



שמע קולנו

“יתגבר כארי לעמוד בבוקר לעבודת בוראו”



Parshas Mishpatim

פרשת משפטים

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The Social Status of a Jew

Elisha Price ('23)

The *Torah* presents us with a seeming hierarchy within the Jewish society. At the top rests the free Jews, below them the enslaved Jews (*eved Ivri*), and the lowest being the Canaanite slave (*eved Canaani*). We know that the free Jew is at the top of the “food chain” based on the Rashbam, *Chizkuni*, and *Ohr Hachayim*, who all say (*Bamidbar* 21:20) that one is allowed to beat a slave, albeit only for disciplinary purposes. There is no opinion that says that you can beat a free Jew (although the *posuk* in *Devarim* 25:3 gives us permission to apply *malkos*, the *Gemara* limits this heavily and it is not applied for any reason other than listed in the *Torah*). Therefore, we see that Jewish slaves have a lower status than free Jews.

Furthermore, we can prove that non-Jewish slaves are even lower status-wise because Rabbeinu Bachaye, Ibn Ezra, and the *Bechor Shor* (*Shemos* 21:20) say, that the *posuk* that says that a slave is considered property refers to non-Jewish slaves only and not Jewish slaves.

If the *eved Ivri* is truly in the middle of the social structure, then why are some of the *halachos* about how to treat your Jewish slave seemingly equal to those regarding free Jews? For example, if one kills his slave he receives *hereg*, beheading (*Rosh* and *Rashi* 20:21), which is the same punishment that one gets for killing a free Jew.

This contradiction is also starkly apparent

with regard to the way we treat slaves, not just their murderers. The *Talmud Bavli* (*Kesuvim* 20a) says that it is forbidden to make your *eved Ivri* live in a worse condition than yourself. The *Gemara* brings down the case of food quality: It is *assur* to feed him moldy bread while you eat good bread yourself. Not only does the *Gemara* record that you must treat them equally, but the *Talmud Yerushalmi* furthers this by saying that if you have only one pillow, you must give it to your *eved Ivri*. Thus, there are instances in which we must treat the *eved Ivri* better than ourselves.

Clearly, we are supposed to treat the *eved Ivri* well, but yet we say that beating him is allowed and that he is of a lower social status than a free man. How can those two statements coexist?

Perhaps a possible answer can be found in Rashi (21:26). Rashi says that Jews only sell themselves as slaves for very specific rehabilitary reasons. The two most common are that he stole

and couldn't repay, or that he had extreme financial issues that forced him to sell himself. Therefore, perhaps we can infer that slavery isn't a derogatory concept, but rather just that the slave cannot support himself and needs to rely on someone else. That would explain our treatment of slaves; if they are relying on us for support, then of course we must treat them as equals.

What about the clear indicators that *avadim* are a lower class of Jews?

The answer seems to be that they are a lower class, but despite that we are required (as per the two aforementioned *Gemaras*) to treat them properly anyways.

How does this work? It seems to be a very unique circumstance, so how can we establish the parameters of the *halachos* regarding treating a slave?

Maybe we can compare slaves to another "lesser" form of Jew: The convert (*ger*). We know

A SHORT VORT

Akiva Kra (21)

וְכִי־יִכָּה אִישׁ אֶת־עֵין עַבְדּוֹ אֹרֶז־אֶת־עֵין אֹמְתוֹ וְשִׁחַתָּה לְחֶפְשִׁי יִשְׁלַחְנוּ תַּחַת עֵינָיו: וְאִם־שָׁן עַבְדּוֹ אֹרֶז־שָׁן אֹמְתוֹ יִפִּיל לְחֶפְשִׁי יִשְׁלַחְנוּ תַּחַת שָׁנָיו:

"If a man shall strike the eye of his slave or the eye of his maidservant and destroy it, he (the master) shall set him (the slave) free in return for his (damaged) eye. And if he knocks out the tooth of his slave or the tooth of his maidservant, he shall set him free in return for his (damaged) tooth."

The Ibn Ezra writes that this *halacha* was given to deter people from mistreating their non-Jewish slaves. One might ask, why does the owner have to take special care in treating his slave correctly? After all, the slave works for him, not vice versa. The reason we must take care to treat our slaves well is because even though they are a slave, they still are human beings, and all humans are created "*bitzelem Elokim*" - "In the image of God".

In the Igeres HaRamban, the Ramban writes "Of what should man be prideful? If he has wealth - isn't it *Hashem* who makes one prosperous? And if honor - but does honor not belong to God?"

The takeaway is that whatever position one occupies, it is only because *Hashem* put you there. This idea is extremely humbling. We need to treat each person with the utmost respect because both him and I are only where we are because *Hashem* placed us there.

In the *Mesilas Yesharim* it says: "The root of (real) piety is for man to clarify (for himself), what is his obligation in his world". Rabbi Lopiansky asks, how come it says "his world" and not "the world"? The answer is each person is living in a world set for them by *Hashem*. The world is not his world; it is His world.

This idea from Rabbi Lopiansky can easily be applied to the aforementioned. Why should my world be allowed to destroy someone else's? The world is not mine, it is His. And if the world is His, how can I destroy a part of it? This is the lesson the *Torah* is teaching us. May we all be able to respect others and feel appreciative to *Hashem* for putting us where we are.

that non-Jews are supposed to be discouraged from converting; we discourage *geirim*. But at the same time, the *Torah* states in many places (including but not limited to *Vayikra* 19:18 and *Devarim* 6:5) that one must love a convert. Additionally, the *Sefer Hachinuch* records disparaging a *ger* as a separate *aveirah*.

So while on the one hand, we don't want converts and there are certain things they are excluded from, we treat them nicely nonetheless. So too by the *eved Ivri*. We don't want him to sell himself as a slave, and there are certain privileges that he gives up by doing so. But at the end of the day, we learn from the *eved Ivri* and the *ger* that every Jew is precious, no matter what his "social status" is.

Forty

Ezra Schechter (22)

In the last *possuk* of this week's *parsha*, *Parshas Mishpatim*, The *possuk* talks about how Moshe was up on *Har Sinai* and remained up on the mountain for forty days and forty nights. The question is why did Moshe need to remain on *Har Sinai* for forty days and forty nights? Why couldn't he go up and remain on the mountain for thirty days, a month, or an even fifty days?

We see that the number forty comes up a lot in Judaism and the *Torah*. A few examples are that we require forty *se'ah* of water in a *mikvah*, the *Mabul* lasted forty days and forty nights, The *Gemara* says a baby is in a womb for forty months, *Kabbalah* can be learnt when someone reaches forty years old, and we start blowing the *shofar* on *Rosh Chodesh Elul*, forty days before *Yom Kippur*. The *Torah* even goes out of its way regarding how many *malkos* a *Beis Din* gives to say "forty minus one", to arrive at a total of thirty-nine *malkos*. There must be significance to the number forty, or the *Torah* would have just said that a *Beis Din* gives thirty-nine *malkos*. What is the significance of this number?

To answer this question, we have to look at what *Seforno* comments on the *possuk*. *Seforno* says that Moshe went up and remained on the mountain for forty days. This time period corresponds to the forty days that it takes for a fertilized egg to be halachically considered a fetus. This is because it takes forty days to move up a spiritual level, and we see that same notion of moving up in *kedushah* with Moshe. *Sforno* quotes a later *possuk* as proof to this idea (*Shemos* 34:29). This *possuk* shows us that when Moshe came down after the forty days and forty nights, his skin was glowing after being immersed with such *kedushah* and *Elokus* for that

5 Minute Lomdus

Shimi Kaufman (21)

כִּי־יִתֵּן אִישׁ אֶל־רֵעֵהוּ חֲמֹר אוֹ־שׁוֹר אוֹ־כֶּשֶׂה וְיָמָת אוֹ־נֹשֶׁבֶת אֵין רֹאֶה וְכָל־בְּהֵמָה לִשְׁמֹר וְיָמָת אוֹ־נֹשֶׁבֶת אֵין רֹאֶה:

"When a man gives his friend a donkey, or an ox, or a sheep, or any animal to guard, and it dies, or is injured, or is carried off, and nobody sees..." (*Shemos* 22:9)

Q. The *Gemara* (*Bava Metzia* 93b) states that if a shepherd left his flock of sheep and wolves attacked them, the shepherd is obligated to pay for the damage to the flock even if we are unsure if he would have been able to stop the wolves had he been there. The reason for this is because the shepherd is a *shomer sachar* (a paid watchman), and a *shomer sachar* is always liable for *pesha* (negligence), which this certainly was. However, the *Gemara* elsewhere (*Bava Kamma* 35a) tells us that if a person allowed his ox to wander freely without supervision, and someone else claims that the ox damaged his own animal, the owner of the ox is not liable for the damage, as he can claim that it was a rock which caused the damage and not his ox. Why do we not say the same *din* in this case as we do by the shepherd; even though there is a *safek* whether the owner is responsible for the damage, he should be held accountable for the negligence of letting his ox go out unguarded!

A. In regards to damages, what makes a person liable to pay is the fact that he did the damage. Thus, in the case of the ox, the main thing which would make the owner responsible to pay is missing, since there is no proof that his animal caused the damage, and we have a principle that the burden of proof rests upon the claimant (*hamotzi meichaveiro alav harayah*). However, in regards to *shomrim*, what makes the *shomer sachar* liable in this case is the act of negligence itself, which is considered a form of damage. Thus, even if we are unsure whether his act of negligence directly led to the damage, the very fact that he was negligent is enough to require him to pay.

- Source: *Mishmeres Chayim Chelek I*, "Inyanei Nezikin" 1

long of a time period. His skin glowing shows how he reached a new level of *kedushah*. We can use this reasoning to answer the question of the significance of the number forty. Everywhere forty is used, there is a new level of holiness being reached. After you go to the *mikvah* of forty *se'ah*, you come out pure after having been *tamei*. *Hashem* sent a *Mabul* for forty days to cleanse the world of the sins which had become rampant among mankind. The goal of giving someone forty minus one *malkus*, and the forty days of *Shofar* from *Rosh Chodesh Elul* until *Yom Kippur*, is all that after the forty the person will be on a higher level, since "forty" signifies reaching new levels of *kedushah*.

A new question emerges here, namely, why was forty chosen to be the number that represents new levels being reached? Why couldn't the *Torah* choose fifty or twenty-five to be the number that causes a person to reach new levels? Similarly, we see in *Pirkei Avos* (5:26) that at age forty a new level of understanding and wisdom is reached. Why age forty? The following idea might help answer this question. To reach new levels, a person has to set goals and work to accomplish those goals. The way to set goals that are achievable is to set goals that are reachable but not close, they should not require no work, but that should not seem so distant and hard to accomplish. The number forty represents this in a sense. As a child, age forty seems like it is far off, but it does not seem too distant and far away to even consider. The reason the number forty was chosen to represent growth and reaching new levels may be to show how a person should go about setting goals and trying to reach new levels by setting goals. A way to picture this visually is to imagine you are on a ski mountain, and if you stand still then you will slip down the mountain. One must always be aiming to grow and move up in levels, because if you stand still, then you will fall down.

The Obligation Of Na'aseh Vinishmah

Akiva Kora (21)

Perhaps the most important moment of the *Torah* occurs when the Jews say *Na'aseh Vinishmah* (we will do and we will hear) in this week's *parsha*. Because of the order the words were said in, the *Beis HaLevi* teaches that the command-

ment to learn *Torah* is not something we do only for our enjoyment and to properly perform the commandments that apply to us, but it is a commandment to learn the whole *Torah*. Studying parts of the *Torah* with no practical application to our daily lives is a *mitzvah*. This is why Rabbi Yishmael told his nephew not to study Greek wisdom despite his nephew knowing all of *Torah*. The *mitzvah* and obligation of learning *Torah* is a constant one - not something that one checks off and never returns to.

In a similar vein, Rav Moshe Feinstein writes in *Darash Moshe* that the acceptance of the *Torah* at *Har Sinai* was not a one time occurrence that happened in the past. Rather, it is an ongoing and continuous process. For this reason, says Rav Moshe, the *Torah* never refers to *Shavuot* as the day the *Torah* was given - for doing so would seem to limit the event to one historical day. Indeed, Chazal teach us to view each day as if we received the *Torah* that day.

With the above in mind, one does have to acknowledge that not everyone can constantly learn or always remember every detail of the *Torah*. On the *possuk* in this week's *parsha* which says *asher tasim lifneihem* ([the *Torah* which] I place before them), the *Ohr HaChaim* explains the simple meaning. He writes that this should be understood that "there are parts of the *Torah* that each person must know so that he can serve [*Hashem*]; without these it is impossible to be a full fledged member of the covenant of the *Torah*." Not only must we constantly be learning, we also need to be knowledgeable in the laws that arise each day.

The *Gemara* in *Rosh Hashana* and elsewhere brings down the following idea: when it comes to a *talmid chacham*, *Hashem* has strict judgement in regards to their unintentional wrongdoings because they should have known better. An uneducated Jew has an "advantage" that everything he did wrong is considered as a *shgaga* (accident) since he did not know better. Therefore, his judgement is not so strict. The *Arvei Nachal* (Rabbi David Shlomo Eibeschitz, 1755-1812) mentions this *Gemara* at the end of his commentary on *Parshas Shelach*. Quoting this, he writes that if anyone speaks out or thinks negatively against the words of a *talmid chacham*, then just like the *talmid chacham* who is punished with even his mistakes counting as intentional wrong-

doings, so to the one who has a thought that the *chacham* might be wrong has his unintentional sins considered as if they were intentional wrongdoings. This is because of *middah kineged middah*; if one holds themselves on a level where they can weigh their opinion against *talmidei chachamim* they are judged as if they are a *talmid chacham*. This means that if one isn't an expert in *Hilchos Shabbos*, and accidentally violates *Shabbos* three times every week from age 13 to 120, they are charged with 16,192 *aveiros* that are considered intentional...and this is just for one small thing one does not know about *Shabbos*.

One must always remember that we have a constant commandment to learn *Torah*, it should always be as if we just received the *Torah*, we need to be familiar with the *halachos* of our daily lives and, most importantly, never to speak out against *rabbonim* - but not only because of the punishments we will receive.

Can the Doctor Cure Me?

Moshe Leierman ('24)

In *Parshas Mishpatim*, a jammed packed *parsha* filled with many laws, there is one specific verse that reads:

וְכִי־יִרְיֹבֹן אָנָשִׁים וְהָכָה אִישׁ אֶת־רֵעֵהוּ בְּאֶבֶן אֹו בְּאֶגְרֹף וְלֹא יָמוּת וְנָפַל לְמִשְׁקַב: אִם־יָלֹום וְהִתְהַלֵּךְ בַּחוּץ עַל־מִשְׁעָנָתוֹ וְנִקָּה הַמַּכָּה רַק שְׂבִיתוֹ יִתֵּן וְרָפָא יִרְפָּא:

When men quarrel and one strikes the other with stone or fist, and he does not die but has to take to his bed—if he then gets up and walks outdoors upon his staff, the assailant shall go unpunished, except that he must pay for his idleness and his cure.

Today, in our society, it is certain that doctors will try to heal patients who are ill and injured, but in a *Torah* society, it's not as obvious. We even need a *possuk* of *rapo yirapeh* (you shall surely heal) to serve as a source for a doctor having permission to heal (*Berachos* 60a)

Do we need a source for something so seemingly obvious though? Yes, because some *Torah*-

observant Jews in our Western society only go to a doctor for complete emergencies, and try to stay away from a human doctor. This is because in *Birchas Hamazon* we have a line that reads: "God, our God, please make us not require the gifts of human hands" To explain, a doctor is an intermediary, and Jews like to receive a cure or a blessing directly from God. We can see from when the dove praised God by saying: "Better is it for me to receive bitter food from Your hand, than sweet food from the hand of man" (*Vayikra Rabbah* 31:10). It seems as if the *Torah* forbade us from going to a doctor, although the *Torah* specifically commands us to take care of our health which means going to a doctor. Could this be a transgression of the *Torah* by not going to a doctor?

There are two stories that can answer this question. There are many stories regarding the Steipler Gaon *zt"l* seeming to have caused miracles to happen. First, there was a man who came to the Steipler asking him to pray for him, because the doctors had diagnosed him with a serious condition that may have been unable to be cured. He wanted the Steipler to pray to do what the doctors were unable to do. The Steipler responded by saying, "I will pray for you, but if you are to be cured it will be through the doctors. The man left lacking confidence in his recovery. A different man, a young *Rosh Hayeshiva*, had come crying to the Steipler for his advice and blessing because his wife was diagnosed with cancer, and would have to undergo chemotherapy. The man didn't want his wife to have to go through chemotherapy, so the Steipler, who knew of this man's trust in God, said, "Do not go for treatment, because it will be unnecessary." The young rabbi trusted his advice. One year later the woman went back to the doctor because she was pregnant, and the doctor couldn't believe that she was cured after not going for any treatment. But what about the first man? Why did he not have the same blessing as in the second story? The Steipler understood that this man put his trust in the doctors, and it warns in *Chovos Halevavos* that in whomever a person places his trust, it's in those hands that God leaves that person. So it was out of the Steipler's control to pray for him to be cured since he placed his trust in the doctors. As for the *Rosh Hayeshiva* who came to him, he could only increase his trust more in God, and the Steipler knew it was possible for an open miracle to hap-

pen. We can only expect miracles to happen if we trust in God, but if we only rely on the doctors to cure us, then it is not as likely for the doctor to perform a miracle. Although it may be hard to totally rely on God, it is possible to work up to it.

Shmoer Aveidah *Shua Pariser (20)*

Based on a piece from Sefer Reshimos Shiurim, by Rav Yoshe Ber Soloveitchik.

In *Parshas Mishpatim*, we are introduced to the idea of a *shomer*, someone who guards an object for someone else upon the owner's request. There is another *possuk* that states that when someone loses something, you cannot turn away, you shall surely return it. A third *possuk* states that if a man borrows an object, and the owner of the animal is hired to do a service for the borrower, the guard is *patur*. Based on this, we have two questions.

1. What is the law regarding a *shomer aveidah* (the guard of a lost object); is he obligated to pay restitution or not?
2. There is a *Gemara* in *Bava Metzia* (94b) that says that if a person borrows an animal, his owner works for him as a *mafkid*. Now, this can be any profession. If something happens to the animal, the borrower is *patur*, because the actual owner is there. This is called the *petur* of *ba'alav imo* (the owner is with it). There is a question, however, if this is the case by *shomer aveidah*. If he finds a lost animal and something happens to the animal, and then he finds out that the owner is one of his workers, is there a *petur* of *ba'alav imo* or not?

The *Ohr Sameach* suggested the following:

1. Based on a *Tosfos* in *Bava Kamma*, the obligation to guard the object falls on the person who currently has the lost object in his possession, because that gives him the status of an "owner".
2. There is no *petur* of *ba'alav imo* by a *shomer aveidah*. We compare the case of *shomer aveidah* to a *shomer chinam* (unpaid watchman) for some clarity. By a *shomer chinam*, the *kinyan* (acquisition) to become a *shomer* is a one-time *kinyan*, and at the moment of the *kinyan* the owner of the animal is

working for the *shomer*, there will always be a *petur* of *ba'alav imo*. Even if the owner stops working for a little bit (ex. goes on his lunch break), the *petur* of *ba'alav imo* still applies. However, by a *shomer aveidah*, the *kinyan* is continuous. In order to have the *petur* of *ba'alav imo*, the owner needs to be there constantly. Since the owner can't be there the whole time, there is no *petur*.

The *Ohr Sameach* offers an additional answer based on a *Gemara* in *Bava Metzia* (98b). Rav Abba Bar Memel brings the case of someone who borrows a cow and the services of its owner for a set amount of time. Before returning the cow, he rents the cow without the permission of the owner. What is the law? Are the borrowing and renting of the cow two separate things, thereby ending the *petur* of the borrowing, or is the renting an extension of the borrowing in which case the *petur* continues? The answer is that the *petur* still exists in a case of borrowing with the owner and then borrowing without the owner. A *Shomer Aveidah* is compared to this case, and therefore has the *petur* of *ba'alav imo*. (He compares a *shomer aveidah* to this case. He learns that a *shomer aveidah* should have a *petur* of *ba'alav imo*.)

After the *Ohr Sameach* said this, he turned to Reb Chaim Brisker and asked him for his opinion on this topic. Reb Chaim said that in his view, both are *patur*. He explains:

1. One cannot compare the laws of *shomer aveidah* to a brazen robber (*gazlan*). A *gazlan* has various *kinyanim* of *gezeilah* that obligate him to guard and make sure the animal doesn't damage. Additionally, one cannot compare the laws of *shomer aveidah* to the other *shomrim*. The other *shomrim* and the *gazlan* cause the owner to not be able to guard his animal and therefore is *chayiv*. By a *shomer aveidah*, however, he didn't take the animal out of the guarding of his owner, rather just found an animal that's lost and is therefore not *chayiv*.
2. For the *petur* of *ba'alav imo*, Reb Chaim differs from the *Ohr Sameach*, claiming instead that the *kinyan* of a *shomer aveidah* is a one time *kinyan*. If the owner is there at the time of the *kinyan*, then there is the *petur*. If not, then there is no *petur*. He quotes the *gemara* on *daf 26b* in *Bava Metzia*. It says that if someone finds a lost object and decides to keep it before the owner gives up on it, he is stealing. If he decides to keep it after the

owner gives up, he's only violating the prohibition of hiding one's object. According to Reb Chaim, the *Gemara's* explanation is that the obligation to guard and return the lost object is only established at the time the object

is found. Since the owner was "*imo*" when it was found, the finder is *patur* because the *din* of *ba'alav imo* occurs at the time of *chiyuv*.

CHUMASH B'IYUN

Rabbi Mayer Schiller

Who is Strange?

"... he shall not have the authority to sell her to a strange people, in his betrayal of her." (*Shemos* 21:11)

The laws governing the Jewish handmaiden (*amah haivriyah*) are complex and vastly different from those governing a Hebrew slave (*eved ivri*). For example, the owner of a female slave is called upon to marry her or, at least, have his son marry her in a process known as *yiud*. Refusal to do so obligates him to free her.

He is also forbidden, at that point, to sell her. Rather, he must free her by a formula which would see him deducting from her redemption fee the number of years that she worked for him.

According to Rashi, the prohibition of selling her refers to any other person. Rashi comments on the phrase, which we have translated above as "a strange people" in a very different fashion. He writes, "this means that he is not permitted to sell her to another, neither the master or the father." (*Rashi* 21: 8 *d"h lam nochri*). Thus, a Jewish girl may not be sold into slavery more than once.

This approach is also found in the Targum Onkelus and Targum Yonason, both of whom translate *am nochri* as "another man" (*gevar ocharin*). The *Chizkuni* follows this when he writes on *am nochri* "to another man who is not her owner." As the *Ohr Hachaim* puts it he "forfeits his rights to sell or buy this girl." (All on *Shemos* 21:8)

The Ramban attacks Rashi's *peshat* here at great length. He states that we simply do not find anywhere in the *Torah* that *am nochri* means, as he puts it, an *ish nochri* ("a strange man"). Therefore, the Ramban cites the standard understanding of, what he calls the *peshuto shel mikra*, based on *Mechilta d'R. Yishmael*. There we read on the phrase "*am nochri*" – "This is a warning (*azhorah*) to *beis din* not to sell her to a Gentile." (*Mechilta D'R. Yishmael* 3:6:44) The Gra and other commentaries on the *Mechilta* change the text to read "a warning to the father not to sell her to a Gentile." Yet, wherever the prohibition may be located, there is no doubt that it only applies to Gentiles.

In fact, the Ramban goes to long lengths to justify Rashi's *peshat*. He explains this based on the *Gemara* in *Kiddushin* (18a) which says that once the father has "betrayed her by selling her into slavery he is forbidden to ever sell her again." (Ramban 21: 8)

So, we see that the Ramban, at least, agrees on the *halacha* as far as the father is concerned that he may not sell her to anyone, not just Gentiles. This appears only only in the realm of *Midrash Halachah*. As far as the *peshuto shel mikra* goes, the Ramban sides with the *Mechilta* that we are dealing with a prohibition to sell to a non - Jew.

The glaring problem with this is that this prohibition of selling a Jewish girl to be enslaved by Gentiles would apply in at all times, not just the second sale! To which the Ramban answers, "However, since sometimes a man would want very much to redeem his daughter from the master who has not designated (*yiud*) her, and he will therefore wish to sell her to a non - Jew for a year or two, in order to remove her from the jurisdiction of the master, therefore the *Torah* focuses on forbidding the second sale." (Ramban *ibid.*)

However, the Rambam sides with Rashi in his halachic ruling:

"A master may not sell a Hebrew maid-servant, nor may he give her as a gift to another person, regardless of whether or not he shares a family connection with him. If he sells her or gives her away, his acts are no (legal) consequence, as *Shemos* 21:8 states: 'He does not have the authority to sell her to a different man, when he betrays her.' Similarly, a master may not sell or give away a Hebrew servant to another person. It appears to me that the only reason the *Torah* had to state this explicitly with regard to a maid-servant is that the master is able to designate her as a wife for his son. Therefore, it is necessary to say that 'He does not have the authority to sell her to a different man. ' " (*Mishneh Torah, Hilchos Avodim 4:10*)

Rav Shamshon Raphael Hirsch gives us a powerful insight into the law as formulated by Rashi and the Rambam. He writes, "*Am* is completely not to be translated as nation. . . Every family unit is called *am*." (*Shemos* 21:8) Here the meaning of the *halacha* begins to emerge. The female slave now lives in an *am*, a new family unit. She is to be married by father or son. Alternatively, she must be set free. Father and son are her family. Their act of kindness is to welcome her in via marriage. Nothing less or else will do.

The *Ohr Hachaim* adds a delicious phrase here. "There (in her owner's home) she has acquired her place to be married." (*Shemos* 21: 8)

Perhaps we can understand now why the Rambam added the lines "whether or not he shares a family connection with him." In other words she has only her new family to whom she is now a part of. No other, even a relative, may be a suitable substitute. Only freedom may suffice to console her for this painful rejection in her new home.

(Some of the sources for this presentation may be found in the *Orach Mishor* of R. Shelomoh Danziger, may he live and be well, my tenth grade rebbi in Breuer's in the 1966-67 school year.)

PARENTS ON THE PARSHA

Empathy and Context

Rav Moshe Rosenberg

Rabbi Meir Shapiro of Lublin (1887-1933) explained the context that we must recognize in our dealings with those disadvantaged in society. He noted that the brief biblical verse demanding that we not oppress an orphan or widow contains no fewer than three instances of doubled verbs (*Ex. 22:22*). *אִם-עֲנֵה תַעֲנֶה אֹתוֹ כִּי אִם-צָעַק יִצְעַק אֵלַי שְׁמַע אֲשַׁמַּע צַעְקוֹ: If you do mistreat them, I will heed their outcry as soon as they cry out to Me,*

Rabbi Shapiro interpreted this wording to mean that every wrong committed against a person lacking the normal supports of family resonates two-fold by evoking in that person the memory of their original handicap. "*No one would dare do this to me, if my parent/spouse were here to*

stand up for me.” Thus each offense causes double suffering, ultimately to be repaid doubly by a compassionate God. In drawing our attention to this example, the Lubliner Rav was showing that the empathy demanded of us by the Torah means complete identification with the circumstances and inner reality of another.

G-d doesn't merely command without modelling. Rashi explains why God introduced Himself to Moshe from within a burning thornbush: *עִמּוֹ-אֲנֹכִי בְצָרָה* *I am with him at a time of distress* (*Ps. 91:15*). Wordlessly, God situated Himself in the world of suffering inhabited by the Hebrews. Another explanation of Rashi (*Ex. 2:6*) teaches that when Pharaoh's daughter first glimpsed baby Moshe on the Nile, she saw the Divine Presence with him in his floating refuge. *וַתִּפְתָּח וַתִּרְאֶהוּ* *וַתִּחַיֵּהוּ* - *וַתִּרְאֶהוּ עִמּוֹ שְׂכִינָה* *אֶת-ה'לֵד - שְׂרָאָתָה עִמּוֹ* If God Himself could silently enter the world of a crying infant, she realized, surely an Egyptian princess could penetrate the world of oppressed slaves. And so she rescued Moses. Empathy was at the root of redemption.

This was the form of empathy demonstrated by Rabbi Yisrael Salanter when instructing his students what to look out for while supervising the baking of Shemura Matzot for Pesach. “Despite the time pressure and tense atmosphere, be careful not to scold the women who are doing the baking. Many of them are widows who do this to support their families, and the tears of a widow are quick to flow.”

The first literary exposure I had to the idea of how immersed a would be benefactor must be in the inner world of his recipient was a short story I read as a 9th grade student at MTA in 1975. Miss Mayefsky, our teacher introduced us to *The Sampler*, by I.V. Morris, in which the narrator watches an elderly man enter a bakery, and, under the pretense of sampling and critiquing the puddings (we call them kugels), ate enough to serve as his dinner. Someone pointed out to the narrator that the old man did this weekly, as a way of scrounging a dinner. Whereupon, in a burst of foolish generosity, he approaches the man and offers to buy him any pudding he wishes.

“Excuse me,” he said, with more dignity than I would have thought possible, considering his appearance. “I do not believe that I have the pleasure of knowing you. Undoubtedly you have mistaken me for someone else.” And with a quick decision, he turned to the shop girl and said in a loud voice, “Kindly pack me up this one here. I will take it with me.” He pointed at one of the largest and most expensive of the puddings.”

The old man pays for the pudding with dollar bills he had clearly secreted in his wallet for times of real emergency...and was never seen in the bakery again.

Rabbi Moshe Rosenberg is the father of Yisrael Dovid Rosenberg ('23), who writes the weekly column *The Elephant in the Room*. Rabbi Rosenberg's forthcoming book is *The Superhero Hag-gada - A Story of Signs and Marvels*.

GEDOLIM GLIMPSE: RAV MENACHEM MENDEL OF SHKOLV

Meir Morell ('22)

Rav Menachem Mendel of Shklov (1750-1827) was born in Shklov, Lithuania (now in Belarus) to Rabbi Baruch Bendet, who was a *maggid*. Rav Menachem Mendel was one of the outstanding talmidim of Rabbi Eliyahu Kramer, the famed "*Gaon* of Vilna". After the death of the *Gaon*, in 1794 he, together with the sons of the *Gaon*, arranged and published several works written by the *Gaon*. They included his commentary on the *Mishlei*, annotation on *Seder Olam Rabbah* and *Seder Olam Zuta*, his commentary on the *Shulchan Aruch*, and his commentary on *Pirkei Avos*.

In 1808, Rav Menachem Mendel emigrated to *Eretz Yisroel* and settled in Tzfas, where he established several *batei midrash*. He became the leader of the community of Ashkenazim-Perushim (the followers of the *Gaon*), which at the time was around 150 people.

In 1812, with the outbreak of a plague in Tzfas, Rav Menachem Mendel and others moved to Yerushalayim, and he stayed there, although he set up his permanent home there only in 1816. He rented the courtyard of the *yeshiva* of Rabbi Chayim ibn Attar to be used as a *Beis Medrash*. In this way he renewed the Ashkenazi community of Yerushalayim after a lapse of about 100 years. He turned to his colleagues abroad and requested that they send funds for the new community. Rav Menachem Mendel maintained friendly relations with the *Rishon le-Tzion* Rabbi Shlomo Moshe Suzin, who also aided him in consolidating his community. Despite a number of difficulties (Ashkenazim were not legally permitted to live in Yerushalayim), under the leadership of Rav Menachem Mendel the community continued to thrive. After his death, his son Nosson Nata was appointed in his place. Rav Menachem Mendel wrote ten books, dealing mainly with the teachings of *Kabbalah*. He died on 1 Adar 5587.

ECHOES IN TANACH

Arveh Klein ('22) & Avidan Loike ('22)

וְגֵר לֹא-תוֹנֶה וְלֹא תִלְחָצֶנּוּ כִּי-גֵרִים הָיִיתֶם בְּאֶרֶץ מִצְרַיִם:

*You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt.
(Parshas Mishpatim 22:20)*

תּוֹרָה אֶחָת יְהִיָּה לְאִזְכָּרְךָ וְלִגֵּר הֹגֵר בְּתוֹכְכֶם:

There shall be one law for the citizen and for the stranger who dwells among you. (Parshas Bo 12:49)

כַּאֲזָכְרְךָ מִכֶּם יְהִיָּה לָכֶם הֹגֵר | הֹגֵר אֵתְכֶם וְאַהֲבֵת לוֹ כְּמוֹךָ כִּי-גֵרִים הָיִיתֶם בְּאֶרֶץ מִצְרַיִם אֲנִי יְהוָה אֱלֹהֵיכֶם:

The stranger who resides with you shall be to you as one of your citizens; you shall love him as yourself, for you were strangers in the land of Egypt: I the LORD am your God. (Parshas Kedoshim 19:34)

וְאַהֲבֵתֶם אֶת-הֹגֵר כִּי-גֵרִים הָיִיתֶם בְּאֶרֶץ מִצְרַיִם:

And you shall love the stranger because you were strangers in Egypt (Parshas Eikev 10:19)

In this week's *parsha*, as well as in many other places in the *Torah*, there is a specific importance placed on treating converts properly. This focus is so important that the *Torah* mentions this between 36 or 46 times (a subject of debate in a *braisa*). This notion of respecting those who are different is a key principle of the *Torah*. The question is, why does the *Torah* put such a focus on this?

There are multiple answers given, but the one we are going to focus on this week is that of the *Midrash Tehillim*. The *Midrash Tehillim* cites a parable where it compares the way that God treats converts, to a shepherd's treatment of their herd. The parable continues as follows: there is a shepherd, and one day a deer joins his/ her herd. The King of the land the shepherd lives in

tells the shepherd that he should give extra love and care to this deer over all the other animals. The shepherd replies to the king, saying “we have so many other sheep, goats, and cattle; why do you care so much about this one deer?” The king replies: “for the sheep, the goats, and the cattle it is in their nature for them to be shepherded, but for the deer it is in its nature to be in the wilderness, and it is not in its nature to be near humans. Against all logic this deer decided to join your herd and leave behind the other deers and his/her home to join yours.” This is what God is telling us; we need to be caring and compassionate towards converts, because it requires a great deal of strength to make the decision to join *Klal Yisroel*. Let us all learn to be more mindful and caring towards those who may feel out of place.

MIDRASH MINUTES

Eitan Rochwarger ('23)

Hashem Is Always With You

This week's *parsha*, *Parshas Mishpatim*, begins by discussing the laws of a Jewish slave. The *pesukim* begin with saying “If you buy a Jewish slave, he shall work for 6 years; and in the 7th he shall go free, free of charge” (*Shemos* 21:2). The question comes up as to why this would be the first law written here, right after hearing the Ten Commandments. To answer this, the *Midrash* states that this *halacha* is connected to the First commandment for one to serve *Hashem* alone, and not to go work as a servant to other of His servants. Furthermore, the *Midrash Rabbah* then writes that *Hashem* said to them that he acquired them through the ten *makkos*, quoting *Sefer Tehillim* (139:13-14): “For you have entered my mind, how wondrous are your works. The *Ma-*harzu adds here by explaining that these words are talking about the miracles that took place in *Mitzrayim*, since there too the word “wondrous” (*nifla'im*) is used when referring to the *makkos*. The *Midrash Rabbah* then continues with connecting God commanding for the slave to be freed on the seventh year as to Him resting on the seventh day, as a reminder of God’s creation of the world.

Then the *Midrash* starts discussing the laws concerning a woman slave, and connects the sale of a woman to a sale of a *Torah*. “She shouldn’t be taken out unless put in an Aron (Sephardic custom to put a casing around their *torahs*), she should be covered respectfully when going out.” Then the *Midrash Rabbah* continues with saying for “one should act respectfully towards her since you have captured her from me”. The reason why the *Midrash* refers to a daughter being sold as a slave as *Hashem’s Torah* is to show how much *Hashem* loves the *Torah*. The idea of these young girls or boys leaving their father’s houses as slaves to go to another man is a concept that would be incomprehensible to the current generation. This can be another reason for our original question of why this law is the first law after the Ten Commandments, since *Hashem* wants us to know that he is always with us, as “*Anochi Hashem*, even if we is going through hard times. All in all, *Hashem* shows many times in the *Torah* his great love for the Jewish people and how He is so pained by our suffering. He couldn’t rest in the seventh year knowing that some of His precious Jews were still suffering under another Jews control. So, He constructed these laws for one to not have to live as a slave to which he freed them from in *Mitzrayim*, but to be free and find his own path to life.

MUSSAR MOMENTS

Max Korenman ('22) and Avidan Loike ('22)

In this week's *parsha*, *Parshas Mishpatim*, we are introduced to two interesting *halachos*. The first is that if you find the lost animal of your enemy, you must return it. Additionally, we learn that if you see the animal of someone you hate trapped under a heavy object, you are required to help him get it out. The reason these *halachos* are interesting is because they seem to directly contradict a *possuk* in *Parshas Kedoshim*: “לא תשנא את אחיך” - do not hate your friend. It is odd that the *possuk* would instruct us what to do if we hate someone considering that it is forbidden to hate someone! The *Mechilta D'bei Rabbi Shimon Bar Yochai* points out that the contradiction between the two *pesukim* lies within their varying contexts. The *possuk* in *Kedoshim* says not to hate someone who is your brother, with the implication that a sinner who has removed himself from the *Kahal Hashem* is permitted to hate, and that one is even obligated to do so. However, even though you halachically hate him or her, you are still obligated to help them, as the *Torah* says “עֲזֹב תֵּעָזֵב עִמּוֹ” - you shall help him. This not only shows us how important this *halacha* is, but also why it is so important. Even though you halachically are required to hate him, you should still put that aside and bear a hand to him. So as we go into this week's *parsha* and the reading of *kriyas haTorah*, we should realize the importance of putting the wrong behind us and treating everyone with respect regardless of their past.

FROM THE EDITOR'S DESK

Shimi Kaufman ('21)

The Three Levels of Na'aseh Vinishma

In *Parshas Mishpatim*, the Jewish people make the iconic proclamation of *na'aseh vinishma* - whatever *Hashem* commands, we will do and we will hear (*Shemos* 24:7). The *Gemara* (*Shabbos* 88a) describes the three rewards that *Bnei Yisroel* received for this declaration. The first was that 600,000 *mala'achim* came down from heaven and gave every Jew two crowns: one for *na'aseh*, and one for *nishma*. The second reward was that this utterance was what caused *Hashem* to call the Jewish People his “firstborn child”. The third and final reward was that a *bas kol* cried out “Who revealed this angelic secret to my children?” The *Gemara* explains based on the *possuk* in *Tehillim* (103:20) that doing and then hearing is a quality of angels. All of these rewards, the *Gemara* says, were a direct result of the simple phrase “*na'aseh vinishma*”. Two questions arise from this *Gemara*. Firstly, what was it about the statement of *na'aseh vinishma* that it caused *Bnei Yisroel* to be worthy of all these rewards? Why was this statement so special that it caused them to merit all of these different things? Secondly, why did *Hashem* specifically choose these rewards to give to *Bnei Yisroel*? What about these rewards made them appropriate for the statement of *na'aseh vinishma*?

The Slonimer *Rebbe* writes that there were three levels to the greatness of *na'aseh vinishma*. The first level was that *Bnei Yisroel* were acknowledging that their commitment to the *Torah* was not contingent on their understanding of the reason for it. Truly accepting the *Torah* means following the *mitzvos* always, not just when we can rationalize them. This is why *Bnei Yisroel*

first said *na'aseh*, we will do, before *nishma*, we will hear. This was a commitment to fulfil the *mitzvos* even when they did not understand the reasoning behind them. The *Ohr Gedalyahu* writes that *mitzvos* such as the ones we find in this week's *parsha* seem rational and logical to us, because *Hakadosh Boruch Hu* created humans with an innate moral compass of right and wrong. Therefore, he writes, when we fail to see the rationale and reason behind even these *mitzvos*, it is a sign that we are not as aligned with Hashem's Will as we have the potential to be. Therefore, by saying *na'aseh vinishma*, *Bnei Yisroel* were agreeing to do the *mitzvos* even during the times when they were not as close to Hashem, and could not see the logic behind them.

The second level that the Slonimer *Rebbe* writes about is based on the *Gemara (Yoma 28b)*, which says that it is possible to serve *Hashem* even without being commanded to do so. This, says the *Gemara*, is the difference between serving *Hashem* as a child and as a servant. A child, who is performing the wishes of his parents out of love, will do the will of his parents even without being asked. A servant, however, who serves out of fear, will only serve his master if directly commanded to. The *Gemara (Bava Kamma 38a)* writes that a failure on Hashem's part to command us is indicative of a distance between us and *Hashem*, because "greater is one who is commanded than one who is not commanded". Therefore, by saying *na'aseh vinishma*, *Bnei Yisroel* were demonstrating their willingness to be *na'aseh*, to perform *Hashem's* will, even if they did not merit to be *nishma*, to be commanded directly from him. This commitment by *Bnei Yisroel* shows our eternal love for *Hakadosh Boruch Hu*, just as a child loves their parents.

The third and final level to the phrase of *na'aseh vinishma* can be attained once we have committed to serving *Hashem* even when we are at low points spiritually. The 613 *mitzvos* correspond to the 613 parts of the body (248 limbs and 365 tendons), which in turn correspond to the 613 parts of the *neschama*, the soul. The same way that our physical bodies are naturally inclined to care for our physical needs, such as sleeping, eating, and drinking, so too are our souls naturally inclined to do the will of *Hashem*. However, our souls are held back by the desires and temptations of our bodies. Only once we purify our bodies of these temptations can our soul begin to do what it was always intended to do - serve *Hashem*. By saying *na'aseh vinishma*, the Jewish people were saying that they would be able to be *na'aseh* even before they were *nishma*, because they would have purified their bodies so much that their *neschamos* would be automatically inclined to do the *ratzon Hashem*.

These three levels help us to understand what about *na'aseh vinishma* made *Bnei Yisroel* deserve these specific rewards. The first reward—the two crowns—corresponds to *Bnei Yisroel's* commitment to keep the *Torah* both during the high points and the low points in their connection to *Hashem*. Rav Aharon Kotler writes that *Torah* is called a "crown" because a crown implies a complete tapestry of jewels; if even one stone is missing, the crown ceases to be a crown and instead becomes an assortment of gems. Thus, the Jewish people received crowns corresponding to *na'aseh* and *nishma*, to represent their commitment to make their *avodas Hashem* consistent and complete at all times. The second reward, of being called *Hashem's* "Firstborn Son," corresponds to *Bnei Yisroel's* willingness to follow *Hashem* whether or not they are commanded to. By saying this, the Jews showed that they loved *Hashem* in the manner of a child, not of a slave, and therefore merited to be called *Hashem's* firstborn. The third reward, being compared to the angels, corresponds to *Bnei Yisroel's* statement that they would purify their bodies to the point where their soul would do the *ratzon Hashem* automatically. This kind of complete purification and automatic service are qualities of angels, and as such, we merited to be compared to them.

The common theme between these three levels of *na'aseh vinishma* is that they all represent a commitment which is not simply voluntary, but binding. The *Gemara (Shabbos 88a)* states that *Hashem* lifted *Har Sinai* over *Bnei Yisroel's* heads at *kabalas haTorah*, commanding them to accept the *Torah* "or this would be their burial place. The Maharal, commenting on Tosfos to that

Gemara, points out that *Hashem* did this after we had already stated *na'aseh vinishma* - if so, why was it necessary to force us in this manner? The Maharal explains that *Hashem* was driving home the idea that true commitment to *Torah* means choosing not to choose - we volunteer to impose the *Torah* way of life on ourselves as an absolute *chiyuv*, a full requirement. In a way, *Hashem* lifting the mountain is the natural extension of *na'aseh vinishma* - once we commit to serve *Hashem* at all times, out of love, and strive to align our will to His, we need to be reminded that in truth, we have no choice in the matter. Once we have accepted the *Torah* in this manner, the yoke is no longer ours to throw off.

HALACHA HASHAVUAH

Josef Weiner ('23)

In this week's *parsha* we are told that we should not mention the name of a foreign deity (*Shemos* 23:13). Thus, this week's article will discuss the issue of saying the name "Jesus."

The *Gemara* in *Maseches Sanhedrin* states that one may not even use an *avodah zarah* as a landmark when giving directions (63b). The *Shulchan Aruch paskens* that one may not mention the name of a foreign deity (*Yoreh Deah* 147:1); however, if an *avodah zarah* was mentioned in Tanach then it is permitted to mention its name (*Yoreh Deah* 147:4).

The *Hagahos Maimonos* notes that the prohibition to mention the name of a foreign deity only applies to names that indicate that the person is a god; however if it is a normal name that was simply applied to one who is seen as a god, the prohibition does not apply. Therefore, since the name Jesus does not connote godliness, it is permissible to say it (*Avodas Kochavim* 5:3). The *Gra* additionally points out that Jesus is written in various places in the *Gemara* (*Biyur HaGra* 147:3). However, Rav Azriel Hildsheimer is of the opinion that the fact that many *seforim* explicitly use Jesus's name is not necessarily a proof that one may say it, as he is of the view that the prohibition is to say the name and not to write it (180).

On the other hand, using the word "Chr-st" would seem to be more problematic, as it is not just a name, but rather a term that connotes Jesus has some sort of elevated status. Rav Hershel Shachter is of the opinion that one may not use the term. However, Rav Azriel Hildsheimer notes that the term "Chr-st" is declaring Jesus as *mashiach* and not declaring him a deity, and therefore it is not necessarily forbidden (180).

Lastly, there would seem to be no technical prohibition against saying the word Christmas, as it is not a name of an *avodah zarah*, but rather a name given to a day. Yet, there are many who have the *minhag* to use some other term for the holiday that takes place on December 25th. Parenthetically, Rabbi Ari Enkin points out that there is no benefit in stating X-mas instead of Christmas, as "X" is simply an abbreviation for "Chr-st", and is in fact used to represent Jesus in both the Protestant and Catholic churches.

THE ELEPHANT IN THE ROOM: ANIMALS IN THE PARSHA

Yisroel David Rosenberg ('23)

A Heavy Fine

"כִּי יִגְנוֹב-אִישׁ שׁוֹר אוֹ-שֶׂה, וַיִּטְבְּחֵהוּ אוֹ מָכְרוֹ--חֲמִשָּׁה בָּקָר, יִשְׁלַם תַּחַת הַשּׁוֹר, וְאַרְבַּע-צֹאן, תַּחַת הַשֶּׂה"
"If a person steals an ox or sheep and slaughters it or sells it, fivefold the ox he will pay in place of the ox and fourfold the sheep in place of the sheep" (Shemos 21:37)

The *meforshim* all wonder why the *Torah* mandates a different penalty for one who steals an ox than one who steals a sheep.

Rashi cites two opinions from the *Gemara* in *Bava Kama* (79b). First, Rabbi Yochanan says that *Ha-shem* had pity for the *kavod* of all creations, even a thief, and required a lower payment for a sheep which would need to be carried on one's shoulders to steal and thus be embarrassing, than an ox which can be walked along the road. Rashi then quotes Rabbi Meir who says that it is the loss of the work the animal would do that affects the compensation. A sheep does not do any work, and so the penalty is lower than that of an ox, whose owner missed field work because of the thief.

The Ibn Ezra quotes a Rabbi Yeshu'a who says that the one who steals an ox is punished more severely because they must be more practiced in thievery to sneak away with such a large animal compared to a small sheep. The Ibn Ezra also quotes Rav Saadia Ga'on who mentions the reason that the ox could have plowed if it had not been stolen.

The *Bechor Shor* mentions the *Gemara* from *Bava Kamma* in the process of explaining a different quandary on this *possuk*: why is such a heavy penalty required for those who steal *animals* as opposed to those who steal anything else? The *Bechor Shor* explains that a person is very invested and attached to their animals, because they raised them and take constant care of them, and for this reason the robber has to pay them back so much. The *Bechor Shor* adds, however, that if a person had only just purchased the animal and was therefore not so attached to it, the *possuk* does not exempt the thief from paying back the extra value.

PARSHA PUZZLERS

Submit your answers to shemakoleinu@yuhsb.org along with your name and cell phone number to be entered into a raffle at the end of the sefer! 1 answer = 1 entry!

(Hint: Use the commentaries in the Mekraos Gedolos Chumashim, along with the Toldos Aharon on the side to find relevant Gemaras and Midrashim)

1. Besides for the legal case mentioned in our *parsha*, who in the *Torah* is specifically referred to as "*ha'eved ha'ivri*"?
2. Which two *halachos* refer to the sun?
3. Find reference to the numbers 1, 2, 3, 4, 5, 6, 7, and 8 in this week's *parsha*.

PARSHA SUMMARY

This week's *parsha* deals with many laws and practices relevant to daily life. After receiving the *Torah*, *Bnei Yisroel* needed to learn about the technical details of what they had accepted. Some of the concepts dealt with are laws of slaves, laws of theft, laws of damages, and laws of watchmen, among many others. The *parsha* introduces the idea of giving extra respect to a convert, widow, or orphan. Also included are laws of *lashon hara* and details on the different *yomim tovim*. The *parsha* then outlines exactly how the conquest of *Eretz Yisroel* will work. Towards the end of the *parsha*, *Bnei Yisroel* accept all of these commandments, and Moshe goes up onto *Har Sinai* for 40 days to learn *Torah* from *Hashem*.

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