw that the tree was good for eating (Bereishis 3:6)*. Chavah was able to see the taste of food. At the time of *Mattan Torah*, Klal Yisrael returned to that level: they were able to see the thunder.

Why then, do we pierce specifically the ears? If at *Mattan Torah* they saw the sounds of the commandments, maybe we should pierce the slave's eyelids? Yet we are not held to those standards. After the *Chet HaEigel*, Klal Yisrael lost their high standing, and became once again limited to hearing with their ears. The only reproach is that the slave did not use his ears properly. Chazal tell us,⁸ although we forfeited *na'aseh*, as we sinned and did not *do*, we still must keep to the *nishma*—we must still hear. We must still hear the voice that our ears heard at Har Sinai proclaiming that we must be subservient to Hashem. Any Jew, in any situation, even if he must overcome difficult tests, can always and must always remind himself: I must serve Hashem and not

enslave myself to other ideals. Every day a *bas kol* echoes from Har Sinai: “Repent, My wayward sons.”⁹ And, “Woe is to the people from the affront to the Torah” (*Avos 6:2*). We must hear these echoes and not sell ourselves to the *yetzer hara*. If we don't, our ears deserve to be pierced.

כִּי תִקְנֶה עֶבֶד עִבְרִי – *When you purchase a Jewish slave (21:2)*. We find in Chazal (*Sanhedrin 4a*) that in addition to understanding a pasuk the way it is read, it must also be taken the way it is spelled. The Beis Yisrael writes¹⁰ that the word תִּקְנֶה should be understood in these two ways. It is written with a *chirik*—תִּיקְנֶה and means *when you purchase*; however, it may also be taken as it is spelled, with a *patach*—*when you sell yourself*—as a Jewish slave—to Hashem. Hashem tells each one of us, “You are My slaves, and you are not to be subservient to anyone else.” We left *Mitzrayim* to become subservient to Hashem alone. We must hear the voice that calls us daily, and submit ourselves as true servants of Hashem.

(ס"ג משפטים תשפ"ד מאמר ב)

8 *Shemos Rabbah 27:9.*

9 *Zohar Hakadosh Naso 126a.*

10 5711, 5714.

כִּי מִצִּיּוֹן תֵּצֵא תוֹרָה וְדָבָר ה' מִירוּשָׁלַיִם

We are pleased to announce that **Rabeinu Hagaon R' Shaul Alter Shlita** of Ger Is currently visiting Lakewood, NJ During this week of Parshas Mishpatim

Rabeinu Shlita will deliver a Shiur at Yeshiva Gedola Tiferes Yerachmiel
Located at **911 Somerset Ave**, Lakewood, NJ

Thursday night at 8:30 PM Maariv will follow the Shiur.

Tish Seudah Shlishis:

At Pnei Menachem Shul
13 Lucy Rd, Lakewood, NJ
Rabbeinu will deliver divrei chizuk and hisorerus using
the microphone after the Zman Moitzoei Shabbos

Baltimore

On Sunday, Parshas Terumah (February 23rd)
Rabeinu Shlita will deliver a Shiur at Heichal Hayeshiva Gedola Ner Yisroel
Located at 400 Mt Wilson Ln, Pikesville, MD
Mincha at 2:30 PM, followed by the Shiur.