



The Canaanites and others worshipped many gods. We are warned not to follow lies like superstitions or believe in any power but God. He is to be followed exclusively or "perfectly".



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Montreal	7:48	Washington DC	7:48

Weekly Parsha

Shoftim

RABBI BERNIE FOX

Justice as a Characteristic of the Land of Israel

You should appoint judges and officers in all of the gates that Hashem will give to your tribes.

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Weekly Parsha

Bal Tashchis: Man's Quest for Control

RABBI DR. DARREL GINSBERG

"I can't tell a lie, Pa; you know I can't tell a lie. I did cut it with my hatchet."

The famous quote by the first president of the United States, George Washington, has been taught to generations of American children. And the legendary story behind it, of course, involves his impetuous decision to try out his new axe on his father's favorite tree. Whereas the emphasis always lies on the impeccable character exhibited in Washington's decision not to lie, there is another element to the story, one that receives very little attention. While not lying is certainly worthy of commendation, is there not a concern with the thoughtless, impulsive act of chopping down a beloved tree with a hatchet?

At the end of the Parshas Shoftim, we read the following (Devarim 20:19-20):

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Weekly Parsha



THE PURSUIT OF JUSTICE

RABBI REUVEN MANN

This weeks Parsha speaks about the judicial system which was to govern the religious and societal life of the Jewish nation. The most important concern was the prevention of corruption. Thus, those chosen to be judges must possess not only great knowledge but extreme integrity as well. The Torah exhorts: "And do not take a bribe because a bribe blinds the eyes of the wise and perverts righteous judgement." We may, however ask: why must the Torah explain why it is wrong to take a bribe? Is it not self evident that once I take a gift I will rule in favor of the party that proffered it? In fact, the very commandment to "judge righteously" intrinsically precludes bribe-taking. Why, then, is there a need for a separate injunction against taking "shochad"?

Rashi makes an interesting observation. He says one may not take a bribe even to render a "just decision". This means that if one party offers money to a judge to try his case and says with complete sincerity "I do not want you to rule in my favor but only according to what you regard as the truth", he must not take the case. The reason, according to Rashi, is that once a person accepts "something" he cannot help but be more favorably disposed toward the one who gave it. The Torah's prohibition of bribery includes all types of "favors" which interfere with the mind set of neutrality and intellectual objectivity so vital to a just verdict.

This lesson has great relevance to all of us. We are constantly making evaluations, judgements and decisions about family members, friends, public figures etc. The Torah commands each one of us: "With righteousness shall you judge your friend". We are instructed to be judicious in our "judgements" and "verdicts" about others. In order to do this we must recognize and acknowledge our inner biases, both positive and negative, and be able to put them aside and make judgements from the standpoint of neutrality and genuine objectivity. Shabbat Shalom. ■

(Shoftim cont. from pg. 1)

Weekly Parsha

JewishTimes

Weekly Journal on Jewish Thought



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And they shall administer an honest judgment for the nation. (Devarim 16:18)

This pasuk introduces the first section of the parasha. This section discusses the appointment of judges and the administration of justice. The courts are a fundamental Torah institution. The Torah includes religious and civil law. It is the role of the courts to decide legal questions and to resolve civil conflicts between litigants.

The above passage instructs us to appoint judges for each "gate". The term "gate" refers to a city. In other words, the pasuk directs us to place a court in every city. Maimonides discusses this obligation in his Mishne Torah. He explains that we are required to place a court in every city and in every district. However, this requirement only applies in the Land of Israel.[1] This raises an obvious question. Courts are also required when Bnai Yisrael are in exile. In exile, legal questions arise and disputes occur and these issues are to be decided by a Torah court. In the Land of Israel, we are required to establish an extensive court system. How extensive a court system is required in exile? Maimonides does not explicitly address this issue. His silence on this issue implies that the answer should be obvious. What is this obvious answer?



As we have explained, the function of the courts is to resolve legal questions and disputes. Apparently, Maimonides maintains that this function determines the form of the court system in exile. The system must be sufficient to serve this function. In some countries of our exile, Jews have concentrated in a few cities. These cities require courts. Other cities that do not have significant Jewish communities do not require their own courts. In other countries, we have settled across the breadth of the Land. In such countries, a more extensive court system is required. The magnitude of the system is determined by function. The court system must be adequate to serve its function. We can now understand Maimonides' reason for not discussing the specific perimeters of the court system in exile. There are no specific perimeters. The system must be adequate to function.

This suggests a problem. The system of courts in the Land of Israel is very different from the system in exile. In exile, the number of courts required in any country is determined by practical considerations. Specifically, the number must be adequate to serve the population. This is not the requirement regarding the Land of Israel. The Torah requires that the court system of the Land of Israel extend to every district and city. This implies that the placement of courts in the Land of Israel is not determined solely by function. In other words, even in an instance in which two cities are in close proximity of one another and their combined population could easily be served a single court, each city requires its own court. Maimonides explains that in the Land of Israel, a community with 120 males must have its own court.[2] Clearly, justice would not suffer through consolidating a number of small communities and appointing a single court for this consolidated group! Why is this plethora of courts required in the Land of Israel?

In order to answer this question, it is helpful to consider an interesting passage in our parasha. In the midst of the discussion of the courts, the Torah inserts an important pasuk. The Torah instructs us to pursue justice vigorously. This persistent commitment to justice assures that we will possess the Land that Hashem has given us.[3] This passage makes an unequivocal connection between the operation of the courts and our right to the Land of Israel. Our right to live in the Land is contingent on our pursuit of justice. Failure to institute a system of justice results in a forfeiture of our right to the Land. This relationship can be explained on two levels. On the simple level, the Torah is telling us that we cannot define our service to Hashem through religious devotion alone. A Jew that defines observance exclusively through ritual is not Torah observant. Torah observance requires adherence to the religious and civil law. The Torah is giving us a warning. If we limit our observance to the ritual law, we are not living according to the precepts of the Torah. This disregard of the Torah will be punished by exile.

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The pasuk also has a deeper meaning. In order to identify this meaning, we must understand an important concept. The Land of Israel is endowed with sanctity. Other lands do not have sanctity. What is the meaning of sanctity in this context? What makes the Land of Israel sacred? The sanctity is a consequence of the special laws that apply to the Land. There are many mitzvot that apply exclusively to the Land of Israel. We give tithes from the produce of the Land. We observe the Sabbatical and Jubilee years in the Land of Israel. The many mitzvot that apply exclusively to the Land of Israel endow the land with a special sanctity. There are no special laws attached to any other land. Therefore, other lands are not endowed with sanctity.

One of the mitzvot that is unique to the Land of Israel is the court system. In the Land of Israel, the courts are not merely the administrator of justice. The courts create a relationship between justice and the Land; they endow the Land with the characteristic of being a land of justice. Let us contrast the courts of the Land of Israel with the courts in exile. In exile, there is no relationship between the courts and the land. The courts administer justice. The courts are not an aspect or reflection of the unique nature of the country. In contrast, the courts in the Land of Israel are not

merely the instrument of justice. The Land of Israel must be associated with justice to the extent that justice is a characteristic of the land. A connection must be made between the land and justice. How is this connection created? It is created through the placement of a court in every city and district.

We can now understand the deeper meaning of the passage. The pasuk informs us that possession of the Land is contingent upon the administration of justice. This is because possession of the Land is dependent upon respecting its sanctity. The court system and justice are an expression of this sanctity. Failure to act with justice demonstrates disregard for the Land's sanctity. Therefore, it is punished with exile.

The Authority of the Prophet and the Authority of the Scholar

Hashem your G-d will appoint for you a prophet, like me, from among you. You should obey him. (Devarim 18:15)

This pasuk introduces the Torah's discussion of prophets. The Torah explains that Hashem will appoint prophets after Moshe. These prophets will provide leadership and guidance. We are commanded to obey these prophets.

This passage has a second meaning. This message is explained by Rav Yitzchak Zev Soloveitchik Zt"l. Rav Soloveitchik was brought the manuscript of a sefer – a book – to review. The author sought Rav Soloveitchik's critique of his work. Rav Soloveitchik reviewed the manuscript and after this review told the author that one specific statement should be removed from the text. The manuscript contained a comment attributed to Rav Soloveitchik's father – Rav Chaim Zt"l. Rav Chaim was quoted as praising the scholarship of Rav Diskin. Rav Chaim said that Rav Diskin's scholarship was superlative and that the Torah's injunction, "You should obey him" could be applied to Rav Diskin. Rav Soloveitchik asserted that this statement simply was not true and should not be attributed to

his father. This command cannot be applied to Rav Diskin or any scholar. This injunction is derived from our passage. We are commanded to obey the prophet. Rav Soloveitchik explained that the passage has two meanings. First, we must obey the prophet. Second, this level of obedience is not given to any other person. Only the prophet has the right to demand complete obedience. Therefore, the passage cannot be applied to Rav Diskin. This is not because of any inadequacy in Rav Diskin. This is because the passage stipulates that only a proven prophet can demand this obedience. Rav Diskin was a great scholar. However, we no longer have true prophets.[4]

Rav Soloveitchik's comments require some interpretation. We are required to be obedient towards Torah scholars. These scholars, through their courts, have the right to interpret the law. Our scholars may institute new laws. We are commanded to obey their decisions. How does this obedience differ from the obedience reserved for the prophet?

Perhaps, Rav Soloveitchik was alluding to a basic difference. The Torah assigns to its scholars the authority to interpret and apply its legal principles. We are required to be obedient to the Torah as it is interpreted by the scholars. Our obedience is not to the individual scholar, but to his office and authority as the legitimate arbitrator of the meaning and intent of the Torah's laws. In contrast, the prophet's words are treated as the message of Hashem. This status is reserved exclusively for the prophet. Therefore, our obligation to obey the scholar is limited to his area of authority – the interpretation of the law. The prophet's authority is not limited. We are required to obey his commands in regards to any and every issue.

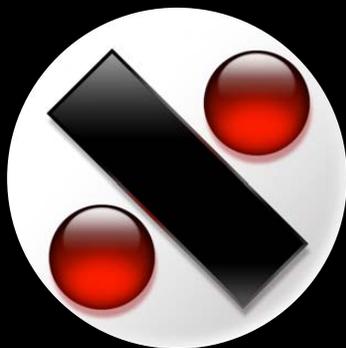
We can now more fully understand Rav Soloveitchik's objection. Rav Diskin was a great scholar. His opinions deserve careful consideration. His outstanding wisdom and knowledge must be respected. In many instances, his legal decision deserves absolute obedience. However, we cannot accord him the obedience and deference reserved for the prophet. ■

[1] Rabbaynu Moshe ben Maimon (Rambam/Maimonides) Mishne Torah, Hilchot Sanhedrin 1:1-2.

[2] Rabbaynu Moshe ben Maimon (Rambam/Maimonides) Mishne Torah, Hilchot Sanhedrin 1:12.

[3] Sefer Devarim 16:20.

[4] Rav Y. Hershkowitz, Torat Chaim, pp. 169-171.



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“Perfect”

Following God *without* Deviation

*Deriving lessons
from the Torah's
precise wording*

RABBI MOSHE BEN-CHAIM

“When you come into the land which Hashem your G-d gives you, do not learn to do as the abominations of those (other) nations.” (Deuteronomy 18:9)

The Torah lists idolatrous prohibitions; passing children in between pillars of fire (Molech), inquiring counsel from your staff (Kosame), fortune telling, witchcraft, consulting the dead and other practices. We understand that all these idolatrous practices are not based on truth and knowledge, and thus, are completely false. But this section concludes with a statement not found at the end of other sections of commandments, (18:13) “Perfect (tamim) shall you be with Hashem your G-d.” Why isn’t this statement applied to other areas, i.e., kosher, laws of robbery, court systems, or any other section? Why is the statement of “Perfect shall you be...” mentioned here? What does “perfect” mean?

We must say that only in the area of the idolatrous practices is one in violation of “perfect shall you be with Hashem your G-d”. If one were to eat non kosher foods, he would not violate this command to be perfect. To what specific objective does “perfect” with G-d refer? Framing the question this way, we are forced to understand these “abominations”.

Each of the aforementioned idolatrous practices is an attempt - in some way - to procure information. In each case, there is an inquiry, or an attempt to secure oneself. A few examples will help to illustrate this point. Molech was a practice where a parent would

pass his son or daughter through two flames - not burning the infant, according to at least one view. What was this objective? Let us consider: Fire is the one element, which opposes all biological existence. In all elements, an organism may survive, except in fire. Passing the child through unharmed, the father imagines that just as the child is shielded from flames, so he is shielded from all other mishaps during his life. It makes sense that the parent/child relationship forms the prohibition, as the parental instinct is focused primarily on survival of their infant. This parent has a distorted notion that such action is fortuitous and actually “protects” the remainder of his child’s existence. Kosame and Nichush were two practices, which foretold the success or failure of future events or actions. So too was the practice of consulting the dead. The goal is to obtain knowledge of the ‘other side’, or of future events. One would usually attempt to consult a dead friend or relative. As there was nothing to be learned about someone with whom you were already intimate with, the interest in consulting the dead must serve some other need; knowledge of the future, or more specific, the inquirer’s future. Obsession with the dead is an expression of one’s own immortality fantasy.

What common thread runs through all these practices? The answer is “knowledge”. In each of these violations, the inquirer seeks security through some imagined source of knowledge, via a warlock, an enchanter, or the dead. He

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Weekly Parsha

assumes there is a source of knowledge out there - besides G-d. This is precisely where one removes his self from following G-d perfectly, or rather, "exclusively". To assume sources of knowledge other than G-d, is to not follow G-d "perfectly". It is a dilution of G-d's unique and exclusive position. Therefore, the command to "be perfect with G-d", means, in other words, "do not assume other causes for the universe's existence and operation".

The followers of these practices assume that aside from G-d, there are other means by which the universe operates. They assume supernatural powers other than the perceived laws of cause and effect. This of course is baseless. Their insecurities propel them to seek forecasts for their actions, so they need not think for themselves. Relying on another's advice removes their need to make decisions. This is the opposite of G-d's plan that man engage the gift of intelligence. Similar to these idolatrous practitioners are present day Jews who check a mezuzah when household members fall sick, or those who don red bendels, place keys in challas, use prayer books as protection, and those who ascribe powers to Rebbes, Mekubals and Kabbalists. I recently heard of a "Meir bal Hanase" practice where foolish individuals believe that by giving charity, you can locate a lost object. How damaging are such notions. What is "created", cannot oppose the "Creator". It is clear. Just as G-d set boundaries for the sea, "You set a boundary, they cannot overstep..." (Psalms, 104:9) so too, all creation follows the laws governing its matter and behavior. Just as parchment and ink mezuzas burn, so too they are static, and have no will, and cannot "do" anything.

All practices assuming forces aside from G-d are idolatrous. It makes no difference if we see "religious" Jews practicing such foolishness, or if we read about them under a Hebrew title, or authored by a Rabbi. What is the objective truth? That which G-d created and wrote in our Torah. He created and controls the universe; therefore, He alone determines reality. Not people, and not objects. The same mezuzah consumed by flames, people think to possess protective abilities. If mezuzas cannot protect themselves, how can they protect anything else?

G-d created everything. There is no other source. G-d's knowledge alone defines the operation of the entire universe. Therefore, there cannot be anything which can alter our reality, other than G-d, the Sole Creator.

"Perfect shall you be with G-d" means we must not deviate from following Him alone. G-d, to the exclusion of anything else, is the only Cause. This makes sense: how can That which has ultimate power, coexist with anything else laying claim to His power? G-d's ultimate Kingship and power negates anything else from having any power whatsoever. This is so clear; it boggles the mind that there are such idolatrous practices within our fold.

Having shown that the term "perfect" (tamim) refers to man's requirement not to assume knowledge or powers outside of G-d, we have a question: In Genesis 17:1, regarding circumcision, G-d instructed Abraham to "walk before Me and be perfect". G-d again uses the term "perfect". How does this fit in with our theory? Ibn Ezra says the following commentary on this command to Abraham to "be perfect", "You should not ask why (to) perform circumcision." On the surface, Ibn Ezra defies all he stands for, i.e. a life of understanding. How then can he verbalize such a statement? I don't believe Ibn Ezra is saying we should not use our minds. Rather, he is teaching us that Abraham should not make his performance of divine decrees dependent on his own intelligence. Ibn Ezra teaches that man can fall prey to an erroneous

notion that "only when I know the reasons will I perform, but not before". To this, Ibn Ezra teaches, "do not inquire why the circumcision" - "do not let your inquiry determine your acts". "Be perfect with G-d and don't render your intelligence superior to His" - this is what Ibn Ezra is teaching, and why the term "perfect" is also used here. In this case too, man can go so far as to think of himself as a source of knowledge outside of G-d...making his subjective knowledge supreme to the knowledge contained in G-d's divine commands. G-d says to Abraham, "be perfect" - follow me even when your mind does not grasp with complete understanding.

We see Abraham does follow this concept, as he did not second-guess G-d when he was commanded to kill his son Isaac. A Rabbi once asked why Abraham inquired of G-d's decision to destroy Sodom, but not regarding Isaac's slaughter. The Rabbi suggested that Abraham realized he could learn about G-d's justice by asking. But regarding perfection via commands, Abraham felt he could not necessarily understand how a command would perfect him, although it did. He therefore did not ask about the killing Isaac - a divine command - but he did inquire about G-d's justice for Sodom. ■

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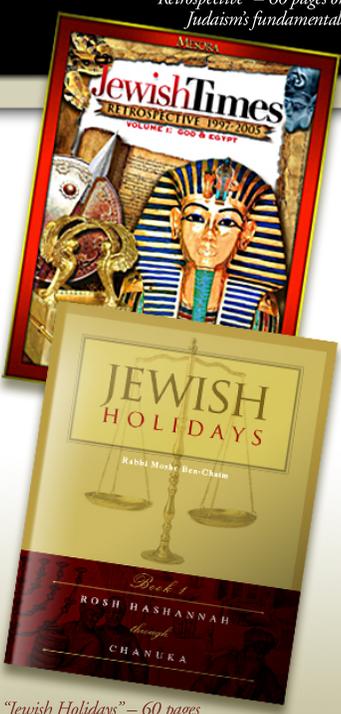
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Letters



Letters
from our
READERS



2nd Conversion?

Reader: I was converted to Judaism when I was a child. I was given a choice at my Bar Mitzvah whether I wished to stay Jewish or not. 2 questions: 1) What is the idea behind this practice? 2) Being that I said "yes" is there another point in my life I will be given the same choice?

Rabbi: While still a child, we lack the matured intelligence to fully appreciate what it means to be Jewish and to intelligently choose anything for ourselves. We also lack the self control to fulfill obligations. So this conversion at youth cannot obligate you in Judaism. It was not your choice.

But as an adult at 13, you now matured intellectually and emotionally with the ability to make decisions; with responsibility for your actions. You can now choose for yourself, so you are given a fair option.

One you have selected to be Jewish, you are a Jew 100% like us all, with no future opportunity to neglect, abandon or be relieved of Jewish obligation. ■

Jewish Inferiority

Reader: Prominent members of our Jewish community state that

every Jew's soul is elevated from birth by virtue of having been born into a Jewish family. Below is an example of one such comment I came across today:

"Every Jew is important; born with a high neshama or soul...we all have the ability to elevate Holiness back to Hashem; and that's what makes each of us Jewish and unique."

While I agree with part of what I think is being said here, mainly that by having been born a Jew we are morally obligated in service to G-d, I do find it disturbing that otherwise intelligent and accomplished Jewish leaders espouse the philosophy of Jewish superiority. I am aware of your rational approach to this very issue, specifically your articles proving that a Jew is not chosen due to his/her accident of birth, and that the ones who were truly chosen were our forefathers and foremothers for their "choices", not their parents' beliefs. Your explanation makes perfect sense to me, however I do wonder if there is any information at all in the Talmud or otherwise suggesting a Jew is born with a "high" neshama.

I appreciate in advance your response and want to take the opportunity to thank you profoundly for the gift of Mesora.

Rabbi: There cannot be a Torah source for that which is false. But I am sure there are "Jewish writings" that reflect this ignorance and arrogance that forces Jews to claim superiority, which ironically makes them inferior. Pay no attention to these writings, as they contradict God's selection of our forefathers and mothers due to their perfections "while they were gentiles". These gentiles were prophets, far superior to any Jew today. The facts are clear. Reasoning also teaches that a sinful Jew is punished, while a perfected gentile is rewarded. Where then, I ask, is the practical difference these scholars suggest that Jews possess? Free will is equal among all men and women. Jews sin, and gentiles perform mitzvahs. Jews are also free to deny reality and assume they are superior. ■

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“If you besiege a city many days to wage war against it, to capture it, do not harm [any of] its trees by chopping it with an ax, because you eat from it you are not to cut it down; For, is the tree in the field a man to join the besieged to escape you? Only a tree that you know that it is not a fruit tree may you harm or cut down; and you will build battlements against the city that is waging war against you until it is conquered.”

From this we learn the general halacha of bal tashchis, the concept of wanton destruction. While the prohibition initially seems limited to specific types of trees, it is meant to include most anything of value. The Rambam (Hilchos Melachim 6:10) explains as follows:

“Not just trees alone, but anyone who breaks vessels, tears clothing, destroys a building, seals a spring, or ruins food by way of destruction, violates the prohibition of ‘not destroying’, and does not receive lashes rather, makkas mardus.”

The Rambam derives the extension from trees into other areas from the Talmud (Shabbos 105b), which states:

“Surely it was taught, R. Simeon b. Eleazar said in the name of Halfa b. Agra in R. Johanan b. Nuri’s name: He who rends his garments in his anger, he who breaks his vessels in his anger, and he who scatters his money in his anger, regard him as an idolater, because such are the wiles of the Tempter (yeitzer hara): Today he says to him, ‘Do this’; tomorrow he tells him, ‘Do that,’ until he bids him, ‘Go and serve idols,’ and he goes and serves [them].”

The obvious question that must be raised is the seemingly unlikely transition from breaking cups in anger to worshipping idols. However, a more intriguing problem exists here, one that sheds a different light on how to view bal tashchis. Clearly, the expansion of baal tashchis into other realms beyond trees is based on this piece in the Talmud. It would seem that there is one other factor which exists in the above examples of bal tashchis, something not mentioned in the Torah or by the Rambam—each act of destruction is done in anger. Therefore, one might deduce that anger is an essential component of bal tashchis. Furthermore, is there a difference between how the destruction comes about? Whether Reuven chops the tree down due to indifference while Shimon does so out of anger does not seem to be of inherent value.

Let’s first develop a basic approach to bal



tashchis using fruit-bearing trees as the paradigm example. What is the problem with chopping down the tree for no apparent reason? The initial problem with this action is a denial of a basic relationship mankind has to the physical world. In general, the world around us, as created by God, serves to benefit mankind. To destroy the tree for no apparent reason would be to negate this very function. As long as the tree serves its role insofar as the physical world benefiting mankind, the person relates to it properly. This is why someone can cut down the tree if it is, for example, preventing the use of a field. Removing the tree serves to benefit the person. Since the underlying concept involves the overall relationship of man to the surrounding world, the halacha naturally broadens to include other areas beyond trees. The key concept is that destroying for the sake of destruction negates the function of the physical object, and as a created being, man has no right to partake of such an activity. This helps clarify the philosophical objection to bal tashchis.

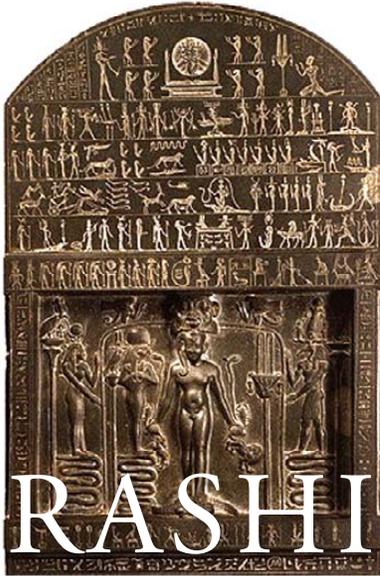
How does the Talmud’s concept become relevant? What role does anger play in bal tashchis? Koheles teaches us (7:9), “Be not hasty in thy spirit to be angry; for anger rests in the bosom of fools”, and the Talmud (Nedarim 22b) explains, based on this, that the state of anger leads one to forget his chachma and increase his ignorance. How does anger bring this about? The drive to anger emerges from the inability and unwillingness of a person to accept reality. When objective reality does not conform to the subjective view of the person, anger ensues. Once a person is in this state, the natural reaction is to try and gain control, to bend that which surrounds him to his view. At times, a person is able to overcome it. In other situations, frustration builds, and at a certain point, the person lashes out. He tears his clothes or throws

a glass against the wall—he establishes some sense of control over the world around him. The irony is quite evident here in that the very action to give the person a semblance of control is considered to be an action that is “out-of-control.” Yet it pacifies the person and settles him down. The point here is that it is the need to control the world around him that drives an individual to act in such a manner. The Talmud then explains how this situation leads to idolatry. Allowing anger to consume a person restricts the ability to think. Suppression of the mind is a primary means of bringing a person into the state of idolatry. It does not mean he is bowing down to idols; rather, it refers to the rational mind yielding decision making control to emotional impulsivity.

The state of anger and its expression in destructive acts plays a crucial role then in understanding bal tashchis. In the throes of anger, at the peak of frustration, a person may seek to outlet his inability to control the situation by causing baseless destruction. It is the desire for control in this moment of uncontrollable rage that is the underlying common theme. As mentioned above, to destroy an object merely for the sake of destruction is negating its function and role in the physical world. In reality, man has a deep-seeded desire to control the physical world. When a person cuts down the tree, or destroys any item for no constructive reason, he is exhibiting a philosophical outlook of dominance and control over the physical world. The paradigm of this is the out of control state, where a person ceases to use his rational mind to view the world and accept it but rather reacts emotionally to the forces around him. It is this reaction, this incoherent rage, that underlies the concept of bal tashchis in the arena of anger. However, the overall drive for control of the world is at the heart of every incident of bal tashchis.

How mankind relates to the physical world is a pivotal concept in Judaism. Throughout the Torah, we see numerous commandments and prohibitions from God that help guide us to that ideal balance. With bal tashchis, we clearly see how a seemingly benign action can reveal a distorted view of the physical world, and how the desire for control of it plays a prominent role in the unconscious of mankind. The objective here is not to destroy (no pun intended) the hallowed image of George Washington – rather, it is to help understand our unique role as created beings and how the proper approach to our surrounding world can help perfect us. ■

The following is a letter from Rabbi Zucker to a student, explaining a misunderstanding of Rashi...



RASHI and Magic

RABBI SAUL ZUCKER

Dear David,

There is little doubt in my mind, from looking through all of the places where Rashi mentions "kishuf" that he held that kishuf is real. (See, for example Rashi on Shemos 17:9 and 32:4). The big question is, what does that mean?

In order to answer that let's first turn to the ibn Ezra. The ibn Ezra was an extreme logician - everything had to be rational to him (and by the way, he did not study Greek or Muslim philosophy anywhere - he was largely influenced by Rav Sa'adyah Gaon). Yet, the ibn Ezra strongly believed in astrology. He wrote nine books on the subject. How are we to understand this?

The answer, I believe, lies in defining the difference between the rational and the mystical. Both the voodoo witch doctor and the sophisticated physician will isolate a person

who has an unknown disease. But the reason for the isolation in each case is very different. The witch doctor believes that there are forces in operation that he imagines, using the primitive, emotional-psychological part of him. That is, he conjures up demon forces and spirits out of the depth of his fears and imagination, and based upon that, says that the sick person needs to be isolated so that the spirits are not able to attack others. The sophisticated physician, on the other hand, goes through hypotheses, experimentation, trial and error, and observation - all using his senses and his mind, to the EXCLUSION of his emotional psychological fantasy - to come to a theory - about germs. Based upon that he isolates the patient.

Now, on the surface, they both look the same, the witch doctor and the physician. But they are complete

opposites - as antithetical polar opposites as you can get. The whole difference lies not in the conclusion, but in the method used to arrive at the conclusion.

The ibn Ezra embraced astrology because his observation of the world led him to the theory that the natural order is highly influence by the planets and stars. This was his SCIENCE, not his imagination. It turns out that his science, as we now know, was in error. But that is not the same thing as embracing astrology because of fear, fantasy, or whatever other psychological force may be in play.

Turning to Rashi - you could say that Rashi accepted the idea of kishuf because of primitive fantasy, or you could say he accepted the idea of kishuf because of a (mistaken) scientific theory about how the world of nature operates. That is, through observation, the ancients believed that nature could be scientifically manipulated through certain actions, speech, etc. It doesn't matter any that they could not explain HOW it works - just like the Rashba's teshuvah about magnets. He knew that God created special metals that mysteriously attract other metals, even though he could not explain why. But he knew that this was part of the natural order. If you take this latter explanation, then Rashi, with many other rational ancients, accepted the idea of kishuf as a natural order phenomenon that could not be explained. This is very different from speaking about kishuf from a MYSTICAL (i.e., emotional, psychological) framework.

In fact, one can go further and say that according to Rashi, the reason that kishuf is assur is that the Torah prohibits man from engaging in any activity that easily lends itself to the mystical framework, even though that activity is real, within the natural order framework.

The final question is - how do we know how to look at Rashi? Should we say that he is of the mystical, primitive group - who view kishuf as

possessing mystical, psychological irrational power? Or do we view Rashi as seeing kishuf as a phenomenon within the natural order (even if we cannot explain it - like magnets to the Rashba)? The answer, of course, depends upon your starting point vis-a-vis the rishonim. If you view them as simple folk, who were influenced by their surrounding environment in all kinds of areas including theology, and you read them simplistically, you will see Rashi as the witch doctor. If you view them as great logicians, rational sages, you will see Rashi as the physician, who happened to be mistaken in his diagnosis in this case - not because he was a witch doctor, but because sometimes, even the greatest doctors make mistakes in their science.

In response to your inquiry about Chazal's questions in the case of the snake and Moshe's hands, I would add the following: I think that their questions point to the fact that even within the realm of kishuf as a factor in the natural order, there are known limitations. That is, "vekhi nachash MEIMIS o nachash MECHAYEH?" means that even in the realm of manipulation of natural forces, looking at a designed snake would never be able to effectuate an instantaneous cure of multitudes of people. "Vekhi yadav shel Moshe OSOS MILCHAMAH o SHOVSOS MILCHAMAH?" means that war, which involves numerous factors including the bechirah chofshis (free will) of the soldiers, cannot be manipulated instantaneously, even in the realm of kishuf as a natural order phenomenon, by the raising of hands that the people would look at. The point is that since kishuf DOES operate in the realm of the natural order, this realm has limitations, and Chazal knew that these two examples were outside of the realm of those limitations, and therefore they asked their questions. If kishuf were mystical voodoo forces, then there would be no known limitation, and Chazal would have no question here.

I hope that helps. Let me know what you think. ■

Weekly Parsha

A Wise Statute of Limitations

RABBI DR. MICHAEL BERNSTEIN

Contrary to what we might expect, the attempt to do harm may elicit a more severe judicial response than the harm or transgression itself. This phenomenon occurs with regard to the prohibition against perjury (19:18-19). "And the judges shall investigate thoroughly, and behold, the witnesses testified falsely, they spoke falsely against their brother. Then you shall do to them as they conspired to do to their brother, and you shall eradicate the evil from your midst."

How do the judges in this case determine that the witnesses perjured themselves? The Talmud explains (Makkos 2a) that when two witnesses place the first witnesses in a different location at the very time they claim to have witnessed the crime, the second witnesses are believed. For instance, the second witnesses say, "How could these men have seen the defendant commit murder in New York on Monday afternoon when they were with us in Los Angeles on Monday afternoon?" In this case, the Torah demands that we accept the second

witnesses, thereby discrediting the first witnesses and exonerating the defendant. The perjurers then suffer the selfsame punishment the defendant would have suffered had their testimony stood. These perjurers are called eidim zomemim, conspiring witnesses.

Strangely, however, this entire process can only take place from the time the court hands down their sentence (gmar din) until it is carried out. The Talmud states (Makkos 5a) that if the second witnesses appear after the court has administered its sentence, the first witnesses are not liable to punishment (kaasher zamam velo kaasher asah). For instance, if the court has executed the defendant for his crimes, the perjurers receive no punishment.

It is hard to fathom the justice in this detail of the law. Why should God grant immunity from punishment to perjurers if their schemes succeed? Wouldn't that be all the more reason to punish them? The Maharsha suggests that causing the courts to carry out an unjust sentence is

too heinous a crime for mere punishment in the courts; only God can deal with criminals of this sort. Perhaps we can offer another suggestion.

The overriding goal of the Torah's legal system is to achieve the closest possible approximation to absolute and comprehensive justice. In the case of false witnesses, perfect justice would demand that they be given a variable punishment, depending on the harm they sought to cause with their testimony. There is, however, a practical difficulty with such a formulation of the law. Since the second, unrebutted witnesses are believed over the first, there would be a dangerous opportunity for high mischief. For instance, a disgruntled relative of the executed defendant, whose anger may fester and mushroom over time, may then decide to take the law into his own hands and exact revenge. All he needs to do is find two scoundrels who happen to have been out of sight on the day in question and would, for a few pieces of gold, testify that the first witnesses were with them in a remote

place at the time of the crime. Without a statute of limitations, witnesses would forever be vulnerable to this sort of revenge, which is nearly impossible to disprove. A law so structured would discourage truthful witnesses from testifying and forever endanger courageous ones who do. Therefore, the Torah establishes the execution itself as the cutoff for their vulnerability.

Accordingly, the duration of the witnesses' vulnerability is relatively short, from the time the sentence is handed down until it is carried out. If they did indeed perjure themselves, there is enough time for truthful witness to come forward and contest their testimony. As for vengeful friends or relatives of the defendant, they are unlikely to be moved to action before the accused is actually convicted, and once he is executed they can no longer do anything. This leaves them with very little time to suborn perjury. Furthermore, from a psychological perspective, the motivation for revenge will not arise until the sentence has actually been carried out, and by then, it is too late to do anything. These laws, therefore, protect the witnesses from attack and allow the legal system to function with maximum integrity. ■

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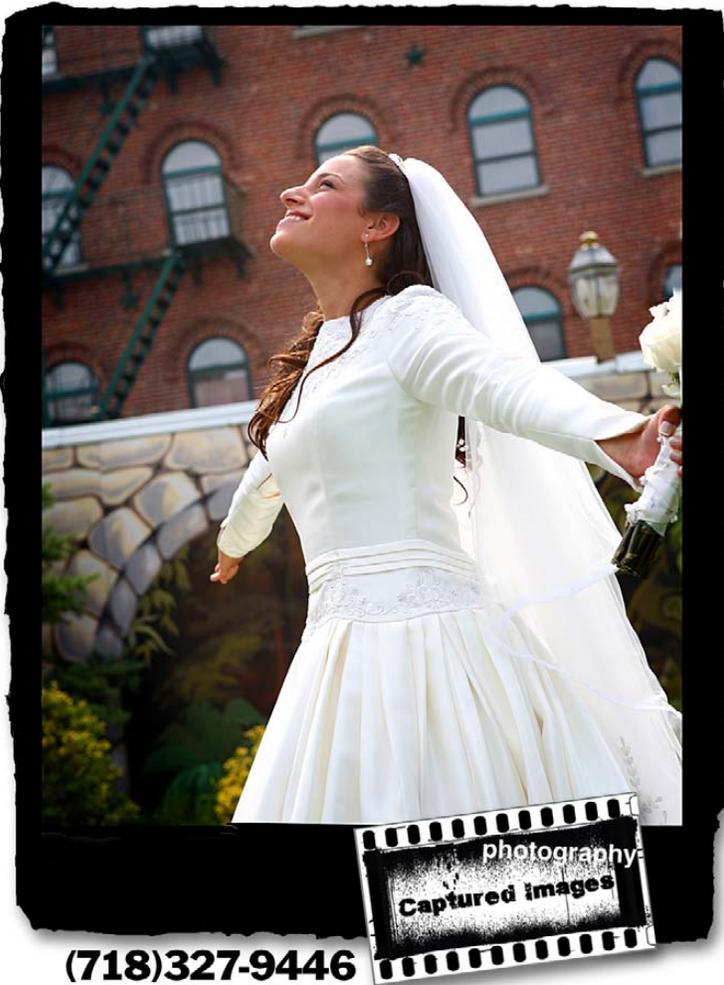


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