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DVAR TORAH FROM RAV HILLEL FAERMAN

Rosh HaYeshiva, Tsama Nafshi

Rosh HaYeshiva:

Rabbi Hillel Faerman, שליט"א

Magidei Shiur

Rabbi Hillel Faerman, שליט"א

Rabbi Shlomo Furst, שליט"א

Rabbi Tuvia Katzman, שליט"א

Rabbi Reuven Levitt, שליט"א

Rabbi Alexander London, שליט"א

Rabbi Binyamin Moore, שליט"א

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Parshas Mishpatim : Are Criminal Rights Criminal or Right?

We are inclined to treat criminals harshly. Firstly, we do not want to reward people for their bad behavior as it might encourage them to repeat their crimes. Secondly, we want them to experience displeasure so that the next time they even think of doing something wrong, they will subliminally remember the negative aftereffects of their last episode and steer clear of it. However, an equally persuasive argument could be made for treating the criminals nicely. Why? Because perhaps it's precisely due to being treated negatively in the past that they developed negative attitudes and behaviors which ultimately led them to commit their crimes. In addition, if we show them a positive attitude now, that may provide them with a positive role model for

future good behavior. In fact, one could even bring up the old question of "Nature vs. Nurture," which delves into why people ultimately act the way they do.

However, as "practicing Jews," we must always first ask what the Torah tells us to do. First the halacha (practical laws of what to actually do), then the hashkafa (the philosophy behind the halacha). Precisely because there are two different yet equally compelling arguments for how to treat criminals, that is why we must pay closer attention to what the Torah instructs us to do. So, let's dig in and attempt to discover what the Torah instructs us on this important topic. In Parshas Mishpatim we are told, amongst other things, how to treat an "eved Ivri"/Jewish slave. Now, let's remember who this eved Ivri was anyways. Says the Gemora Kiddushin that there were actually two types: 1) Someone who fell on hard times and in desperation, for lack of any money, he sold himself as a slave; 2) Someone who was convicted for stealing but didn't have the means to make restitution is sold by Beis Din / Jewish Court of law in order to repay for what he stole. In other words, the second type of eved Ivri is a criminal, which makes him the perfect test case for our study! So let's dig in! There are numerous halachos which seem to indicate that we must treat this thief nicely. For example, if the master has only one pillow, then he must let this Jewish thief slave use it while he himself must do without. This would suggest that the master must worry more about the slave's comfort than his own.

On the other hand, certainly the Torah is full of harsh punishments for the criminals. There are potentially 39 lashes for those who willfully transgress negative prohibitions, and four different death penalties. There are various penalty fees the court occasionally collects from criminals and even Rabbinical lashes. Besides all that, there are loads of Heavenly punishments---even premature death---which are frequently administered from Above. This all seems to point to the harsher treatment of criminals and the minimizing of their rights. What then is the correct approach? The answer may be found in the story of Creation. There are two accounts, with variations, one of which is the following. In the first narrative only HaShem's name, "Elohim" is used, but in the second account, it refers to Hashem as "Adonoi Elohim." Why? Rashi explains that originally, Hashem wanted to create the world with Strict Justice, represented by the name "Elohim," but He saw that if the world only was run according to Strict Justice then it would lack the merit to continue existing. Therefore, HaShem joined together with it the attribute of Divine Mercy, represented by the name "Adonoi." The world we live in was created by and continues to be run by both HaShem's Strict Justice and His Divine Mercy.

Practically speaking, this means that although it is preferable to live according to strict justice, but realistically we need to employ both, as much as is possible. Therefore, in all the cases mentioned above where harsh punishments were meted out it was because the offender had willfully sinned and strict justice was needed in order uproot the wickedness. For example, a Jewish Court will not administer punishments unless the offenders were warned by two witnesses who included in their warning the exact punishment which would be carried out and the offender has to acknowledge that he fully understands that and even so is determined to carry out the sin!

Even so, the court will still try to bend over backwards to absolve the offender of guilt. As the Gemora in Makkos says, any Beis Din which put someone to death in 70 years was called pejoratively a bloody Beis Din!

This explains why we treat the thief with mercy. Even though it has been proven in a court of law that he stole, however he wasn't warned and never showed us that he wished to sin against HaShem willfully. Therefore there is no deep seated desire to do evil which needs to be uprooted. There is only a person who gave into temptation and rationalized theft. Such a person can greatly benefit from the Torah's "therapy" of love and consideration of his master towards him and will eventually be healed of his greed and self-centeredness.

Let us take this lesson to heart and remember that most people we see acting improperly are not the willful ones whom the Torah wants to be treated harshly. Rather they're like the selfish slave who needs wholesome and loving role models around him 24/7 for an extended period of time in order to rehabilitate him, so to speak. May HaShem's mercy on us inspire us to turn it around on our fellow Jews and bring the Geula Shleimah beemhayrah veyomeinu! **A guten**

Shabbos!

XX

	<p>Rabbi Alexander London Gemara Sunday – Thursday</p>
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**BAVA KAMMA 49A
 FORM AND MATTER**

The Mishna states: If an ox intended to attack another ox and hit a pregnant woman, causing her to miscarry; the owner of the ox is exempt from paying for the offspring.

Rav Pappa says that the law of the Mishna only applies to a Jewish woman. However, if the ox hit a Canaanite maidservant and caused her to miscarry, the owner of the ox must pay the value of the offspring to the master. This is the equivalent of the ox goring a pregnant donkey. For Abraham said to his Canaanite slave Eliezer, "Stay here with the donkey", comparing Eliezer to a donkey. Just as the owner of the ox must pay for the offspring of the donkey, so too he must pay for the offspring of the Canaanite maidservant.

The Maharal MiPrague in Derech Chayim discusses the two components of all items: the matter and the

form. He says that form is inherently free, for any subjugation is related to matter. This is hinted in what is stated concerning a Canaanite slave, "Stay here with the donkey". The Canaanite slave is compared to a donkey (chamor). Because he is subjugated, the Canaanite slave is like matter (chomer), because matter is affected by other things.

Form cannot be affected. Thus, only form can be considered free.

	<p>Rabbi Reuven Levitt</p>
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Rabbi Reuven Levitt
Sunday – Thursday, 10:20 –11:15 a.m.

The sefer , Nefesh Hachaim, by Rav Chaim Volozin, the prime disciple of the Vilna Gaon, begins the sefer with a wondrous truth which forms the foundation of our avodas Hashem.

In Parshas Beraishis, the Torah relates that Hashem created man "b'tzelem Elokim" ,in Hashem's image. "Let us make man in our image, in our likeness," (beraishis 1:26)

Two words are used: "tzelem" and "d'moos" However the Navi Yeshaya exclaimed, (40:18) "In what likeness can compare(man) to Him (Hashem)?"

Dovid Hamelech says in Tehillim, (102:7) "I was likened to a desert bird. " Dovid Hamelech didn't sprout wings or a beak but was wondering from place to place, like a bird who has no home.

To understand the term "tzelem Elokim" we must know what the name Elokim signifies. The Tur states that Elokim refers to Hashem as the master of all powers. (Tur, Orach Chaim 5) Man has the ability to craft a table. Hashem brought into existence the tree needed to form the table. In addition, once the tree is created it cannot continue to exist unless Hashem constantly and continuously infuses in to the tree, new life. In Tehillim (136:7) it is written, "Hashem makes the great luminaries," (referring to the sun and moon) note that it does not say that Hashem MADE them. Nothing in the entire universe, which includes all the myriad celestial spheres all the way up to the throne of glory, exists independently of Hashem,,He is in control of EVERYTHING!

With this "likeness", Hashem created man. Hashem gave dominance to man over His creation. According to man's conduct, his actions, his speech and even his private thoughts, Hashem infuses life and power into every facet of creation. "Give strength to Elokim" writes Dovid Hamelech (Tehillim 68:35) How do we give strength to Hashem? Explains the Zohar: through our Torah and mitzvos.

Therefore, the Nefesh Hachaim turns to every Jew and says, " Do not say in your heart: who am I? what am I? What ability do I have with my puny lowly actions to affect anything in this world?" Rather, it is incumbent upon us to internalize deeply into our hearts and minds that every single thought, word and deed of a Jew, make a tremendous impact on the world. What an unbelievable power Hashem has bestowed upon us!

Hashem! Help us to use our Godly powers only to increase awareness of You and Your power in the world! AMEN!

"Parasha Puzzler"

****~Rabbi Binyamin Moore~****

Here is our question for Parashas Mishpatim: At the beginning of the parashah, the Torah states the laws regarding a Jew who is sold by Beis Din as a servant to another Jew, as a result of being unable to repay a theft that he committed. For this he must six years as a servant, and at the end of the seven years he goes free. However, if after six years he wishes to stay permanently as a servant (until the Jubilee year), then his master takes him to Beis Din, and there he pierces his right ear into a door, thus branding him as a "permanent" servant.

Rashi explains that the reason he has his ear pierced is because his ear failed to heed that which Hashem told the Jewish People at Mount Sinai: "You must not steal." The question arises though: If so, why does the servant have his ear pierced only now, after he has served for six years, and not immediately after he has stolen and is sold as a servant. Answer on page 5

**... Rabbi Shlomo Furst
Halachah**

Sunday – Thursday, 9:35 - 10:20 a.m.

In the first se'if of simon 487 of the Shulchan Aruch in Orach Chaim, the Mechaber writes, "A person is obligated to read the Megillah at night, and then to repeat it again in the day... " The Mishna Berura, in se'if katan 1, explains why the Megillah is read twice, based on Rashi's explanation of the Gemara in Megillah (4a), "A remembrance of the miracle that they [the Jews] were crying, out during their days of distress, day and night." The "days and nights" most likely refer to the three days and nights of fasting that Ester and Mordechai decreed upon the Jews.

Tannis Ester, which usually takes place on the thirteenth of Adar, is not a commemoration and recollection of this three day fast. Tannis Ester is for another reason, which will be explained.

In siman 549 of Orach Chaim, the Mechaber begins the Laws of Tisha B'Av as follows, "We are obligated to fast on Tisha B'Av, on the seventeenth of Tammuz, on the third of Tishrei and on the tenth of Teves because of the tragedies that occurred on them." However, the Mechaber does not include Tannis Ester — the Fast of Ester, in the list of fasts. This because, as the Mechaber wrote, that we are obligated to fast on these four days, "because of the tragedies that occurred on them."

These tragedies are, for example, as the Mishna Berura explains in the second se'if katan of siman 549: Since on the seventeenth of Tammuz fives tragedies occurred; (1) The Luchos were broken when Moshe Rabbeinu descended from Har Sinai, (2) The korban tamid ceased to be offered in Beis HaMikdash Rishon (3) The City of Jerusalem was breached in Churban Beis HaMikdash Rishon, (4) Apostimous HaRasha burnt a Sefer Torah, (5) An idol was set up in the Heichal.

On Tisha B'Av was the great devastation of the destruction of the Beis Rishon and the Beis Shani, and on that day was the decree on our forefathers in the Bamidbar that they would not enter Eretz Yisrael, on that day the great city of Betar was captured and many thousands upon thousands of Jews were all massacred and the great tragedy was like that of the Churban Beis HaMikdash, also the Heichal and Tzion were plowed under, becoming like a plowed field.

On the third of Tishrei Gedalayhu ben Achikam was assassinated. He was the governor that the conquering enemies established to keep order over the remnant of Jews in Eretz Yisrael after the Churban Beis HaMikdash Rishon.

This snuffed out the remaining ember of the Jews that remained, for after his assignation, all were exiled and thousand were killed. On the tenth of Teves, the King of Babylon began the siege of Jerusalem that eventually ended in the Churban Beis HaMikdash Rishon.

In contrast, our fasting on Tannis Ester is not because of any tragedy. For in fact, the thirteenth of Adar, the date of Tannis Ester, is a day of victory. The Mishna Berura therefore explains in detail in the second se'if katan of siman 686 of Orach Chaim why we fast: In the days of Mordechai and Ester the Jews gathered on the day of the thirteenth of Adar for battle and to defend their lives. They needed, by requests of mercy and supplications that Hashem should help them and take vengeance from their enemies. We see that on a day of battle they would fast, for Chazal say that Moshe Rabbeinu, on the day of war with Amalek, was fasting. If so, then definitely, in the days of Mordechai, they were fasting on that day of their battle.

Therefore, as the Mishna Berura concludes by telling us the reason for fasting on the thirteenth of Adar, "And therefore, all of Klal Yisrael are accustomed to fast on the thirteenth of Adar, and this is called Tannis Ester; in order to remember that Hashem Yisborach sees and hears each person in the time of his distress — when he will fast and return to Hashem wholeheartedly; just as occurred in those days [of Mordechai and Ester]."

Rabbi Shlomo Furst

AVOS

The first Mishna in Pirkei Avos states, The Mishna continues, "They [the Anshi Kennesess HaGadolah] said three things, 'Be deliberate in judgment, establish many talmidim, and make a fence for the Torah'." The need for many talmidim is necessary, as we see from the following.

The Ramchal begins his essay "Torah Sheba'al Peh and Shas" by explaining that Hashem Yisborach "did not want to write the Torah so clearly that it would not need explanation. Rather just the opposite, [Hashem intentionally] wrote many things in it that are extremely obscure, making it impossible for any human in the world to establish the truthful meaning except [for the fact] that the explanation has been conveyed by tradition originating from Hashem Yisborach Himself... [Furthermore] all that is concealed in the Written Torah has been orally passed on to Moshe Rabbeinu and from him extends the mesora to chachamim generation after generation. And this mesora contains the explanation of the truthful meaning of what is written ..."

Rashi (Berachos 47b) explains that shimush of talmidei chachamim during the time of Chazal meant participation in learning Gemara, for "Gemara is dependent on comprehension, for they [talmidei chachamim] gave explanation to the words of the Mishna. They would gather together and be occupied in

this." After dialogue and dispute, the issues pertinent to understanding the Mishna were clarified and resolved.

This led to the arrangement of Shas as we have it today. Just as the Talmud is far beyond a mere collection of information; likewise, knowledge of facts does not make a person a talmid chacham. Therefore, even today when we have Shas codified, shimush is still indispensable for success in properly understanding Torah.

The preface to the sefer Levush Mordechai (Bava Kamma) elaborates upon the vital importance of shimush "The most important comprehension of Torah is not expertise in factual information. Rather, reasons and comprehension of things is the most crucial knowledge. As it is said in the Gemara Berachos (6b), 'The reward for halachic debate is comprehension,' for if one is versed in a halacha and yet, does not know its explanation and the reasoning behind it, it is not possible to say that he is lacking part of the thing, rather, he is missing all of it..."

The Levush Mordechai continues, "Just as in the time of Shas, the Gemara was the key to understanding the words of the Mishnayos, and without the Gemara a person would be ignorant in Mishnayos, likewise so it is in our time, when hearts have shrunk and minds have atrophied. The words of the Gemara are definitely for us a closed book more than the Mishnayos were a closed book for those who lived at the time of the Gemara. And furthermore, even the words of the Rishonim are to us like Mishnayos and are like a closed book. Only through intensive discussions with talmidim and great inquiry and examination are we then able to descend to the depths of their words and attain, 'the reward for halachic debate is comprehension'."

Rashi, on the Gemara Berachos 6b, explains that "the basic reward for most people who run to hear a derasha directly from a chacham comes from running to hear the derasha itself, since most of them do not understand [the words of the chacham well enough] to, 'to establish the discourse,' and say over the lecture afterward in order for them to receive reward for the learning itself." This expression 'to establish the discourse,' is similar to the expression 'establish talmidim' — which is used in the first mishna of Avos. Just as a rebbe has an obligation to establish talmidim, a talmid has a responsibility to understand, to absorb and to live up to his rebbe's teachings.

Mishanyos – Phil Sevrinsky

We are continuing in the fifth perek of Mesachet Eduyos where the first five mishnayos states additional laws noting the more lenient rulings of Beit Shammai and the stricter rulings of Beit Hillel. We also continue in the first mishna which gives the six rulings that Rebbe Yehudah gave regarding Beit Shammai and Beit Hillel to illustrate that point. The third case involves the blood, menstrual or from another genital discharge, of a female Gentile. By Torah law, a Gentile woman does not convey uncleanness since the posuk in Vayikra says "Speak to the children of Israel" and thus it only applies to B'not Yisrael. Our chachamim nevertheless decreed that every Gentile woman should be considered a zavah, having a flow, for all

purposes. Beit Shammai holds this decree of being unclean only applies to their spittle and urine but not to their menstrual blood. However, Beit Hillel states that the Gentile woman is unclean “as her spittle and urine” meaning that she is considered unclean only when the blood is moist but not when it is dry.

The fourth case involves the blood of purification of a metzora'at, leprous B'not Yisrael, that saw blood during the clean period after giving birth to a child, namely the thirty three days after the initial seven unclean days for the birth of a boy or the sixty six days after the initial fourteen unclean days for the birth of a girl. Beit Shammai declares her clean since they regard the metzora'at as having the same the law as a woman who gave birth so the since the blood was found during the clean period after birth, she would also still be considered clean. Beit Hillel holds that just as her spittle and urine would render her unclean, so too does her blood since she is a metzora'at.

We learn from this various matters. We learn the importance of studying the laws of niddah, childbirth, leprosy, and uncleanness. We again see how we should always carefully try to avoid any source of uncleanness whether physical or spiritual. We learn how we should be careful in our relationships with Gentiles and their effects upon us. Again we are taught to respect the rulings of Beit Shammai and Beit Hillel as representing valid ideas in their own way fulfilling the dictum “these and those are the words of the living G-d”. We again see how we cannot assume which school we should emulate, no matter who is strict and who is lenient, but rather must follow the chachamim to ascertain the final halachic ruling. Finally, we should be thankful to Hashem for enabling us the ability to purify ourselves from uncleanness and making it harder from us to contract uncleanness from the outside world.

Parasha Puzzler” –Answer:~~~With
Binyamin Moore~~****

Answer:

Many commentaries address this question, but we will present here the following answer, the source of which I do not remember.

When a Jew steals, in most cases it is done out of desperation, for lack of funds to provide for his personal needs. Therefore, initially the Torah does not brand the thief by piercing his ear, because we hope that by serving his master for six years and thus repaying his theft, he will feel enough remorse for his misdeed.

However, if he shows that he is quite happy with his servant situation, we are then concerned that he does not regret his theft, which brought him into servitude. Thus, at this point we pierce his ear, so that he be fully aware of his wrongdoing and thereby repent.

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