

Parsha Shiur by Rabbi Mayer Friedman

פרשת משפטים

אם בגפו יבא בגפו יצא אם בעל אשה הוא ויצאה אשתו עמו
“If he shall arrive by himself, he shall leave by himself; if he is the husband of a woman, his wife shall leave with him” (21:3)

The halacha dictates that when a Jewish person steals and cannot pay back for his thievery, he is sold into slavery in order to earn money to repay his debt. Since his rights belong to his master, the master is entitled to give him a Canaanite maidservant in order so that they should have children together. These children will remain servants to the master, as they will be gentile children, in accordance with the Torah principle that a child's status as a Jew is determined by the mother. Rashi says that if he was not married beforehand, he cannot be given a Canaanite maidservant as a wife. Why is this so? Would it not make more sense to give a woman to the man who is not married and not to the man who already has a wife? The Torah Temima writes that Hashem does not want a Jewish person to remain in servitude. This is the reason why we pierce the ear of the slave who desires to stay longer than necessary. When a person has his own wife and children, he will be able to pick himself up and leave at the end of his term. He will not feel any guilt about leaving his new Canaanite family behind, as they stay with the master when he leaves to become a free man. He has his own family and can go back to the freedom of his own house, just as he lived before his theft. But if a single man now has a new family for the first time, it will be difficult for him to leave them and go out on his own again. The Torah does not wish to put a person in the position of having to make such a decision. Therefore, a single man is not to be given a maidservant. However, a previously married man, who has a family to go back to, will not face this challenge and can be given a maidservant.

דרכיה נועם – "Its ways are pleasant." Hashem did not give us to Torah in order to restrict us and make life difficult for us. In fact, as we see from this case, when something is too difficult for a person to do, the halacha is arranged so that the person will not have to do it. The same is true of Rabbinical decrees as well. Chazal tell us of certain decrees that were abolished because many people had a difficult time following the injunction. Just as the Rabbis never made a decree that they felt the people could not handle, the Torah does not ask us to do things that are overly difficult to achieve. This concept is true for life in general as well. Every person has their own issues and challenges to face. However, we can feel confident that Hashem only puts obstacles in a person's path if he can overcome them and succeed. If a person did not have the ability to pass a certain test in life, Hashem would not give him that difficulty. With this knowledge, we can confidently confront the difficulties we face in life, because we know that we can overcome them.

אם יקום והתהלך בחוץ על משענתו ונקה המכה רק שבתו יתן ורפא ירפא
“If he gets up and goes about outside under his own power, the one who struck is absolved; only for his lost time shall he pay and he shall certainly heal him” (21:19)

The Gemara (Bava Kama 85a) cites this posuk as a source that a doctor is permitted to perform healing work. The Torah Temima adds that even though a person might think that a doctor is working against the doings of Hashem, this is not so. Hashem created afflictions, but also put in place methods of counteracting them, all according to the natural order of the world.

The Mishna in Nedarim (4:4) states that one who vows not to derive benefit from his

friend is nevertheless permitted to be healed by him. Since there is a mitzvah to heal another person, it overrides the restriction of the vow. The Rambam writes in his commentary on the Mishna that the mitzvah to heal a fellow man is included in the mitzvah of returning a lost object. Just as there is a mitzvah to return a lost object, there is a mitzvah to help a person regain his physical life if he is losing it. If a person is feeling ill, it is considered as if he is losing his life and there is a mitzvah to help restore him to health. Even though the literal understanding of helping a person recover his life is to rescue him if he is drowning or is under attack, certainly this would be true if he falls prey to a physical illness. The Rambam did not use the posuk in our parsha as a source because our posuk teaches that a person is entitled to cure without being concerned that he contradicts the will of Hashem. The actual mitzvah is learned from the obligation to return that which is lost. Doctors and hatzalah members should realize that when they help people, they are doing a mitzvah. One should always be available to help sick people who are in need and assist them in any way possible.

כי יגנב איש שור או שה וטבחו או מכרו חמשה בקר ישלם תחת השור וארבע צא תחת השה

“If a man shall steal an ox or a sheep and slaughter it or sell it, he shall pay five cattle in place of the ox and four sheep in place of the sheep” (21:37)

Why does a thief pay a larger fine for stealing an ox than for stealing a sheep? Rashi quotes the Gemara in Bava Kama 79b which states that Hashem has compassion for the honor of His people. An ox walks on its own and the thief can just lead it away. It is a cleaner and more respectable way of stealing because it is not clear to passersby that he is stealing it. A sheep has to be carried away and that is more degrading because it is obvious what he is doing. Therefore a person pays less for stealing a sheep since he has already suffered a little by being seen in public with a sheep on his shoulder.

In his sefer Lev Eliyahu, R' Eliyahu Lopian writes that human intellect would dictate that the halacha should be just the opposite. One would think that the thief who carries the sheep on his shoulder should pay more because he has sunk to a level where he is willing to embarrass himself when he steals whereas the one who steals the ox has at least maintained a bit of dignity and does not want everyone to know what he is doing. Yet we see that Torah rules that the suffering from his embarrassment is considered part of the thief's punishment and his monetary fine is less. This is hard to understand. Who asked the thief to disgrace himself? If he is not concerned for his own honor, why should we be concerned for him? He himself does not care how he looks!

However, Hashem perceives far more than the human mind can see. The Torah goes deep into the psyche of a person. Every single human being has a body and a soul. Within every individual, even a thief, is a conflict between these two forces. Even though he does not seem to care, deep down he feels a little shame at what he is doing. These feelings may be hidden, but Hashem knows that they are present and has mercy on this person because he is experiencing shame on some level.

Every Jew, even one who acts in a non-observant fashion, has some spark still burning inside them. Even if we cannot see it on the outside, it is still there. We must be aware that no Jew ever loses his identity and if we can just bring those Jewish feelings to the forefront, a completely estranged Jew has the ability to return to the faith of his fathers. If we can reach out to them, they will find that they can reconnect with the Jewish spark within themselves that was buried deep inside them. This spark is never totally extinguished.

ומראה כבוד ה' כאש אכלת בראש ההר לעיני בני ישראל

“The appearance of the glory of Hashem was like a consuming fire on the mountaintop before the eyes of the Children of Israel” (24:17)

R' Levi MiBerdichev writes in his sefer Kedushas Levi: How can a person know if he is serving Hashem properly? If he feels a burning desire to serve Hashem and feels inspired when he davens, does mitzvos and learns Torah, it shows that Hashem is happy with him and that he is bringing honor to Hashem. The glory of Hashem manifests itself through a burning fire. If a person is complacent when he serves Hashem and just goes through the motions, then he cannot be assured of the glory of Hashem. Everyone has to fan the flame with himself and get himself excited to serve Hashem. One way to do this is to learn sifrei mussar which stir up a person's inner feelings and drive him to improve himself. The Torah is referred to as a "law of fire" (Devarim 33:2). We must develop a burning desire to follow its ways and develop a real excitement for it.

Kesharim Baruch College/NYU Parsha Shiur

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