



## Rabbi Reisman – Parshas Mishpatim 5786

### 1 – Topic – A Machlokes between Rashi and the Ramban at the end of the Parsha

As we prepare for Shabbos Parshas Mishpatim, a packed parsha, and I would like to begin by talking about the last eighteen pesukim in the parsha, which of course go back to Matan Torah. (וְאֶל-מֹשֶׁה אָמַר עֲלֵה אֶל-יְקֹנֶק, אִתָּהּ וְאַהֲרֹן נָדָב וְאַבִּיהוּא, וְשִׁבְעִים, מִזִּקְנֵי יִשְׂרָאֵל; וְהִשְׁמַעְתָּוִתָם, מִרְחֹק) 24:1. What in the world is going on here? We had Matan Torah in Parshas Yisro and we have Mishpatim and now we return to Matan Torah.

Rashi and the Ramban have a very basic machlokes, two totally different ways to learn these eighteen pesukim. Rashi's shitta is that Perek Chaf-Daled, that these pesukim, Rashi says (בְּד' בְּסִינֹן) (נִאֲמָרָה לוֹ עֲלֵה), that this was said before the Aseres Hadibros, ain mukdam u'meuchar batorah. This was said earlier, and it happened on the fourth day of Sivan.

In pasuk gimmel, it says (וַיָּבֹא מֹשֶׁה, וַיְסַפֵּר לָעָם אֶת כָּל-דִּבְרֵי יְקֹנֶק, וְאֵת, כָּל-הַמִּשְׁפָּטִים) He taught them halachos. Which halachos did he teach them? This was before Matan Torah. Rashi says (שִׁבְעַת מִצְוֹת) (שִׁבְעָטוּי בְּנֵי נֹחַ, וְשִׁבְתָּ וְכַבִּיד אֶב וְאֵם וּפְרָה אֲדָמָה וְדִיגִין שְׁנֵתָנִי לָהֶם בְּמֶרֶה). As a hakdamah to Matan Torah, he told them that which had already been commanded.

Pasuk daled: (וַיִּכְתֹּב מֹשֶׁה) (וַיִּכְתֹּב מִצְוֹת). What did he write? Rashi says he wrote (וְכָתַב מִצְוֹת) (שִׁבְעָטוּי בְּמֶרֶה). From Bereishis until Matan Torah, all consistent. This was all before Matan Torah.

Then he made a bris. Moshe shechted korbonos, split the dahm, and he made a bris. What was the bris? It was a bris, Rashi says, on hei Sivan, the following day. (וַיִּשְׁכֶּם בַּבֹּקֶר) (וַיִּרְאוּ, אֶת אֱלֹקֵי), he got up in the morning, that was obviously the next day, and he made a bris. And if so, pasuk yud, (וַיִּשְׂרָאֵל; וְתַחַת רִגְלָיו, כָּמַעֲשֶׂה לְבִנְתָּ הַסִּפְרִי), it says that Nadav and Avihu did something that was perhaps improper, so that also happened before Matan Torah. So according to Rashi, the episode of these at least eleven pesukim certainly, are before Matan Torah.

Now in pasuk yud-bais already it's a new parsha: (וַיֹּאמֶר יְקֹנֶק אֶל-מֹשֶׁה, עֲלֵה אֵלַי הַהֲרָה) (עֲלֵה אֵלַי הַהֲרָה). It talks about a certain six days before (עֲלֵה אֵלַי הַהֲרָה). So Rashi brings that there are two pshatim as to when that took place. This was all Rashi's shitta.

Now the Ramban has some kashas on these Rashis. He says first of all, pasuk gimmel, he taught them (שִׁבְעַת מִצְוֹת שִׁבְעָטוּי בְּנֵי נֹחַ), they already knew, they already learned the (וְאֵת, כָּל-הַמִּשְׁפָּטִים) and Marah. Why over here should it be taught again? It bothers him, and therefore, the Ramban has a whole different pshat in at least these eleven, twelve pesukim certainly. He says that these took place after Matan Torah. Whether Matan Torah was on Vav Sivan or Zayin Sivan, this all

happened. (וַיִּסְפֹּר), he taught them (וַיְכַתֵּב), and he wrote. What did he write? Not he taught them the Sheva Mitzvos and the mitzvos be'Marah, but he taught them the new mitzvos. And (וַיִּשְׁכַּם בַּבֹּקֶר) when he got up in pasuk daled the next day, it was the day after.

In other words, there was Ma'amad Har Sinai, Matan Torah. Moshe Rabbeinu still came down from the har to Klal Yisrael, and the next morning he got up and he went up, he made a bris with Klal Yisrael, very appropriate like the Ramban. They had just gotten the Aseres Hadibros and he made a bris, and he went up for forty days the day after Matan Torah.

So again, according to Rashi, these, I shouldn't say eighteen pesukim but because Rashi brings a machlokes about the later pesukim, but at least these initial eleven pesukim were before Matan Torah. According to the Ramban they were after Matan Torah. Moshe Rabbeinu came down, made the bris with them, the korbonos, the entire episode of (וַיְכַתֵּב) and (וַיִּסְפֹּר) took place then.

Now, the only thing that was not clear to me according to the Ramban what exactly did he write? The Ramban is not so clear. It was explained to me that Parshas Mishpatim he wrote down everything that was in Parshas Mishpatim. Parshas Mishpatim was (מה אלו מסיני אף אלו מסיני). So previously he had written Bereishis ad Matan Torah, and now he added Parshas Mishpatim. He certainly didn't add more. And that's (וַיְכַתֵּב מֹשֶׁה, אֶת כָּל-דִּבְרֵי יְקֹנֶן). Very geshmak. Loit the Ramban everything flows in sequence. There's Matan Torah, (וְאֵלֶּה, הַמִּצְוֹת), these mitzvos were given right away. Then it describes how Moshe Rabbeinu came down from Har Sinai and he taught them these and wrote these, (וַיִּסְפֹּר) these things in Parshas Mishpatim. (וַיְכַתֵּב) and he wrote them down. And he made a bris, and then he went back up to Har Sinai. This is the order. Geshmak. So we have two pshatim.

This answers a kasha. In a previous year, I don't remember which year, I asked the following kasha. The Mishnah Berurah says why do we eat milchigs on Shavuot besides the Rema's reason because of the shte ha-lechem. The Mishnah Berurah brings a second reason, he says we eat milchigs on Shavuot because when Moshe Rabbeinu came down from Har Sinai, they heard the dinim of kashrus, they couldn't use their keilim, they couldn't eat meat, they had to shecht anew, and mimeila they ate milchigs which doesn't require shechita. I asked a kasha. When Moshe Rabbeinu came down from Har Sinai, he didn't teach them all the taryag mitzvos. The taryag mitzvos were after 40 days, probably after 120 days because after 40 days was the eigel, but it was much later. At Har Sinai, they didn't hear the dinim of kashrus. This bothered me very much.

Now that Hashem opened my eyes to understand the Ramban, I understand that the Mishnah Berurah is going like the Ramban. Everything it says in Parshas Eileh HaMishpatim was said to Klal Yisrael right after Matan Torah. It was told when Moshe Rabbeinu came down from Har Sinai. One of the pesukim is as is found in 22:30 (וְיִשְׁרָאֵל בְּשָׂדֶה טָרְפָה לֹא תֹאכְלוּ). Don't eat basar basadeh tereifah, Parshas Mishpatim. What is tereifah? Its neveilah Rashi says. An animal that's tereifah, an animal that was ripped up by another animal. Ah, very geshmak. So they were told hilchos shechita. Ah, now I understand the Mishnah Berurah is going like the Ramban and its very geshmak that this mitzvah was taken told to them like the Ramban right away when Moshe Rabbeinu came down from Har Sinai.

You should know a yesod that Rashi and the Ramban throughout Chumash have an ongoing dispute. Rashi is quick to say (אין מוקדם ומאוחר בתורה). Rashi, as long as it flows in what's karov l'pshat lot Rashi, Rashi says (אין מוקדם ומאוחר בתורה).

The Ramban is very reluctant to say (אין מוקדם ומאוחר בתורה). There are many places where he argues with Rashi about the seder hadvarim of the things that took place, when they took place, what the order was, and Rashi's quicker to say (אין מוקדם ומאוחר בתורה) and the Ramban is more hesitant to say (אין מוקדם ומאוחר בתורה). I think in Ki Sisa 32:18 you're going to have another machlokes like this, and we have quite a few.

## 2 – Topic – A Yesod from the Machaneh Ephraim

Let's move on to a second yesod for this week's parsha. Parshas Mishpatim, is halachos, let me tell you a Machaneh Ephraim in Hilchos Shluchin V'shutfin, Machaneh Ephraim Yud-Alef. The Gemara in Bava Metzia daf yud tells us (יד פועל כיד רבו). Fascinating din. What a worker does, it's like his master did it. The Gemara is talking about kinyanim. There are certain times that one person can't do a zchus for another person, (המגביה מציאה לחבירו). If you want to pick up a metzia for someone else, we pasken (קנה חבירו) except in certain rare cases when it's chav l'achrini. There's a man d'amar who says you can't pick up a metzia for your chaver. Whatever the case, the Gemara says (יד פועל כיד רבו). A worker is different. A worker's hand is like the hand of his employer, and he could be koneh l'chaveiro.

The Machaneh Ephraim has a very expansive shita in (יד פועל כיד רבו). As a matter of fact, he says a chiddush gadol. In this week's parsha we have the halacha of a shoel. A shoel is someone who borrows something. When you borrow something, you're responsible for everything. Whatever happens, unless meisa machmas melacha, unless you're totally faultless. But otherwise, even an oness, a borrower, kol hana'ah shelo. He's nice enough to lend it to you, you're responsible for everything.

There's one exception. There's a gezeiras hakasuv im ba'alav imo. The gezeiras hakasuv is if the owner of the lent object is working for the borrower, then the borrower is pattur, not only from oness, he's pattur even from geneiva v'aveida. He has peturim, and even on a poshea, he has limited pshiya, the geder that he has a din mazik, whatever that may be. But that's the trick. The trick is if you borrow someone's car, if he's working for you, then you're off the hook.

I've told my class in the past a trick. Listen to this. When you borrow someone's car, this is what you should do, instructions. Tell him, Yankel, thanks so much. You know, there's a store right on the corner. Here, I'll give you two dollars, please go buy me a soda. I'm going on a trip, I'd like a soda. And I'm going to pay you for doing it. You buy yourself a soda also. The extra dollar is for you, buy yourself a soda. So he goes, he's a nice guy, buys two sodas, one for you and one for him. At that moment he's working for you. Aha! You just bought insurance. For one dollar, you bought insurance. If it was im ba'alav imo at the time of the lending, then you're off the hook. And if he was working for you then, even if he's not working for you later, as long as he's working for you at the time that you borrow, what do you know? You're off the hook. And even if he's not working with you related to the car at all, he was working on something else. Im ba'alav imo, ah, you're off

the hook. Now, whether you are going to do this or not, talk about doing it. This way you will remember this Halacha. The Halacha of ba'alav imo and you will remember that ba'alav imo is even if he is working for you at the very beginning of the time that you are borrowing. This is even if he is working for you on something that has nothing to do with what you are borrowing. There is a p'tur of ba'alav imo.

Now, getting back to the Machaneh Ephraim. Says the Machaneh Ephraim, if you lend someone something, and you also send your worker there, for example, someone says, you know, I have to move my merchandise, can I borrow your truck? I have to get things out, I have to get things moving. You tell him okay, you can borrow my truck. You know what? I'll send you one of my workers. When the lender sends one of his workers, (יד פועל כיד רבו). It's like you yourself went to work for him. And mimeila, there's a din of ba'alav imo even on your worker. Something incredible! That's what the Machaneh Ephraim says.

The Machaneh Ephraim says more. Normally there's no (שלוחו של אדם כמותו) by a non-Jew. By a non-Jew if he's your worker, we say (שלוחו של אדם כמותו). It's as if he worked for you. What do you know? It's as if he's your shliach. He goes so far to say if you have a non-Jewish worker building a ma'akeh for you, you can make a bracha on the ma'akeh. And when he does it, (יד פועל כיד רבו).

I have to tell you, in the notes of Rabbi Akiva Eiger to this Machaneh Ephraim, he disagrees with the chiddush of the ma'akeh. But he agrees with the (אם בעליו עמו חידוש) befeirush. So (יד פועל כיד רבו), there are many times when a shliach can't do something and a po'el could. This is the rule of (יד פועל כיד רבו). From Bava Metzia daf yud, in middle of a geshmaka sugya.

And with that I want to wish everybody an absolutely wonderful, meaningful Shabbos Kodesh, bentching Chodesh Adar. How wonderful! A gut gebentsht Shabbos to all.

## **Rabbi Reisman – Parshas Mishpatim 5785**

### **1 – Topic – What did Klal Yisrael learn for the 40 days that Moshe Rabbeinu was away?**

As we prepare for Shabbos Parshas Mishpatim, a wonderful Parsha. When I was in Yeshiva this was the Parsha that we got tested on Chumash and Rashi on Sunday, with so many Yidios that are Noge'a to Nezikin in Parshas Mishpatim. A week ago, when I spoke on Parshas Yisro I asked the following question. When Moshe Rabbeinu went up to Har Sinai for 40 days, what was Klal Yisrael expected to be doing during those 40 days? What Torah learning was available to them? They didn't have a Sefer Torah, they didn't have even the Luchos to learn from, so how exactly was it supposed to go about learning Torah from the day of Mattan Torah until the day Moshe Rabbeinu returned? You would expect that there would be something that they would be given as a 40-day Avodah, 40-day job, 40 days is a long time. It was a whole Elul Zman. From Elul through Yom Kippur.

This week in Parshas Mishpatim I discovered that there's a Rashi, actually two Rashis. Every once in a while it seems to me like someone is sticking in new Rashis into the Pirush Rashi because it's something I didn't remember, I definitely learned it, but I guess I forget things. Well, here in this

week's Parsha, in Perek Chof Daled, in the last Aliyah, in Posuk Daled we find, now Rashi already told us that this Parsha takes place on Daled Sivan, before Moshe Rabbeinu went up to Mattan Torah, before Klal Yisrael was Mekabeil the Luchos, and here Rashi tells us of the first Yiddishe Sefer that was ever written and given over to Klal Yisrael. And that is here in Posuk Daled (ויכתב ויכתב משה, את כל-דברי יְהוָה, וישכם בבקר, ויבן מזבֶּח תַּחַת הָהָר ויכתב מִשְׁה, אֵת) Why did Moshe Rabbeinu write (את כל-דברי יְהוָה)? This is before Mattan Torah, this is three days before Mattan Torah.

So Rashi tells us, (מבראשית ועד מתן תורה), Amazing thing! Sefer Beraishis, and Chumish of Parshas Shemos, Va'eira, Bo and Beshalach, were given to Klal Yisrael before the Luchos, they had arrived at Har Sinai, but before the Matan Torah of Shavuot. Zagt Rashi, (מבראשית ועד מתן תורה), and more, (ויכתב מצוות שנצטוו במרה), and they wrote the Mitzvos that were commanded in Mara.

Now the Ramban writes, in Sefer HaMitzvos, in I believe its Shoresch Yud Daled, the Ramban writes that at Mara they were only given those Mitzvos B'ofen Klali, in a general way, without the Halachos. Zagt Rashi here, that Moshe Rabbeinu wrote not only Chumish Beraishis until Yisro, but also the Mitzvos She'nistzavu b'Mara. What were the Mitzvos? Rashi earlier said that they were given three Mitzvos, Dinim, Parah Adumah, and Shabbos. We know from the Gemara, Kibbud Av V'aim as well. These Mitzvos were given, and these Mitzvos were written down. So Moshe Rabbeinu actually wrote down these Mitzvos, and later in Pasuk Zayin, (ויקח ספר הברית), (ויקרא באזני העם). What was that, Zagt Rashi, (מבראשית ועד מתן תורה ומצוות שנצטוו במרה). Yen'ne Sefer that he wrote in Pasuk Daled, here he taught Klal Yisrael, he taught them for the very first time, before the giving of the Luchos at Har Sinai, before the Aseres Hadibros. Klal Yisrael got Bich'sav this Sefer Ha'bris, (מבראשית ועד מתן תורה ומצוות שנצטוו במרה), it was actually given to them in written form.

Ah, now we understand the Nusach of the Musaf of Shabbos. Every Shabbos at Musaf we say (Nusach Sfard), (אז מסיני נצטוו עליה כראוי), or (Nusach Ashkenaz), meaning to say, that at Har Sinai, Klal Yisrael was commanded in Shabbos. Now I had a problem. The whole Torah was given at Sinai. What are you saying? (אז מסיני), we got Shabbos. We got Kol Hatorah Kulo at Sinai. Knowing that, what do you mean, (אז מסיני נצטוו)? Davka the Tzivo of Shabbos is the only one that preceded Sinai. (אז מסיני נצטוו)? What are you talking about? They were (נצטוו) in Mara. Every other mitzvah, besides Shabbos, Dinim, and Para Aduma, and perhaps Kibbud Av V'aim, every other mitzvah you could say, (מסיני נצטוו). But Shabbos (מסיני נצטוו), it's a Davar Pele. Ask people the Kasha. It's a very Shver Kasha.

Ah, with this Rashi, it's Gevaldig. (אז מסיני), Klal Yisrael came to Har Sinai in the beginning of Chodesh Sivan. On the fourth day of Sivan, (אז מסיני נצטוו עליה), they got the Mitzvos at Sinai. Now you say they got it at Mara. So Nusach Sfard explains. (אז מסיני נצטוו עליה כראוי). They were commanded, (כראוי), how to do it properly. Because at Mara, they were given the mitzvah B'ofen Klali. And now they were given it, (אז מסיני נצטוו). I mean, even if you Daven Nusach Ashkenaz this is still the Pshat, that Klal Yisrael got the Mitzvos here.

So here, we learned something that's somehow under the radar by me, probably by a lot of Yiddin. Because Parshas Mishpatim has so many Rashis, that very often we neglect the end of the Parsha. But here we learn that the very first Sefer of Mitzvos that were given to Klal Yisrael was right

here, and it was given this Sefer HaBris at this moment. And so we learn an answer to what I asked last week, an explanation for Musaf, and the fact of the giving of all the Parshios until Mattan Torah. And the Mitzvos, Shenitz'tavu, the Peratim of the Mitzvos, these were given here on Daled Sivan.

## **2 – Topic – The concept of Halacha L'Moshe M'Sinai**

Let us move on to a second topic. And once we're talking about Sinai, I'd like to discuss with you the concept of Halacha L'Moshe M'Sinai. We know that there are a handful of things that the Gemara says are Halacha L'Moshe M'Sinai. The Gemara says, for example, (אמר ר' חייא בר אשי (אמר רב שיעורין חציצין ומחיצין הלכה למשה מסיני). Shiyurin, Chatzisim U'mechitzim, Halacha L'Moshe M'Sinai. It is a Gemara which appears in the beginning of Eiruvim 4a (14 lines from the bottom) and the beginning of Sukkah 5b (8 lines from the bottom).

Meaning the Shiyurin, the Kezayis, the Ke'beitzah, the Koseves, the different Mitzvos that are Talui B'shiyurin, they were given, Halacha L'Moshe M'Sinai, Shiyurin, Chatzisim, the rules of a Chatzitzah, when one goes to the Mikvah, U'mechitzim, the Gemara says, refers to the Dinim of Gud Agud, Dofen Akumah, certain rules of Mechitzah are Halacha L'Moshe M'Sinai. So certain things, the Gemara says, clearly are Halacha L'Moshe M'Sinai.

The Netziv in his Kidmas Ha'eimek, something not often learned, but his Hakdama to Hameik Shaila, in Kidmas Ha'eimek, he writes, I believe it is Os Beis, if I recall correctly, a Yesodosdik Machlokes Rashi and the Rambam, which things are Halacha L'Moshe MiSinai. What the Gemara says Halacha L'Moshe MiSinai certainly is. It includes Nisuch HaMayim, for example. There are things that the Gemara says Hilchisa Gemira La. Hilchisa Gemira La means, it's accepted as a clear Halacha to us. Gemiri, Gemiri Lo Kola Shifta, we have a Kabbalah, certain things, Lo Kola Shifta, that no Shevet will totally disappear. Now that's a Halacha Kabbalah, because you need Yud Bais Shevatim to be able to be Noheg. So Gemiri Lo Kola Shifta.

The Gemara says, Chamesh Tevilos B'yom Kippurim V'Hilchisa Gemira La. The Kohen Gadol was Toveled five times on Yom Kippur V'Hilchasa Gemira La. What is Hilchasa Gemira La? What does that mean? Rashi's Shita all over Shas is Halacha L'Moshe MiSinai. That these things are Halacha L'Moshe MiSinai, V'zehu. Now the Rambam writes in the Hakdama that there's no Machlokes in Halacha L'Moshe MiSinai. Halacha L'Moshe MiSinai is Halacha Kavua. There's really no Machlokes about it. The Chavos Yair in a Teshuva, Kuf Tzadik Beis, has a list of Kashas on this Rambam, places in Shas where the Halacha L'moshe MiSinai is that there are Machlokes about. What the Netziv does is he explains that not everything Rashi calls Halacha L'moshe MiSinai, the Rambam holds is Halacha L'moshe MiSinai.

And let me explain Shitas HaRambam the way the Netziv explains it, and then add the Hechrich, besides the Chavos Yair's Kashas, but sort of the Hechrich to it. The Netziv writes B'kavanas HaraMBam that there are two parts to Torah. He calls it Aish Dos. We know that from Sinai HaKadosh Baruch Hu gave us Aish Dos Lamo. Aish is fire, and Dos means a religion, a rule. Dos, the rule, is Halacha L'moshe MiSinai. There's no Machlokes. There's no room for Machlokes. It's given to us b'Kabbalah. A Kazayis is what a person gets Malkus for, if he eats Neveilah. Now we could argue, how do you measure a Kazayis? What's the Shiur of a Kazayis? But the Yesod,

Kazayis is Halacha L'moshe MiSinai, that's Dos. It's given, Halacha L'Moshe MiSinai, no Machlokes.

Aish, Aish is the fire of Torah. Ayin Panim LaTorah, the overwhelming majority of Torah was given to Klal Yisroel, to understand, to explain, to Paskin, the Gedolei Yisroel should Paskin, (בְּשֵׁלֶשׁ עָשָׂרָה מֵדוֹת הַתּוֹרָה נִדְרָשָׁת). That's Aish. Aish means fire. The fire of pilpul, the fire of Machlokes, dispute between Gedolei Yisroel. It doesn't start from the Gemara. We already had a Machlokes, Dovid and Shaul, HaMekadesh B'milveh U'Prutah Mekudeshes or Aino Mekudeshes. There are Machloksim that way precede the time of the Mishnayos or the Gemara. That's the Aish of Torah. The rule about Aish is that, there is a Machlokes, and in the time that the Sanhedrin was Noheg the Sanhedrin Paskened.

For example, three hundred Halachos were forgotten in the time of the Aveilos of Moshe Rabbeinu. Now, what does forgotten mean? It doesn't mean they just forgot it and blank, their brains were blank. No, it means that they had a dispute. They argued about it. They didn't remember how Moshe Rabbeinu taught it. There were Chalukai Dai'os. So, Osniel came, and he was able to prove B'derech Hapilpul what the Halachos were, it became Gepaskened. The Derech of Aish is that in one generation there is a Machlokes, maybe two generations, and then it gets Gepaskened. The Chachmei Yisroel get together. When there was a Sanhedrin, there was a final say. In later generations, there is no Machlokes. It's Up-Gepaskened. The Torah is like cracking rocks that can splinter into many pieces. There are many parts and many pieces to it. So, there are always new Machloksim, new areas of dispute. That's the Aish of Torah. When the Gemara says Hilchisa Gemira La, according to the Rambam, it does not mean Halacha L'Moshe MiSinai. It means that the Sanhedrin of a previous Dor Paskened, Gemiri, they Paskened one way or the other way. There was one factor of dispute, but it was settled. Hilchisa Gemira La. When the Rambam brings these things, he calls them Divrei Sofrim. And there's a difficult time that some of the Mefarshim have with this.

For example, the most famous, right in the beginning of Hilchos Ishus, the Rambam writes, a woman, you can be Mekadesh a woman, with Kesef, Shtar or Bi'ah. So, the Rambam says, Kesef M'divrei Sofrim. Kesef is M'divrei Sofrim. Sounds like it's a Derabanan. The Magid Mishna says it is certainly not a D'rabbanan. Why does he call it Divrei Sofrim, the words of the Chachamim? Zagt the Netziv, because there was a Machlokes in one generation, and Hilchisa Gemira La, it was Up-Gepaskened. So, we know the Kiddushei Kesef. For us, it's already Up-Gepaskened. That's Divrei Sofrim. It means the Sofrim decided on.

This is the Machlokes. The Yesod of the Machlokes is, according to the Rambam, there are very few Halacha L'Moshe MiSinai. Only those that the Gemara calls Halacha L'Moshe MiSinai, quote unquote. The Gemiri, Hilchasa Gemira La, and the Rambam hold, those are things that are the Aish of Torah that were Up-Gepaskened.

Rashi disagrees. Rashi calls them all Halacha L'Moshe MiSinai. Wherever it says, Gemiri, that's what it means, according to Rashi. A Yesodosdika Machlokes. We are Marviach to understand the language M'divrei Sofrim. The Rambam, D'oraissa he calls Divrei Sofrim, the words of the Chachamim. Yes, it was a dispute. And the Chachamim paskened, which way, to Teitch up the Torah. And that's the way it remains.

So, two pieces of extraordinary insight into the Mesorah of Torah. The first part from Rashi, straight. Rashi as a Mefareish. And the second, from our great teacher Rashi, from Shas, Machlokes what is Halacha L'Moshe MiSinai. Rashi and the Rambam, ah, Yedios Klolios, Geshmak.

Let us all have an absolutely wonderful Shabbos, learning through the lists of Halachos in Parshas Mishpatim. Im Yirtzeh Hashem, let it be a Shabbos of Aliyah, Limud HaTorah, of Vax'ing for all of us. A Gutten Shabbos to one and all!

## **Rabbi Reisman – Parshas Mishpatim 5784**

### **1 – Topic – A Halacha Thought from Rav Elchanan**

As we prepare for Shabbos Parshas Mishpatim the Shabbos that we try Bli Neder to learn the Rashis because there are so many Halachos in this week's Parsha. Let me talk about two of them. The last words before Sheini are 21:19 (וְרָפָא וְרָפָא). That is that when one yid damages another, he has an obligation to pay the D'mai Refuah, the cost of healing him. In other words, there are five obligations that you will remember from Baba Kamma. Nezek – damages, Tzar – pain, Ripui – healing, Sheves – lost wages and Boshes – compensating for his embarrassment. One of them is called Ripui.

I would like to share with you an old Kler from the Yeshiva days which I hope will bring back wonderful memories and you will enjoy it as it is very Geshmak. Rav Elchanan in two places, primarily in Cheilek Beis of Kovetz Shiurim where he has a few pieces on Maseches Gittin, Os Yud Aleph. He mentions this also in Kesubos, Os Reish Yud Ches. He Klers a Shaila. What is the obligation of (וְרָפָא וְרָפָא)? If one Jew damaged another. Let's say he cut his hand and the man has to go for stitches. So the damager who we call the Mazik has to pay the cost of the stitches.

There are two ways to understand that. The first way to understand it is that it is a cash payment that he owes him. He owes him money. The money is the amount of money it costs to be healed. The second way to understand is that he has an obligation to heal him, he has an obligation to make sure he gets healed. The obligation is not set in dollars, it is a personal obligation to heal him. Now he himself is not a doctor so he gets someone else to do the healing, however, his obligation is to ensure that he gets healed. Sounds like a very slight difference if it is a cash obligation or an obligation to get healed.

Says Rav Elchanan the following Nafka Mina. What happens if Reuven damaged Shimon and he told him okay Shimon go get stitches and I will pay you. Shimon G-d forbid got killed before he had the stitches. Does Reuven have to pay Ripui to the Estate of Shimon? If you learn the first way that it is an obligation for a cash payment, then the obligation still stands. If you learn the second way that it is an obligation to heal him, he is not going to be healed because unfortunately he passed away, and then there is no obligation. This is the Chakira, the Kler that Rav Elchanan has.



It is interesting that in Dibros Moshe in Maseches Gittin Siman Yud Aleph, Anaf Beis and on, he has exactly the same Chakira. Both Rav Elchanan and Rav Moshe come to the conclusion that it is not a cash obligation, it is an obligation to heal the individual. Rav Moshe brings some Geshmaka Rayos.

The easy one to say over is that the Gemara in Baba Kamma 87 says what about if the one who did the damage is himself a doctor. He says I will give you the stitches and no one will have to pay. He says that the Nizak, the one who is damaged can tell him it is difficult for me, psychologically it is difficult. To me you are like a lion. You are a damager. Psychologically it is hard for me to accept that you will heal me.

Says Rav Moshe, why if not for this argument, why could the Mazik say that I will heal you? Why doesn't the Nizak have a right to choose whoever he wants to go to? The answer is because he has an obligation to heal. Were it not for the argument that the Nizak can say you are like a lion to me, he would be allowed to do it.

The Gemara says another thing. The Gemara says what happens if the Mazik says I have a friend who will heal you for free. Don't go, I have a friend who is a professional at stitches and he will do it for free. The Nizak can respond as it says in Baba Kamma 85a (4 lines from the bottom) (אסיא דמגן במגן מגן שוה), when people do things for free, it is not worth anything. They don't feel a responsibility. I don't want.

Again, Rav Moshe says why does he need a Taina, why can't he just say that I want to go to my doctor. He has to have an argument that (אסיא דמגן במגן מגן שוה). We see from here that the obligation is to heal. These are two of Rav Moshe's explanations.

There is a gigantic Nafka Mina because Rav Elchanan has the same Kler in Kesubos Siman Reish Yud Ches. There in context as I can't speak out the whole thing, he talks about if a person had insurance whether that means that the damager doesn't have to pay. He doesn't use the word Bituach which is the modern word for insurance, he uses the word Achrayos. But he has this question. If a person has insurance, if he owes him an obligation of cash, if he owes him cash he has to pay him. If the obligation is to heal, the obligation is to heal. If he is getting healed with someone else paying for it then you are off the hook. A fascinating Rav Elchanan, a good beginning of discussion especially that Rav Elchanan there has the same question if you damage someone's car. Is your obligation to pay a cash payment or is your obligation to fix. The same Nafka Mina.

This actually happened to me many many summers ago. I was once in the Camp Agudah parking lot on visiting day and it was very tight. I scratched someone's car. I left him a note. He called me back. It had a scratch along the side of the car. I told him go fix it and send me the bill. He calls me a day or two later and he says you are off the hook. I said, why am I off the hook? He said well, my wife was pulling out past a stop sign and a car came and damaged the side of the car and the whole panel has to be replaced so we are not going to need the paint job. You don't have to pay me. I disagreed with him. I said what do you mean I owe you a cash payment for damaging your car. What is the difference if it gets fixed? He said no, why would you have to fix it. We had this argument and you know that I am a very humble man and I always give in. But this is exactly that Rav Elchanan. This is a Halacha thought for this week.

## 2 – Topic – A Thought from the Tchebiner Rav

A man has is obligated to take care of his wife in many ways, Sher, Kesus and Onah are the most famous. In this week's Parsha there are obligations which include feeding, clothing and taking care emotionally of one's wife. Sher, Kesus and Onah. It is a deal. You have to support her, pay for her food. Isn't it strange, why doesn't the Torah say if you marry you have to pay Sher, Kesus and Onah. It comes in sort of in an indirect way in middle of the Parsha talking about the Ama Ivri'ya 21:10 (אם-אֶחָרֶת, יָקָח-לָו--שָׂאָרָה כְּסוּתָהּ וְעֹנֶתָהּ, לֹא יִגָּרַע). It is mentioned incidentally. Why isn't it mentioned directly?

I would like to share with you a thought I saw once B'sheim the Tchebiner Rav. As you know, we write a Tena'im. The Tena'im we do before a wedding usually at the Chosson Tish comes originally from the original Shtar Tena'im. The father of the Chosson and Kallah sat down and they made financial arrangements as to how they would take care of their children. It was a real Shtar Tena'im. Over time it has become a form that we use and nevertheless that is the origin of a Shtar Tena'im. It is a business contract.

I mentioned once to you that Rav Elyashiv when he wrote a Kesuba he wrote Yerushalayim Yud, Reish Vav, Shin, Lamed, Ende Mem the way it is written in Chumash. When it came to Tena'im, he wrote Yerushalayim with a Yud. He said it is a business contract.

At any rate, let me tell you the Tchebiner Rav's Vort. In the beginning of a Shtar Tena'im it starts (המגיד מראשית אחרית הוא יתן שם טוב ושארית לדברי הברית והתנאים שנדברו והותנו בין הני שני הצדדים). In other words, we start with a language of (יתן שם טוב ושארית). What does that mean? (שם טוב ושארית) says that this couple should have the Zechus to have an eternity. They should have generations that go in the way Torah and they should be Zoche to a Sheim Tov, a good name (ושארית) and an eternity.

Why do we mention that? This is a business contract, why are we mentioning this language (המגיד מראשית אחרית). What does that have to do, (המגיד מראשית אחרית) talks to HKB"H predetermining the couple that they would get together. Why is it here?

So the Tchebiner Rav said on the contrary. One might think this is a money deal. People are getting married and they have money arrangements. They will treat it as financial arrangements. (ואל יבריחו ואל יעלימו לא זה מזו ולא זו מזה שום הברחת ממון בעולם). It is like two partners who are making a business deal. That is not good. A couple that gets married and they treat things like a business deal? That is terrible. When you think of business deals and partners, you don't deal properly between the two sides. We tell the Chosson and Kallah right away, (הוא יתן שם טוב ושארית). We are talking about eternity, we are talking about a bond, a connection that has to transcend the financial obligations. Someone can't or doesn't pay doesn't ruin the relationship. You don't break up over it. On the contrary, we don't want to talk about business just as business. So we start with the (שם טוב ושארית).

This Vort from the Tchebiner Rav could explain as well why Sher, Kesus and Onah is not mentioned in regards to marriage. It is a business arrangement. You got to support the wife. What

if I can't support her or I don't have enough money? What about if we come on hard times? It is a business arrangement? No! We have to have an agreement, we have to have obligations to each other. In a couple if each person is looking to receive what he or she has to get that ruins the marriage. A person has to be looking at what he has to give, then it is a different relationship. A person has to look at his responsibilities.

I once told someone, you are worried about what you are supposed to get? Get is a dirty word when it comes to marriage. Therefore, Sher, Kesus and Onah doesn't belong in talking about marriage. It has to be mentioned so it is mentioned indirectly. This is the thought of the Tchebiner Rav L'gabay our Tenaim, and I think it fits well to explain as well the positioning of Sher, Kesus and Onah.

And so, one extraordinary Vort on (וּרְפָא יִרְפָּא), Rav Moshe and Rav Elchanan, and one beautiful Vort on Sher, Kesus and Onah the marriage relationship. With that, I want to wish everybody an absolutely wonderful meaningful Shabbos. A Gutten Rosh Choidesh to one and all!

## **Rabbi Reisman – Parshas Mishpatim 5783**

### **1 – Topic – A Thought on the Parsha**

As we prepare for Shabbos Parshas Mishpatim, Parshas Shekalim which means that we are on our way for the very special Shabbasos, we should feel that they are special Shabbasos of the year and they should be Shabbasos of Aliyah as we head towards the Purim/Pesach Geulah Hasamuch L'geulah that is on its way.

Today, we talk about Parshas Mishpatim, which is of course always a desire to discuss Choshen Mishpat Shailos. Let us start with a Machshava thought and then try to work our way to some of the Choshen Mishpat issues of Parshas Mishpatim. Let us start with a thought on the Parsha.

In this week's Parsha it says as is found in 21:19 (וּרְפָא יִרְפָּא) and the Gemara says in Maseches Berachos 60a (bottom of the Amud) (מכאן שניתנה רשות לרופא לרפאות). That the Torah gives permission to a doctor to heal. (מכאן שניתנה רשות לרופא לרפאות). A good Yedid of mine asked me that it already says as can be found in Vayikra 19:16 (לֹא תַעֲמֹד עַל-דָּם רֵעֶךָ), which means that you shouldn't stand by if your friend is in danger. So really (וּרְפָא יִרְפָּא) would seem to be unnecessary (מכאן שניתנה רשות לרופא לרפאות) once there is a Posuk of (לֹא תַעֲמֹד עַל-דָּם רֵעֶךָ). It would seem that (לֹא תַעֲמֹד עַל-דָּם רֵעֶךָ) is a Bein Adam L'chaveiro, don't see your friend in distress and leave him alone, (וּרְפָא יִרְפָּא) is not Als a Tovah to your friend. Of course it is a Tovah to your friend, but there is an objective Tov in a doctor healing. Let me explain by sharing with you a thought.

On the Yomim Noraim we say (הַנְּשָׁמָה לְךָ, וְהַגּוּף פְּעֻלָּתְךָ חֹסֶה עַל עֲמָלְךָ). Then we say (הַנְּשָׁמָה לְךָ, וְהַגּוּף). Let's translate. Sentence # 1- The soul is Yours and the Guf is Your handiwork, have mercy on that which You have created. Then again we say (הַנְּשָׁמָה לְךָ) the soul is Yours, (וְהַגּוּף שְׁלֶךָ). Instead of saying (הַנְּשָׁמָה לְךָ), the Guf is Your handiwork, we say (וְהַגּוּף שְׁלֶךָ), the Guf is Yours, (עֲשֵׂה לִמְעַן שְׁמֶךָ). What is the difference between the two sentences?

The explanation is that in the first place we say the soul is Yours, (וְהַגּוּף פֶּעֻלְךָ), You created the body. It is very easy to believe that in the past, G-d created the human body. G-d created Adam from whom everybody comes. (וְהַגּוּף פֶּעֻלְךָ). It is Lashon Avar. Hashem, You created the bodies of human beings and that we know. Our body is the creation of G-d. Then we say something much more. (הַנֶּשְׁמָה לְךָ, וְהַגּוּף שֶׁלְךָ). The word (שֶׁלְךָ) is Lashon Hov'e, currently. We say, the Neshama, the soul is Yours and the body is Yours, Lashon Hov'e, currently.

The Radvaz writes that Gufo Shel Adam Aino Kin'vano. A person's body is not his possession. A person doesn't own his possessions. The Radvaz is explaining the Posuk from which we learn that a person is not allowed to injure himself. He says, the Torah wants us to know that (וְהַגּוּף שֶׁלְךָ. יִרְוֶה) (עֲשֵׂה לְמַעַן שְׁמֶךָ). Anytime you do good to the body you should see it as serving Hashem.

We know, Rachmana Litz'lon and Hashem Yishmor, that there are people who with one diagnosis suddenly are challenged with the health of their body. Boruch Hashem, all of us, most of our lives, hopefully all our lives, we walk around with a remarkably functioning body. Unfortunately, there have to be incidents sometimes which remind us that (וְהַגּוּף שֶׁלְךָ) it is G-d's body, it is HKB"H's body. (עֲשֵׂה לְמַעַן שְׁמֶךָ). Take care of your body, take care of your health. Do it L'man Shemo, Do it L'man Hashem. The Hergish, the feeling of (וְהַגּוּף שֶׁלְךָ) is an Avodah, it is a service.

A doctor who heals should have that sense. A doctor who is busy healing people should have the sense (וְהַגּוּף שֶׁלְךָ). HKB"H I am healing Your bodies. The bodies you put in this world to be able to serve You. (עֲשֵׂה לְמַעַן שְׁמֶךָ) means that the doctor does L'man Shemo, does L'man Hashem. So it is more. (לֹא תַעֲמִיד עַל-דָּם רַעֲדָה) is all encompassing. Anytime you see your friend in trouble, help him whatever it might be. (וְרָפָא יִרְפָּא) is another calling. It is a calling to a doctor to take care of the Guf of a person. To take care of the Gufos Anashim. (מִכָּאן שֶׁנֶּתַן רִשּׁוֹת לְרופֵא לְרַפְּאוֹת). There is a famous Ramban who asks why doesn't it say (מִכָּאן שֶׁנֶּתַן רִשּׁוֹת לְאָדָם לְרַפְּאוֹת), that a person has permission to be healed? Whatever the Ramban's Teretz, but the point is that the Posuk is saying (לְרופֵא לְרַפְּאוֹת). It is telling the doctor to look at his calling of healing.

In Yor'e Dai'a we find similarities between a doctor and a Rabbi. There are certain Halachos it says by a Rabbi and it says by a doctor. Lomar Kol Adam Zochin Lilmod. You can't learn from everybody, you need a Rabbi that fits you. In Hilchos Nedarim it says Lomar Kol Adam Zochin L'hisrapos. Not from every person is a person Zoche to be healed. It has got to be his doctor, the right doctor.

It says that a Rabbi is not supposed to take money. It is supposed to be B'chinom. Only Schar Be'taila. Incredibly it says the same thing about a doctor. A doctor should take only Schar Be'taila. Okay, he has got to make enough money to cover his insurance and his medical schooling. But the noble idea of (וְרָפָא יִרְפָּא) is something which stands on its own two feet.

## 2 – Topic – A Choshen Mishpat Inyan

I have mentioned many times that disputes between the Ketzos and the Nesivos are fundamentals in Torah study. Nobody should come to the Mesivta D'rikiya L'asid Lavo, unless he is ready to at least recite one Machlokes Ketzos and Nesivos. I don't know what the Bechina is like L'asid Lavo,

but I imagine that they ask tell me over, repeat to me at least one Machlokes Ketzos and Nesivos. You went through a life in Olam Hazeh, you don't know a single Machlokes Ketzos and Nesivos, how can that be? It is so fundamental to the learning of so much of Torah.

Let me share with you a fascinating Machlokes between the Ketzos and Nesivos. This is in Choshen Mishpat, Siman Shin Ches, S'if Zayin. The Shulchan Aruch says an incredible thing. It says that if somebody loads up a (כתף) shlepper, a person whose job is to move things. Somebody loads a human being whose job it is to Shlep, so the person who hired him puts a heavy package on his shoulder, and it was too heavy. The person collapses and gets injured from it. So the Shulchan Aruch says that (זה חייב בנזקיו). Okay. The Chiddush is that the worker trusted the person who hired him, and therefore, it is not the responsibility of the worker it is the responsibility of the person who piled him up.

The Ketzos Hachoshen in Ketzos S'if Kotton Beis calls it Adam Hamazik. He says, which Mazik? As you know, there is Adam Hamazik, Shor, Bor and Aish. There are a number of Avos Nezikin. He says it is Adam Hamazik, a person doing damage. He makes a distinction. If a person collapses right away, it is like when a man hit someone with a hammer and is certainly Adam Hamazik. If a person carries for a while and then collapses that is Garmi, an indirect cause which has certain separate rules. The Ketzos analyzes putting a bundle on someone as Adam Hamazik. That the person who loaded him did damage.

The Nesivos in S'if Kotton Gimmel looks at it differently. The Nesivos calls it Mamon Hamazik. The person didn't do damage, the package did damage. You put your package on someone, that package did damage. Now presumably the Nesivos would agree that if at the minute you put it on the person that the person collapsed that is Adam Hamazik. It is no different than someone who hit something with a hammer. But he means you put it on the person that person teetered and then later shortly afterward collapsed. That is Mamon Hamazik. What is the difference?

Well Adam Hamazik has to pay Netzek, Tzar, Ripui, Sheves and Boshes from this week's Parsha. A person who damages another person has a slew of obligations. Got to pay him for his lost wages, got to pay his doctor bills, got to pay for his embarrassment and his pain. Mamon Hamazik only has to pay the damages and he doesn't have to pay the other four. This is a dispute in how to analyze, which is a typical Ketzos and Nesivos. A dispute on how to analyze. Somebody puts a bundle on someone and the person he teeters, he tries, and then shortly thereafter collapses, the Ketzos says it is Adam Hamazik and the Nesivos says it is Mamon Hamazik.

What is fascinating is the Ohr Sameach says that you are going with the opinion of the Nesivos. He says which Mazik is it? It is not Aish, not Shor. He says that it is a type of Mazik of Bor. We find in the Gemara that even though a Bor is a pit into which a person falls, we find a concept of Avno, Sakinoi, Umasoi. A person whose bundle he placed on a roof and a wind blew it down on the ground that that becomes a Bor. A person who gets hurt on it that is a Bor. The Ohr Sameach says according to the Nesivos' Shittah which he is going, that it is a type of Bor. Putting a bundle in a place where it is going to collapse somebody is a Toldah of the Mazik of Bor. Fascinating. This is the Machlokes.

Question – what would be the Din if Reuven takes a heavy stone and puts it on Shimon's table. Shimon's table collapses. Now one minute, if it is that as soon as he put it down it collapsed we already said that would be Adam Hamazik according to everybody. What about if he put it on the table and the table shuddered back and forth for a little while, and eventually it collapsed. It would seem Lot the Ketzos that that is Adam Hamazik and Lot the Nesivos it is Bor, Mamon Hamazik. Could it be, Bor is Patur on Keilim as there is a Gezairas Hakasuv that the damages of Bor that damage or ruin someone's Keili, you don't have to pay. Could it be that the Nesivos and the Ohr Sameach would hold that if you put a bundle on someone and it collapses a table you don't have to pay? If you overload a car and it collapses the suspension you don't have to pay? It sounds a little too much, but okay.

My goal with this anyway is for you to open up a Ketzos and a Nesivos. I chose a short Ketzos and a short Nesivos. Today they have notes underneath and you will find the notes and you will find the Mar Mekomos and you will have a Lebidike wonderful Shabbos meal arguing over this Machlokes Ketzos and Nesivos. IY"H at the Bechina you will just know one more Machlokes Ketzos and Nesivos.

And so, with the pleasure of having Parshas Mishpatim in a year in which Torah Vodaas is learning Maseches Baba Kamma and I have to pick what to Schmooze about tomorrow as there is so much in Baba Kamma that is in Mishpatim. IY"H, in the meantime I want to wish everyone an absolutely wonderful extraordinary Shabbos, a Shabbos of meaning. When they read Parshas Shekalim, picture in your mind's eye going up to the Beis Hamikdash and giving a donation of a Machatzis Hashekel. Having a part in all the Korbanos. Bim'haira B'yamienu Amen!

## **Rabbi Reisman – Parshas Mishpatim 5782**

### **1 – Topic – A Thought on Eved Ivri**

As we prepare for Shabbos Parshas Mishpatim on one of those rare years where Parshas Mishpatim is not Parshas Shekalim. The beginning of the Parsha of course begins with the Parsha of Eved Ivri and of course that is also the Haftorah of Parshas Mishpatim which deals with the topic of Eved Ivri. Let me share a thought or two on this topic.

The Shaarei Teshuva of Rabbeinu Yonah in Cheilek Gimmel, Siman Zayin says a Davar Chiddush. We know there is a Parsha of Eved and it happens to be that for us today in the 21<sup>st</sup> century the Parsha appears to not be Noge'a at all. Slavery has been abolished and even voluntary slavery where someone sells himself on his own into slavery doesn't exist and we don't have Avadim at all in our day and age. However, Rabbeinu Yonah says that there is one aspect of the Halachos, and the Dinim with dealing with an Eved Ivri which does apply all the time.

One of the Halachos regarding an Eved Ivri which is in Parshas Behar is 25:46 (וְבִעָתִיקָם בְּנֵי-יִשְׂרָאֵל (אִישׁ בְּאֻחָיו, לֹא-תִרְדֶּה בּוֹ בְּפִרְךָ). Which means that even when someone is a servant, a person is commanded not to work with him with undue strictness, with very hard work. Rabbeinu Yonah says a Chiddush. He says that even if someone is not an Eved, if it is just a life situation where there are two individuals and one person has the influence or the ability to pressure another person. He might be that person's boss, he might be that person's superior at work, or he might be

somebody who just because of societal setting is more influential and more important than other people who feel subservient to him. When you have such a situation where one person has the ability to put pressure on a second, there is a responsibility that one person not pressure another person to do favors for him. It is unfortunately a common thing of people who need favors who take advantage of others who have to come on to them.

Rabbeinu Yonah says Lo Yishtabeid Adam L'chaveiro, V'aimaso Aleihem. If for some reason the second person has fear of the first person, or they are just embarrassed not to listen to that person, he should not tell them do me a favor big or small. He gives examples, don't ask him to cook up some water for you, don't ask him to go the store and buy things for you. The idea being that a person is not supposed to force someone else to do something.

Rabbeinu Yonah gives an exception if you have someone who is misbehaving and you can pressure him or somehow influence him, then you do. But by Anashim Mehuganim, by proper people it is an important corollary of the Issur of servitude and not to even temporarily for a moment take advantage of the ability to pressure someone else.

The Middos of the Torah include Chesed and Gevurah, the first two Middos the Middos of Avraham and Yitzchok. Chesed is an outwardly Middah. It is a Middah where you influence others. It is a Middah of kindness, worrying about people's comfort. Chesed is an outward Middah.

A warped Chesed is when someone is worried about his own comfort, about his own benefit. It is a warped Middah of Chesed. Chesed is an outward Middah. You worry about someone else. When you are worried about your pleasure it is a warped Middah of Chesed. In the Parsha of Znus it says Chesed Hu. The Torah actually uses the Lashon once where it is a warped Chesed.

The Middah of Gevurah is discipline. Discipline is the opposite. It is an inward Middah. You are supposed to discipline yourself. That is a fine Middah. When someone takes the Middah of discipline and uses it to discipline others, to pressure others, to take advantage of others, to have Gevurah against others, that is a warped Middah. That is the Middah that Rabbeinu Yonah is warning us about. And so, there is a lesson from the Parsha of the Eved Ivri that applies today and that is the idea that a person who can pressure someone else to do something for him should be careful not to take advantage of his position.

## **2 – Topic – A Thought on the Haftorah**

Let's move on to a sentence in this week's Haftorah. In this week's Haftorah the Navi admonishes the Jewish people about dealing with an Eved Ivri properly and in doing so he says Yirmiya 34:13 (פה-אמר ירור, אלרי ישראל: אנכי, כרתי ברית את-אבותיכם, ביום הוצאי אותם מארץ מצרים, מבית עבדים לאמר) (מקץ שבע שנים תשלחו איש) (את-אחיו העברי אשר-ימכר לה). You have to send out the Eved Ivri at the end when the 7<sup>th</sup> year begins you have to send him free. What is going on here? This week's Parsha is not the day they left Mitzrayim, this week's Parsha follows Mattan Torah. It is at least 50 days after the leaving of Mitzrayim. How could the Haftorah say on the day you left Mitzrayim I taught you this?

Some of the Meforshei Hanavi say (בְּיוֹם הַזֶּה) doesn't mean on the day it means in that period of time. What do you mean the period of time? All Taryag Mitzvos were commanded in this period of time. The Baalei Mussar say the following. They say why does Mishpatim start with Eved Ivri as there are many more practical Mitzvos in the Parsha, why start with Avadim?

The answer is the Torah is teaching us that if you go through an experience and you see how terrible something is, you have to be extra careful in your own life to be Zahir in that Middah. If you suffered from a warped Middah, you have to be careful not to make mistakes with that very same Middah yourself. When Klal Yisrael left Mitzrayim HKB"Y said you are walking out of being Avadim, be careful. Don't mistreat your Avadim. Once you felt the mistreatment of others, you have to be supersensitive not to be the one who mistreats other people. That is what the Navi means.

The Navi says on the day I took you out of Mitzrayim, no it doesn't say on the day that I took you out of Mitzrayim, it says on the day that I took you out (מֵאֶרֶץ מִצְרַיִם, מִבֵּית עֶבְדִּים). I took you out from being slaves, on that day I told you treat your Avadim right. I told you, it doesn't mean that there was a Nevua through Moshe, but it means that once a person walks out of a certain experience he himself has to be extra careful to learn from that, if he is a victim of something not be a person who victimizes others.

Sometimes this is very challenging. But it is an important lesson for a person to know that your experiences have to teach you what to be extra careful about in the future. So that if you experienced mistreatment you should take it to heart, you should understand that the suffering you endured is real and not G-d forbid make someone else suffer from that very same thing.

And so, the lesson of Rabbeinu Yonah applies to anyone who has been taken advantage of. You have to learn when you are taken advantage of to understand never to take advantage of someone else.

### **3 – Topic – A Thought for Chodesh Adar**

This week we Bentch Rosh Chodesh Adar and with that I would like to end today with an appropriate Dvar Torah for the month of Adar as it comes upon us. I would like to share with you the following very Geshmake thought.

It says in the Yerushalmi in Maseches Berachos in the 7<sup>th</sup> Perek where there is a Kler. At the table when you are Bentching who should lead the Bentching the Baal Habayis or a guest? The Yerushalmi Klers if it is better for the master of the house to lead the Bentching or should the guest should lead the Bentching. The Gemara resolves it by bringing an incident with Rav Zeira.

It says that Rav Zeira was once a guest in a home and he Bentched. So clearly they held that the guest Bentches and from there the Gemara learns out Maisch Rav, from the Maisch of a great person that the guest Bentches.

The question on this Gemara is that Rav Zeira was a Kohen so how could you bring a Raya from there. Maybe really the Baal Habayis leads the Bentching but if the guest is a Kohen and the Baal



Habayis has a Mitzvas Asei to honor the Kohen and give him the Bentching and that is why the Bentching was given to Rav Zeira. What is the Raya from there? This is a difficulty with the Yerushalmi.

The Aderes – Rabbi Eliyahu Dovid Rabinowitz – Teomim said a very Geshmake Teretz. The Gemara says in Megillah 7b that (קם רבה שחטיה לרבי זירא) that Rav Zeira was killed by Rabbah and then brought back to life again. Says the Aderes, he is no longer a Kohen. He was born a Kohen but after he died and he is brought back to life, someone who dies and is brought back to life he is not a Kohen by Techias Hamaism. That is what the Aderes says.

The Steipler quotes this and asks a Kasha. He doesn't understand how the Aderes could say such a thing. The Gemara says at the beginning of Perek Cheilek where do we have a source to the idea of Techias Hamaism? One of the sources it brings is from a Posuk which says that Teruma will be given to Aharon U'banav. That you will give the Teruma gift to Aharon U'banav. The Gemara says what do you mean – Aharon died in the Midbar and he never got Teruma? His sons got Teruma but he never got Teruma. The Gemara says that Mi'kan L'techias Hamaism. There will be Techias Hamaism and Aharon Hakohen will get up again and then he will have Terumah. That is what it says in the Gemara.

Says the Steipler the Aderes is wrong, the Aderes says by Techias Hamaism a person is no longer a Kohen when he reawakens, but we see and that is one of the sources of Techias Hamaism is Aharon Hakohen and you see that he is going to be a Kohen when he gets up. It sounds like a Teyuvta on something the Aderes says. Sounds like a great Kasha.

There is just as a Geshmak a Teretz which I have seen (but I don't recall where). The Teretz is great. There are two types of Kohanim. Most Kohanim are Kohanim by virtue of their father being a Kohen. It is a virtue of birth. Aharon Hakohen and as a matter of fact Aharon Hakohen's sons as well, and Pinchas were not born Kohanim. They became Kohanim because HKB"H gave them the gift of Kehunah. It was them personally, they personally received Kehunah. Therefore, the Aderes is right. Rav Zeira was a Kohen because his father was a Kohen. So that means that he is born to his father and he is a Kohen. If he dies and is so to speak born once again with Techias Hamaism, then the Aderes says he is Os Kohen, he no longer has a Din of Kohen. You can't ask from Aharon Hakohen or from Aharon and his sons because Aharon and his sons got Kehunah as a gift personally. So even by Techias Hamaism he remains a Kohen. It is something personal to him. Since it is personal to him, just like he remains Aharon, the same thing he remains a Kohen. A very Geshmake Teretz to a Kasha that seemed to be an absolute Tiyuvta.

Plus this gives us an understanding that by Pinchas he got Bris Kehunas Olam. He got the eternal Bris of Kehunah. What does it mean eternal? All Kehunah is eternal? No! Had Pinchas been a Kohen by virtue of being born a Kohen it would only last until Techias Hamaism but not after Techias Hamaism. But since Pinchas is given it personally and not by virtue of being born a Kohen, he has Bris Kehunas Olam, he has an eternal Bris Kehunah.

This explains the Shittah of the Aderes. I don't say that necessarily everyone agrees with him on this but be that as it may the words of the Aderes and the Kasha of the Steipler and Geshmake Teretz have that type of Geshmake feeling that gets us into a mood for the month of Adar. A

Geshmak in our learning. We should be Zoche to have a Geshmak in our learning and then you will learn. But first learn even without Geshmak but then work towards a Geshmak in learning. IY”H let us hope as we enter a year with two Chodesh Adars it should Tak’e indeed be a year of Ribui Simcha of extraordinary Simcha in all of Klal Yisrael! A Gutten Shabbos to one and all!

## **Rabbi Reisman – Parshas Mishpatim – Parshas Shekalim – Shabbos Rosh Chodesh**

The Shiur is transcribed as a Zechus for a Refuah Sh’leima for Shmuel Eliyahu Dovid ben Masha and Rochel Leah bas Hentcha Gittel who have Covid-19 in Eretz Yisrael. Please keep them in mind in your Tefillos.

### **1 – Topic – A thought for Rosh Chodesh**

As we prepare for a triple preparation, a preparation for Shabbos Parshas Mishpatim, Parshas Shekalim (the first of the four special Parshios) and of course a Shabbos Rosh Chodesh and not just any Rosh Chodesh but the most joyous Rosh Chodesh of the year Rosh Chodesh Adar.

Indeed let me start with something on the Haftorah of Shabbos Rosh Chodesh. In the Haftorah of Shabbos Rosh Chodesh the Posuk says as can be found in Yeshaya 66:23 (וְהָיָה, מִדֵּי-חֹדֶשׁ בְּחֻדְשׁוֹ, וּמִדֵּי (שָׁבָת, בְּשַׁבָּתוֹ; יָבוֹא כָל-בָּשָׂר לְהִשְׁתַּחֲוֹת מוֹשִׁיָּאחַ that there will be a time when it will come in the days of Moshiach that on every Rosh Chodesh people will go up to be Oleh Regel, not just on the three Regalim. (מִדֵּי-חֹדֶשׁ בְּחֻדְשׁוֹ, וּמִדֵּי שָׁבָת, בְּשַׁבָּתוֹ). Some Rishonim say that it means every Shabbos and others understand that it refers to Yom Tov. But certainly Rosh Chodesh will be a Yom Tov.

As a matter of fact, the Tur in Hilchos Rosh Chodesh says that if it wasn’t for the Cheit Ha’eigel Rosh Chodesh would be a Yom Tov. That is why Biz’mān Hazeḥ it is not a Yom Tov. Interesting, L’asid Lavo there will be a reason to be Oleh Regel more often than there is now. Certainly that needs some type of an explanation, some type of a Bi’ur.

I saw a Bi’ur which I hope that I am saying over correctly, but it is I think based on a GR”A. The GR”A is on Berachos 8a (25 lines from the top). The very famous Gemara there says that when a woman would get married they would ask the new husband (מִצָּא אוֹ מוֹצָא). Are you (מִצָּא) as in (מִצָּא מִצָּא טוֹב) did you find a good wife or (מוֹצָא) as in (וּמוֹצָא אֲנִי מִרַמְמוֹת אֶת הָאִשָּׁה). The Gemara brings a Posuk where a man says the Isha is Mar Mi’maves. I found a wife who is more bitter than death. So he asks the Chosson (מִצָּא אוֹ מוֹצָא) how is your wife? Funny thing to ask a Chosson and much has been said about this.

The GR”A says that we tell the Chosson a message. (מִצָּא) is past tense. (מוֹצָא) is current tense. The nature of a person is that a person always wants new excitement, a person always wants new things. Chiddush excites a person. The stability of a constant joy is something that somebody who is refined or has values appreciates more. The younger a person is, or the more flippant a person is, or the less grounded a person is the more he has a nature of wanting something new, some new excitement. Children are always looking for new excitement. We tell a man if you want to be happily married (מִצָּא). If it is okay for you, you found a good wife, you live your life happily with what you accomplished in the past, finding a woman, you will have a happy life.

If you are a (מוצא), if you are someone who needs new all of the time, new excitement, new joy, it is not going to work, it is not going to happen. The stability of a married home is the stability of a home where husband and wife have a relationship that assumes permanence, assumes a certain boring continuity. It is not a boring continuity but it just lacks excitement, it is a happy continuity. Happiness and excitement are two different things. Some people need excitement, Oy Nebach. Some people need happiness, that is wonderful. Happiness is in having a content and happy life. Azoi Zagat the GR”A.

Rosh Chodesh is not like Yomim Tovim. Yomim Tovim, every Chag comes to commemorate something. Pesach commemorates Yetzias Mitzrayim, Shavuot – Mattan Torah, Sukkot – the Ananei Hakavod. There is a lot to remember, a lot to commemorate, a lot of Divrei Torah to say about each Chag. However, for Rosh Chodesh, how many Divrei Torah do you have about Rosh Chodesh, let me ask you? It is not like Pesach, Shavuot or Sukkot. Rosh Chodesh is the continuity, making it to the beginning of another month Boruch Hashem and moving on in life.

Boruch Hashem we mark the time that we have accomplished, that we have put in the bank, in that we serve HKB”H, we have a lifetime to accomplish in serving Hashem. Every month we say Boruch Hashem we have one more month in the bank. We served Hashem, we Davened with Minyan for 30 days 3 times a day it is amazing. We put it in the bank. Every month is an accomplishment. But it is not an excitement.

When Klal Yisrael sinned with the Eigel, and their Madreiga went down. HKB”H said you are not ready for the Yom Tov of Rosh Chodesh. I am going to give you a Yom Tov 12 times a year plus 3 Regalim, 15 times a year, you will not even be excited to see me, you are not going to be excited to be Oleh Regel. Guess what, if you go down a Madreiga you need something that is new. You will be afraid of the boring old, you are not a Baal Madreiga. Therefore, be Oleh Regel 3 times a year. When Moshiach will come and we will be Baalei Madreiga once again, (וְהָיָה, מִדֵּי-חֵדֶשׁ בְּחֻדְשׁוֹ, (וּמִדֵּי שָׁבֹת, בְּשַׁבָּתוֹ; יָבוֹא כָּל-בָּשָׂר (ומידע שבת, בשבתו; יבוא כל-בשר). Then we are going to appreciate. The Madreiga to have a Mai’ain Olam Habo now. It is Mamash Mai’ain Olam Habo when you appreciate what you have on a constant basis and you don’t need new all the time, that is a Madreiga.

People like Chiddushai Torah, it is nice Chiddushai Torah. Other people like to have Yedios in Chazarah and know what it says in Shas, that is what really counts, that is what really matters. People like new friends, it is nice to have new friends. People appreciate their old friends, the friends they have, that is a higher Madreiga. Incredible! An explanation of the Yom Tov of Rosh Chodesh.

Thinking about it as I say it now, it may explain why after the Cheit of the Eitz Hadas it started that a woman has a Niddah cycle. A cycle where she is Assur to her husband every month. To create some new excitement all the time. Why? Because when you are on a lower Madreiga you need excitement all the time. It is nice to be excited about learning and it is nice to be excited about Purim, don’t get me wrong. Excitement is an important thing to use. But it is the second most important thing. The most important thing is happiness and the continuity of serving HKB”H every day. Midai Chodesh B’chadsho and Midai Yom B’yomo. Every single day. And so, that is a thought for Shabbos Rosh Chodesh.

## **2 – Topic – A thought for Parshas Shekalim.**

Let's talk a little bit about Parshas Shekalim. Al Pi Pashtus, Parshas Shekalim is at Rosh Chodesh Adar and coincidentally it has nothing to do with Mishenichnas Adar Marbim B'simcha it is that on Rosh Chodesh Nissan we need to have money for the Korbanos of the new year and the new year in the Beis Hamikdash begins with Nissan, so the month before we start collecting Shekalim and the month before happens to be Adar. If it would have been Shvat or a different month we would collect then. The Pashtus certainly is that Mishenichnas Adar has nothing to do. However, we know that there are no coincidences. The correct understanding is the understanding that when a Yid gives of his money to others he is joyful.

In Divrei Hayamim Aleph 29:9 (וַיִּשְׂמְחוּ הָעָם, עַל-הַתְּנָדָה, כִּי בָלַב שָׁלֹם, הַתְּנָדָה לִירֵרָה). The people were overjoyed that they gave money. Until you give it it is hard. But when a person gives money, there is an excitement, there is a joy. A Yid has joy when he gives. HKB"Y showed Moshe a Mat'bai'a Shel Aish. Money that is fire. It was given like Rav Schorr says Tocho Ratzov Ahava. There is a donation to the Beis Hamikdash, they are donations of love, a fire'dika love. There is a Simcha in a person giving.

There was a secular Jew, a well-known Jew who was a tremendous philanthropist, and in an interview he was asked why he gives away so much money? His response was, that is what Jews do.

I remember when Reagan was President in the 80's and I was a Kollel Yungerman. He said that charity should take over a lot of the government benefits to the poor people. Charity should do it. Then I remember that they published his tax returns. Me a Kollel Yungerman and he the President with all of his income gave roughly the same amount to charity that year. Incredible! That is what Jews do. (וַיִּשְׂמְחוּ הָעָם, עַל-הַתְּנָדָה). Parshas Shekalim comes by Mishenichnas Adar Marbim B'simcha. Purim has become synonymous with giving Tzedakah. Because when Jews are happy they give Tzedaka. When Jews give Tzedaka the Jews are happy. That is Parshas Shekalim. Mishenichnas Adar Marbim B'simcha. We give of our money, we give of our time, we give our homes. There is nobody like Klal Yisrael. Ribbono Shel Olam where do you have people like Klal Yisrael. They work hard and they give it away with a joy, with a happiness, with a Simcha. Mishenichnas Adar Marbim B'simcha. A month of great Tzedaka.

## **3 – Topic - A thought on Parshas Mishpatim**

Let me mention to you a fascinating Shaila. I was reading and I recently gave a Shiur about the establishment of the neighborhoods outside of Yerushalayim. Nachalas Shiva, Meah She'arim. On Motzoei Shabbos I gave a Shiur and I mentioned Rav Yosef Rivlin who as yet a Bochur was the force behind the spreading of the Jews. Do you know that until the 1870's Jews lived only in the walled city? There was no one outside. The New Jerusalem didn't exist. He was one of the forces.

He brings the following incident. He said that in Yerushalayim people were excited and they gave money to the new Yishuvim but there was a miser in Yerushalayim in the old city. A rich man who had no family and lived himself. He wouldn't give away a penny. There are people like that.

Nebach. It is an illness. He called Rav Yosef Rivlin to his house as he was dying in his final illness. He said to him you see this bag? I think the number was 320 golden Napoleons. I don't know what Napoleons are beyond something you eat, but I have read that a Napoleon is a year's salary. It is a lot of money. 320 golden Napoleons.

He said I want you to take this bag of Napoleons and when they bury me put it under my head. Bury me that way. He had no known relatives to leave it to. He wanted to be buried with it. The man died. What is related in the history books is that Rav Yosef Rivlin put it under his head and then took it out and used it to buy land for part of the new Yishuv of Yerushalayim.

When I read it I was shocked as Divrei Shechiv Mai'ra is as if it is written and given over. I didn't understand it. A Parshas Mishpatim Shaila. The answer is I believe, the following. A big Yesod. Those of you who were in Shiur here in Torah Vodaath would have heard this from me. A big Yesod. Words without a Kinyan are nothing. If someone says to you if I win the lottery I will split it with you and then he wins the lottery, he can tell you that he changed his mind. What do you mean changed your mind, you told me? But you can change your mind. If you want it to be binding make sure you do a Kinyan, do the right Kinyan. You have to pick up the lottery ticket and be Kon'e it. Without a Kinyan a person can change his mind.

When someone is dying and he gives money away, it may be according to some Rishonim whatever he says is like a Kinyan. Divrei Shechiv Mai'ra K'kesuvim Um'surim Dami. That is only if he gives the money away. If he says I am giving it to Reuven so you have to listen to him perhaps according to these Rishonim and give it to Reuven.

Here there was no Kinyan, he didn't say to give the money to anybody. He said do something, put it under my head. If someone who is dying says do something you are not obligated to do it. You don't argue with him while he is dying. You are not obligated to do it, and therefore, he wasn't even obligated to put it under his head for a moment. It will be like all money that falls to the Beis Din and a man who has no Yorshim, and apparently that was the Minhag of the Beis Din to give it to Tzorchei Tzibbur.

Mimeila that is an explanation of that story. I believe and I didn't see a Psak Halacha that that is where it comes from, and the Yesod that when someone tells you to do something for you, someone tells you that he will give you a job, someone tells you that he will rent you an apartment, whatever he tells you if he changes his mind don't have Tainos to him. A man is allowed to change his mind. There are people who are on a Madreiga that they say something and it is like gold and they won't change their mind. But a man is allowed to change his mind, certainly if new circumstances come up. Don't have complaints to him. You want it to be binding, do a proper Kinyan.

And so, we squeezed in a Choshen Mishpat Shaila in honor of Parshas Mishpatim, a Tzedaka Vort in honor of Parshas Shekalim, and a Midei Chodesh B'chodsho idea in honor of Shabbos Rosh Chodesh. It is going to be a wonderful extraordinary Shabbos Rosh Chodesh and a wonderful Adar full of Simcha. It will be a month where IY"H Eretz Yisrael will open up, people will have Refuos and Yeshuos. May HKB"H send us the vaccine that we should have Bitachon in the Ribbono Shel Olam that there is a place for the Beracha to be Chal B'derech Hateva. IY"H the Beracha will be

Chal, is being Chal. Refuos and Yeshuos for all of Klal Yisrael. A Gutten Shabbos Rosh Chodesh.

## **Rabbi Reisman - Parshas Mishpatim 5780**

1 - Topic - A Halacha thought on Bai'lav Imo.

As we prepare for Shabbos Parshas Mishpatim, the Parsha with Dinai Mamon, many financial rules. In the Parsha, there are lots of many important Rashi's. My first discussion, almost my first story, has to do with one of those Rashi's.

I was in the classroom and as always I was trying to give my Talmidim good advice, and I told them that it is a good idea to do the following. Let us say that you are borrowing a car from someone, and we all know that a Sho'eil, someone who borrows, is obligated to pay on just about any damage that happens to the car. Even if it isn't his fault and it is an Oneis a borrower has to pay. If it is stolen a borrower has to pay.

I have a great idea. I told them, when you go and borrow a car from your good friend Reuvain, at that time give him \$2 and tell him do me a favor. When you go to the store, buy a can of soda for me for \$1 and keep the second \$1 for payment of your Tircha. This is what you should do to him. What do you gain?

You gain lots. Not just a can of soda, but since there is a Gizairas Hakasuv of as is found in 22:14 (אם-בְּעָלֶיךָ עִמּוֹ) Bai'lav Imo which means if you borrow something from someone that person is working for you, Bai'lav Imo, the owner of the borrowed object was working for you. In that case, you are Patur because there is a Gizairas Hakasuv of Bai'lav Imo that in a situation where the person lending it to you works for you, you are Patur on Onsim, you are Patur on Genaiva V'avaida. Wow! It is insurance for \$1.

So the young men in Shiur asked me really? 1) But he is not working for you in any way related to the car that is borrowed, and 2) he is only working for you for the first few minutes and you may have borrowed the car for a week.

I said okay it is this week's Parsha so let's look it up. That evening when I was being Mavir Sedra and reviewing the Parsha, I came to the Posuk of Bai'lav Imo in Posuk Yud Daled. Rashi says (בְּעָלֶיךָ עִמּוֹ) that I would think that it has to be in the same Melacha as the borrowed object, Rashi says no, even if he is working for you in something else. Then Rashi says even if he is working for you at the time that you borrow and the work comes to an end you still have the P'tur of Bai'lav Imo, it goes by the time you are borrowing. Which means to say that I was right and it is a great Eitza. When you borrow a car or you borrow anything give him \$2, tell him \$1 is to buy you a soda and \$1 is a payment for your effort. Then you will be Patur if something happens to the car. This is our discussion.

The next day, the discussion changed to whether this is right. Is it the right thing to do to have him lend you a car and he goes out of his way to get you a soda that you don't even want. Is it the right

thing to do? That is an interesting question. After all, it is clearly the Halacha, and any time you do a business deal with someone you look to frame the deal in a way that is most advantageous to you without being dishonest. Here, he probably doesn't realize that by agreeing to work for you to buy the soda he is indemnifying you against most types of damage. Is it the right thing to do? That is an interesting question.

Now you might sit in your armchair and say yes or no. The question is, to try to find some type of Raya, some type of proof but I am not sure. There is a story in Masseches Kiddushin 22b (3 lines from the bottom) of Mar Zutra who saw a Ger dying and this Ger had no Yorshim. He took the Ger's Eved and had the Ger's Eved carry things for him. So that the moment the Ger died, the Eved would be working for him and he would become his Eved. Had the Eved not worked for him the Eved would have gone free. This is because if someone is an Eved for a Ger who has no Yorshim, he goes free. But since at the moment of death he was working for Mar Zutra, he became Mar Zutra's servant. There you might say the same thing. The Eved is doing you a favor by carrying something for you. You are hoodwinking him, you are fooling him. You are not just fooling him out of a car, you are fooling him out of becoming a Ben Chorin. Mar Zutra did it and he was okay.

Now, it is possible to make a distinction between the two cases but I leave that for you. So again, three things. 1) The Halacha of Bai'lav Imo and Rashi, 2) The Kler of is it the right thing to do and 3) this Raya from Kiddushin 22b. If you have other Rayas kindly let me know.

2 - Topic - A Story from Rav Yaakov in Slabodka on whose money is it?

This comes from the Emes L'yaakov on Divrei Hayamim. The Emes L'yaakov on Nach in volume 2. Volume 1 was not yet published, but they put out volume 2 on the second part of Tanach first. In volume 2 in Divrei Hayamim Perek 29 there is a footnote regarding Parshas Mishpatim and the whole piece there is just a beautiful piece. I am sure that when you are learning Divrei Hayamim you will bump into it. If you are not learning Divrei Hayamim you ought to come to Mishmar 2 which is the second half of Mishmar from 12 - 12:30 at night, we learn a Perek a week of Divrei Hayamim. We are up to Perek Yud Zayin. It is interesting and fascinating. It is wonderful. You see 30 - 35 people interested at midnight. It is worth it just to come and see it.

Anyway, Rav Yaakov says the following. He says you would think that after Mattan Torah that the first things that would be taught would be things that have religious significance. In other words, you have Mattan Torah so the first rules you should tell me are the religious rules. How to serve G-d, the Mitzvos of Bain Adam L'makom. The Mitzvos that have to do with serving G-d. Moshe taught them (וְאֵלֶּה, הַמִּשְׁפָּטִים). He taught them about financial dealings. Rav Yaakov says that what Moshe wanted to teach Klal Yisrael was that financial dealings are also Avodas Hashem. You are also serving Hashem in Dinai Mamon as well.

There are some rules that are a Chok as they have a reason which we don't know. The rule of Bai'lav Imo which I mentioned at the beginning of the Shiur is a Chok. We don't know. There is no reason given. Most categories of Dinai Mamon have one rule that is a Chok. Like a Bor. You dig a Bor and a car gets damaged, you are Patur. Bor is Patur on Keilim. Why? We don't know. They are Chukim. So Moshe Rabbeinu told Klal Yisrael, after Matan Torah we are going to learn Dinai Mamon because you should know that that is Avodas Hashem.

Something similar to what Rav Moshe said about boys starting to learn Gemara from the Perek of Eilu Metzios. There are Yeshivos that wanted to start with Berachos. Rav Moshe said that the custom among the Jewish people was to start boys with Eilu Metzios, to teach them at the very outset that if it is not yours don't take it. That is Torah. Honesty, integrity is Torah.

Rav Yaakov brings a moving incident that he witnessed as a young man in Slabodka. Rav Yaakov was in Slabodka after he got married and he was there for 5 years in the Kollel. At that time, Rav Pam was a 12 year old and was in Yeshiva Ktana. Rav Pam ate by Rav Yaakov the Shabbos meals. Something which in another generation on another continent he paid back when he was in Torah Vodaath and he invited Rav Yaakov Kaminetzky's grandchildren to eat at his house for Shabbos.

While in Slabodka, Rav Yaakov saw a Din Torah. Rav Moshe Mordechai Epstein (1866 - 1933) was the Posek of Slabodka. Two people had a Din Torah over a piece of land and Rav Moshe Mordechai Paskened that the land belonged to one. The other complained that his Psak was not logical. Rav Moshe Mordechai said my Psak is Al Pi Shulchan Aruch. The person said but it just doesn't make sense, it is not logical. Rav Moshe Mordechai took the man by his hand and said I have to explain to you. You think the Din Torah is, is this land mine or is this land his. Wrong! The land is G-d's. G-d gave us a book that tells us who gets which land. That book is called Shulchan Aruch. When G-d gave this land to human beings he said which human being gets it? Here is a book, look it up. Our job is to look it up. We look it up in the book. Whoever the book says it belongs to, he gets it.

That is our attitude towards money. It is G-d's money. Who gets it? Look it up in Shulchan Aruch. Now you may ask what does this have to do with Divrei Hayamim Perek 29? I will answer you. In Divrei Hayamim Perek 29 Dovid Hamelech makes an appeal for money for the building of the Bais Hamikdash that his son Shlomo would build. The people respond generously. 29:9 (וַיִּשְׁמְחוּ) and they rejoice that they gave so much money. Dovid speaks and Dovid says as is found in 29:14 (כִּי-מִמֶּנִּי הִפֹּל, וּמִיָּדְךָ נִתְּנוּ לָךְ). HKB"H it is all your money. When we give it, we are giving yours. Miyad'cha Hi Ul'cha Hakol. It is from your own hand. It is all yours.

Rav Yaakov said these are the two attitudes of a Frum Yid when giving Tzedaka. 1) (וַיִּשְׁמְחוּ). It may be hard to give, but once you give a Yid is happy he gave. 2) The attitude that a Yid has to have towards money is (כִּי-מִמֶּנִּי הִפֹּל, וּמִיָּדְךָ נִתְּנוּ לָךְ). Jews do have that attitude. Jews are extraordinary Menadvim, donors to Tzedaka. As Rav Moshe Mordechai said, you think it is your or his? It is all G-d's. The book tells us who gets it. That is the Yid's attitude towards Dinai Mamon.

And so, two extraordinary thoughts, one on Halacha and Rav Yaakov taking us back what must have been 100 years ago when Rav Yaakov was about 25 years old. Taking us back 100 years ago to an incident in Slabodka where Rav Moshe Mordechai Epstein's words, he would have never dreamt 100 years later they would be repeating it on a phone call, something that is going to be typed up and is disseminated. Rav Moshe Mordechai would never have dreamt it but he had a wonderful Talmid Rav Yaakov who looked to pass it to the future generations.



And so, with that, I wish everybody a wonderful Shabbos Parshas Mishpatim, a wonderful Chodesh Adar as we enter into the Adar Sh'Marbin B'simcha. Let it be a time of Simcha for all of us. A Gutten Shabbos to all!

## **Rabbi Reisman Parshas Mishpatim 5779**

Welcome everyone, as we prepare for *Shabbos Kodesh Parshas Mishpatim*.

1. When talking about *Parshas Mishpatim*, I'd like to start from the end of the *parshah*.

We find, at the very end of the *parshah*, that the Torah goes back to the period of *Matan Torah*, and specifically to Moshe Rabbeinu bringing a *korban*, thereby being *kores bris* with Hakadosh Baruch Hu.

'*Vayikach sefer habris, vayikra b'oznei ha'am,*' and the people say, '*na'aseh v'nishmah*' (Shemos 24:7). Right after that, in the next *posuk*, it says, '*Vayikach Moshe es hadam*' - Moshe took the blood of the *korban*, '*vayizrok al ha'am*' - and he sprayed it on the people. The *posuk* describes the blood that Moshe Rabbeinu used in the *korban* as something that he divided in half. '*Vayikach Moshe chatzi hadam vayasam b'aganos, v'chatzi hadam zarak al hamizbei'ach*' - half of it he sprayed on the *mizbei'ach*, and the other half he sprayed onto the people when they said *na'aseh v'nishmah*.

It's interesting that Rashi says that a *malach* came and split the blood exactly fifty-fifty. Why it had to be exactly fifty-fifty is a little hard to understand, but *azoi shteit*.

I'd like to share with you something the *Pachad Yitzchok* says in one of his letters (*Iggeres* 77), regarding this idea of the blood being split fifty-fifty.

Rav Hutner discusses the word "*luchos*." The word "*luchos*," as it appears in regard to the *Luchos Habris*, appears for the most part *chosser*. What I mean to say by *chosser*, is that it's spelled *lamed-vav-ches-saf*, not *lamed-vav-ches-vav-saf*. There is certainly a *remez* in it; some message in why "*luchos*" is spelled *chosser*.

In *Parshas Ki Sisa*, it says that Hakadosh Baruch Hu gave to Moshe '*shnei luchos ha'eidus*' (31:18). *Luchos* is spelled *chosser*; it's actually missing both *vavs* - *lamed-ches-saf*. What is the *remez* of the fact that it's spelled *chosser*?

Rashi says that it is coming to tell us that both *luchos* were equal. One wasn't bigger than the other; they were both precisely the same size.

What is the *remez* in the two *luchos* being exactly the same?

Says Rav Hutner, that's the *krisas habris*. The idea of being *kores bris*, typically is - or at least was in the times of Chazal - that, as Rashi says by the *bris bein habesarim*, things were divided fifty-fifty and the *balei habris* went in between. This was as if to say, 'we're fifty-fifty with

each other; I'm loyal to you and you're loyal to me'. A *bris* is a statement of devotion and dedication one side to the other. That is the typical *bris*.

Here, it was a different *bris*. It was a *bris* of Torah. Hakadosh Baruch Hu, in giving the *luchos*, demonstrated to Klal Yisroel that the *luchos* are a *bris* that Klal Yisroel has to be *metzuyanim*, excellent, in both *bein adam l'chaveiro* and *bein adam l'Makom*.

Each of the two *luchos* - one representing *bein adam l'Makom*, and one representing *bein adam l'chaveiro* - were '*shneihem shavos*'- they were precisely equal.

This is also the *remez* of the dividing of the blood. Half of the blood goes on the *mizbei'ach*, which is a *remez* to *bein adam l'Makom*, and half goes on the people, which is a *remez* to *bein adam l'chaveiro*.

These two aspects of the *bris* of Torah make the point that one without the other is not adequate. A person cannot say, 'I'll only focus on *bein adam l'chaveiro*, or only on *bein adam l'Makom*'. The expectation of Torah, by definition, is to be fifty-fifty between *bein adam l'chaveiro* and *bein adam l'Makom*.

As Rav Hutner writes, the pen that wrote the *Mishnah Berurah*, which is an *avodah* in *bein adam l'Makom*, is the same pen that wrote the *Sefer Chofetz Chaim*, which is *bein adam l'chaveiro*. It goes together. One without the other is not Torah.

Rav Pam used to say this idea-I think *b'sheim* the *Kli Yakar*-in the following language:

We find that an animal must have two *simanei taharah*. If it has one without the other, it is not kosher. So too, a human being has two *simanei taharah*. The *simanei taharah* of a person is *bein adam l'chaveiro* and *bein adam l'Makom*. A person who has one without the other is incomplete. The Torah requires that a person be *metzuyan* in both.

That message is very much the message of *Parshas Mishpatim*, which is almost all *bein adam l'chaveiro*. As a matter of fact, it has the number of *mitzvos asei bein adam l'chaveiro b'gematria 'v'eileh'*, of '*v'eileh hamishpatim*'. That is *meramez* to the fact that the *ikkur* of the connection to Sinai is to know that *bein adam l'chaveiro* is as essential as *bein adam l'Makom*. '*Kach hi divrei Toraseinu hakedosha*.'

That is why the blood was exactly fifty-fifty. It's a *yesod gadol* in *avodas Hashem*.

2. I'd like to move on to a second thought. This thought actually came to me when I learned *Mishlei*. I noticed the following *nekudah*. As you know, *Mishlei* is all about the different types of *middos*, and it is a *mussar* to be a *metzuyan*, to be excellent, in the *avodah* of serving Hakadosh Baruch Hu.

What is the *middah* that's mentioned the most in *Mishlei*? If I would ask someone to make a list of five *middos*, he wouldn't get it. Most people would write things like *chessed*, *savlanus*, *anavah* - the typical *middos* that we talk about.

It's fascinating that *Mishlei*, which is the *sefer* of a person's *middos*, talks mostly about a *middah* called *chochmah binah v'daas*; thinking, intelligence. To be a thinking person.

The *middah* of *chochmah binah v'daas* is mentioned far more than any other *middah* in *Sefer Mishlei*. We have to understand that. We understand that the *middos* are an *avodah* of *ruchniyus*, of being spiritual, and that *behemios*, the animalistic part of a person, is the opposite.

Well, animals also have a certain level of wisdom. Animals are very smart in knowing how to get food, how to trap prey, and how to get the things they need. But that's not the *middah* of *chochmah binah v'daas*. What is this *middah*?

Rav Schwab writes in the *Sefer Iyun Tefillah*, on the *bracha* of *Atah Chonein*, '*teivas daas moreh al klalas hayediah*' - *daas* means being connected to the things you know.

The first time *daas* appears in the Torah, '*Ha'adam yodah es Chava ishto*,' is a *lashon* of *chibbur*. Really, intelligence and wisdom is an extraordinary *middah*-it's not something we do; it's something we live.

We live with our *chochmah binah v'daas*, we are connected to our *chochmah binah v'daas*. For a person to know things and behave based on what his head tells him is the right thing to do - '*Atah chonein l'adam daas*' - that is something an *adam* has and *beheimos* don't have. That ability to connect to a person's *daas*.

Rav Dessler writes in *Michtav Me'Eliyahu*, (vol. 4, page 235):

If a person could be *koneh* one *middah*, which would be the most important *middah*? A *middah* called *ikviyus*.

What is *ikviyus*? *Ikviyus*, he says, is a *middah* where a person realizes something, and then behaves based on it. '*Eikev asher tishme'un*' - because of *something*, that's how you behave. A person behaving based on his knowledge is *ikviyus*, and that is the most important *middah*.

When I learned this *Michtav Eliyahu* - and I may have mentioned in a previous *shiur* - it struck me: How could Rav Dessler write that the most important *middah* is *ikviyus*? There is no other *sefer* that talks about a *middah* called *ikviyus*...where else? In *Mesilas Yeshorim*? In *Orchos Tzaddikim*? How could that be the most important *middah*?

When I read this Rav Schwab, I realized that the *ikviyus* of Rav Dessler is the *daas* of *Sefer Mishlei*. It is that *daas* is not just knowing, it is being connected - '*ha'adam yodah es Chava ishto*' - being connected to that which you know. It means behaving based on the knowledge and *havanah* that you have.

If you look into the *Michtav Me'Eliyahu*, you'll see that he says that. He brings the *posuk*, '*Hein yiras Hashem hi chochmah*' - that *ikviyus* is this "*yiras Hashem hi chochmah*."

The point that I'm trying to make is this. Very often, we know we should be doing things a certain way. We know we should be behaving in a certain way. But '*gam b'lo daas, nefesh lo tov*' (*Mishlei* 19:2). Without *daas*, without connecting, *nefesh lo tov*, '*v'atz braglaim chotei*' - and he's going to end up behaving the wrong way.

Without connecting to the knowledge that you have, it doesn't work!

We all know that there are parts of our lives in which we should be behaving better; where our *ma'asim* should match that which we know we need to do.

*Mishlei* is about *middos-middos tovos*. There's a *middah* called *daas*. We think about *middos* as *bein adam l'chaveiro* only. It's true that *savlanus*, *anavah*, and *chessed* are all *middos tovos*.

This is a *middah* that is purely *bein adam l'Makom*. Do what you know you should be doing. Of course, it brings a person to proper *bein adam l'chaveiro*, too. But there's a certain honesty when a person closes his eyes for a minute, and stops and thinks, 'Where am I supposed to be? Where am I supposed to be in the evenings?' It's a free *beis midrash*!

If a person closes his eyes, and stops and thinks, 'I know I should never miss *minyan*. How can I be lazy and miss *minyan*? I know my brain tells me it doesn't make sense! I'm not a person who misses *minyan*!'

*Ikviyus* is to act based on your brain. If you have a brain that doesn't motivate you to do good things, a *beheima* has that too. That's not *Atah chonein l'adam daas* - a unique *chochmah* for *adam*. The unique wisdom that a person has is the wisdom that influences what he does.

And, with that, I wish everyone an absolutely wonderful Shabbos. It is great to go to *mishmar* when it's freezing outside. And the reason is, as Rav Chaim Shmuelevitz writes, the *s'char* you get for anything you do is demonstrated by the greatest *mesiras nefesh* you do for that action. Whenever you give up something of great value to do a *mitzvah*, you show how much it's worth to you.

What an opportunity single-digit numbers give! A beautiful, wonderful opportunity to run out in the freezing cold and head to the *beis midrash* a little earlier than usual (a great motivation is to find parking close by) and make it the *beis midrash*, and do the things that you know you should be doing.

A wonderful Shabbos to one and all!

## Rabbi Reisman - Parshas Mishpatim 5778

### 1 - Topic - A Technical thought on the Parsha

As we prepare for Shabbos Parshas Mishpatim and the Shabbos in which we are preparing for Rosh Chodesh Adar which is of course in the coming week. Parshas Mishpatim has a lot of the Yeshivishe Parshios, much of Bava Kamma. I would like to share with you a Bava Kamma Machshava which has far reaching implications.

We learn between Sheini and Shlishi in 21:34 (בְּעַל הַבּוֹר יִשְׁלַם, כֶּסֶף יֵשִׁיב לְבַעְלָיו; וְהֵמָּה, יִהְיֶה-לוֹ) the Parsha of Ki Yiftach Ish Bor, naturally the Torah says that if you dig a Bor in middle of the street and an animal falls in, the Baal Habor Yeshaleim, the Baal Habor has to pay. Kesef Yashiv L'balav, he has to pay the owner. V'hamies Yiyeh Lo. The Gemara Darshuns Kesef Yashiv L'balav V'hameis. The Gemara in Masseches Bava Kamma 11a (top of Amud) Darshuns whose job is it to pull the dead carcass of the animal out of the Bor. Let's say a living animal is worth \$200 and the animal fell into the Bor and died. Now the dead carcass is good for dog food and is worth \$50. Whose cost is it to pull out the animal from the Bor? We say Kesef Yashiv L'balav V'hamies, that the person who dug the Bor has to pay and he also has to pay to pull the dead animal out of the Bor. Something that I guess we would say is logical. It is your fault that it fell in so you are responsible to get it out. Wonderful! Simple Gemara and a satisfying Halacha.

The Ketzos in Siman Shin Pei Vav S'if Kattan Yud asks that this contradicts a well-known Gemara in Bava Kamma 98a (top of Amud) (הַזּוֹרֵק מִטְבַּע שֶׁל חֲבִירוֹ לִים הַגָּדוֹל פָּטוּר מֵאֵי טַעְמָא אָמַר הָא מִנָּה ) (קִמַּךְ). The Gemara 98a has a Chiddush Gadol Me'od. The Gemara there says if Reuvain throws Shimon's coin into the sea, naturally he has to pay. But if the coin is visible because the water is clear enough and you look down and you can see it then he doesn't have to pay because he can say "Harei Kamach" a Lashon of Chazal that Harei Shelcha Lefanecha, there is your coin. Now it costs money because you have to get someone to jump into the water and dive down to get it out. The Gemara says no, the person who threw the coin in could say Harei Kamach, there is your coin, you see it, now have a good day. He is totally Patur. Now ignoring the fact that the Gemara is a Chiddush, why should you be Patur, but more importantly it is a contradiction to our Posuk. If an animal falls into a Bar, the Mazik (the one who dug the Bor) has to get the animal out. So how can it be that if you physically throw someone's item into the sea that you are not responsible for pulling it out, you tell him Harei Kamach. If so, then by us also let him say your animal, Harei Kamach, there it is on the bottom of the Bar. It seems to be a clear contradiction the two Gemaras.

The Ketzos struggles to answer, I say struggles because he says a Teretz but he himself has a Tzorech Iyun on his own Teretz. In Chiddushai Rav Shimon he has a piece to explain it. The Steipler in Kehillas Yaakov on Bava Kamma in Siman Tes, they all struggle to come up with a satisfying answer on the two Gemaras.

I would like to share with you a Halacha, Rav Moshe in the Igros Moshe and the Dibros Moshe as well but in at least two Teshuvos in the Igros Moshe, one of them being Yore Dai'a Beis Siman 112. Rav Moshe takes a Halacha Yesod and uses it to answer the contradiction of the two Gemaras and to teach a Yesod.

Rav Moshe's Yesod is the following. He says that every item in the world is valued by its market value. If you damage someone's animal you pay him based on the market value of the animal. If you damage someone's car it has to do with the market value of the car, whatever you destroy you pay based on market value.

Tiba, coinage, has as a matter of Din a constant value. What I mean to say is that if you stole \$100 from someone in 1960 and now it is 57 years later and you go to him and say I owe you \$100 that I stole from you in 1960 and here it is. He says what are you talking about?

\$100 in 1960 can buy a lot. A house in 1960 you could buy for \$1,000 so \$100 was worth a lot in 1960. Now you are giving me back \$100? Halacha says no, there is something called Tiba, coinage, money, and all Dinei Mamon are pegged to that amount of money. If I lent you \$1,000 and 5 years later you say I will give you back the \$1,000 plus the inflationary loss as it doesn't buy as much, that is Ribbis because the constant in the Halacha is that Tiba has a constant value. This is the Yesod which is a true Yesod anyway.

The Chazon Ish writes that if we lived in a world without money and we lived in a world that worked on a barter system, Halacha would require that we create money because then we would have no way of dealing with Ribbis or many of these Halachos. That is the Yesod.

Let's return now to our discussion. If your animal is at the bottom of a Bor, a carcass of an animal may be worth \$50 but the carcass of the animal at the bottom of a Bor typically is worth less. People have to Schlep it up. Since people have to Schlep it up, therefore, it has a lower value.

If I take your set of silverware and I throw it into the ocean and I tell you look you see it through the water, Harei Shelcha Lefanecha, Zagt Rav Moshe no. I took a set of silverware that was worth \$1,000, now that it is at the bottom of the ocean how much money can I get for it, I can't get \$1,000. I can only get \$500 for it. Therefore, Zagt Rav Moshe, any time you take someone's item and you transport it to a place where it is worth less, that lower value is what you get. So if you took \$1,000 of silverware and threw it into the bottom of the sea, you can only get \$500 for it at the bottom of the sea. Someone would have to go dive and get it, then the value changes. Only Tiba, only money which has by Halacha a constant value then if you throw it into the sea you can say Harei Shelcha Lefanecha, and it is a Din that money has a constant value.

The Gadlus of Rav Moshe's analysis is that the Mechudashdika Gemara, that Gemara on 98a which says that you don't have to pull it out, now is only applicable in a very limited case and the Halacha that you do have to pull it out is expanded to all other cases. It is Miduyak because that Gemara when it is brought in Shulchan Aruch does not say when you throw someone's object into the ocean, the Shulchan Aruch brings Davka a coin (Matbei'a). Gadlus in the Limud of this Masechta.

## 2 - Topic - A beautiful Machshava from the Ora Shel Torah

On 21:1 ( וְאֵלֶּה, הַמִּשְׁפָּטִים, אֲשֶׁר תָּשִׂים, לִפְנֵיהֶם ) these are the laws that you placed before them I would like to give an explanation of the Posuk as it could have just said ( וְאֵלֶּה, הַמִּשְׁפָּטִים ). What is ( וְאֵלֶּה, )? ( וְאֵלֶּה, הַמִּשְׁפָּטִים, אֲשֶׁר תָּשִׂים, לִפְנֵיהֶם )? Let me share with you a beautiful thought. The Mishna in Pirkei Avos 2:8 says ( רבן יוחנן בן זכאי קיבל מהלל ומשמאי. הוא היה אומר, אם עשית תורה הרבה--אל תחזיק טובה )

(לעצמך, כי לכך נוצרת). If you learned a lot of Torah don't think that you are so great, for that you were created. The Medrash Shmuel says a new Teitch. (אם עשית תורה הרבה) if you learned a lot of Torah (אל תחזיק טובה לעצמך) don't hold the Torah for yourself, don't keep it for yourself, teach others (כי לכך נוצרת). Man was created to be able to spread Torah to other Jews. So therefore, (אל תחזיק, טובה לעצמך) don't hold the Torah to yourself.

The Avodas Yisrael says that this is Mirumaz in the Posuk in Iyov 5:7 (פִּי-אָדָם, לְעֵמֶל יוֹלֵד) man was created to work. (עֵמֶל) is Rashei Taivos Al Menos L'lameid. What a person does for work of teaching Torah. The Ikkur Torah is what a Yid does when he teaches other Yidden. There is a Gemara in Maseches Sukkah 49b (5 lines from the bottom) where the Gemara Darshuns the Posuk in Mishlei 31:26 (פִּיָּהּ, פֶּתָחָהּ בְּחֶכְמָה; וְתוֹרַת חֶסֶד, עַל-לְשׁוֹנָהּ). To say what is Toras Chesed, the Torah of kindness? Is there a Torah of kindness and a Torah not of kindness? The Gemara says (תורה ללמדה) (זו היא תורה של חסד). If you learn Torah to teach others that is Toras Chesed. (שלא ללמדה זו היא) (תורה שאינה של חסד). The point being that the Ikkur Toeles of a Lomeid Torah, of course learning Torah has its own Toeles onto its own. But someone who learns Torah in order to teach that is Toras Chesed. That is the kindness of Torah.

Zagt the Orah Shel Torah, most Mitzvos begin with Vayidabeir Hashem El Moshe Laimor. Hashem spoke to Moshe, Laimor to say to others. The Ramban in Parshas Va'eira which is the first place where this Posuk appears in 6:10 says what does it mean Vayidabeir Hashem El Moshe Laimor? Laimor Lib'nei Yisrael. In Yeshiva we Teitched in Yiddish, Hashem spoke to Moshe Laimor, Azoi Tzu Zagen, in order to repeat it. There were some Rabbeim who Teitched Laimor, Zagendik. Hashem spoke to Moshe saying. WRONG! Vayidabeir Hashem El Moshe Laimor, Azoi Tzu Zagen. Laimor means to say to others. That is right. Generally Mitzvos start that way. Beautiful!

Vayidabeir Hashem El Moshe. Hashem spoke with Middos Hadin, Laimor say it to others and then it becomes Toras Chesed. It becomes a Torah of Chessed that a person turned it out from Din to Chesed. The main purpose of Torah is not just to learn the Torah but to teach the Torah. Not to just have a Geshmak in learning but to have a desire to pull others. Just a Mashal. Let's say you get a Geshmak from being at Mishmar pull others to be there. (אל תחזיק טובה לעצמך, כי לכך נוצרת). Make others have the same Geshmake Cheilek in Torah.

Mimeila (וְאַלֶּה, הַמְשַׁפְּטִים, אֲשֶׁר תִּשִּׁים, לְפָנֶיהֶם). Moshe Rabbeinu here we are about to start. The Aseres Hadibros are behind us (וְ). We go on to the rest of Torah. I want to introduce you. Moshe Rabbeinu I am going to teach you plenty of Dinnim. (וְאַלֶּה, הַמְשַׁפְּטִים, אֲשֶׁר תִּשִּׁים, לְפָנֶיהֶם). Put it before the Jewish people. If you put it in front of them then it is an Andera Torah. And so, a beautiful Machshava and a Lomdus.

### 3 - Topic - A quick Vort on being appreciative for the good things that others do for you.

A quick Vort courtesy of my dear brother in law Rav Mordechai (Karfiol) who told me the following. It says by Nevaila that you have an animal that you didn't Shecht and a lion came and ripped it up. What do you do with a Nevaila? 22:30 (לִפְלֹב תִּשְׁלַכְוּ אֹתוֹ) Throw it to the dogs. What is (לִפְלֹב) L'haKelev, to which specific Kelev?

Zagt the Baal Haturim, you have a sheep dog, a dog that guards the sheep, and the dog failed to scare away the fox or the lion and the animal became a Teraifa. (לִפְלֹב תִּשְׁלֹכֶנּוּ אֹתוֹ). If you have someone who does you favors and then fails, when he fails it should be a moment to appreciate the times that he doesn't fail. Someone gets upset because his wife doesn't have supper ready, it is not a reason to get upset. Let's say you have such a fool that gets upset. Now when you come home and supper is not ready and there is no clean socks in your drawer, that should make you stop and realize that clean socks don't come into the drawers by themselves all of the time, they come because they are put there. Supper doesn't appear on its own all the time it comes because someone cares enough to prepare it. (לִפְלֹב תִּשְׁלֹכֶנּוּ אֹתוֹ) when it doesn't work, that is when you should realize to appreciate the other times.

I would like as best as I can to encourage everybody to appreciate, to be positive. When you walk in the home, you might have a headache, you might have had a hard day, be optimistic, be glowing. The members of your household should look forward to you walking in. be appreciative, if supper is not ready say thank you for the times that supper is ready on time. Be appreciative, be kind, and you will have a happy life. A Gutten Shabbos to one and all!

## **Rabbi Reisman - Parshas Mishpatim 5777**

### **1 - Topic - Learning a Mussar from the way a Goy serves Avoda Zora!**

As we prepare for Shabbos Parshas Mishpatim which is also Parshas Shekalim and also Erev Rosh Chodesh Adar, a joyous time for one and all. I begin with a Temi'a. Something you should wonder about and you should wonder why you never wondered about this. In Mishpatim Perek 23 which is after Chamishi, we have the following 7 Pesukim. Posuk 10 and 11 is about Shemittah. 12 is about Shabbos. 14 is about the Sholosh Regalim. 15 about Pesach and 16 about Shevuos and Sukkos. So as you can see that it is very Mesudar. The first 3 Pesukim are about Shemittah and Shabbos, the last 3 Pesukim are about the Sholosh Regalim and what is between these Pesukim?

Without any Hefsek of a Parsha there is a Posuk that says in 23:13 ( וּבְכָל אֲשֶׁר-אֶמְרָתִי אֲלֵיכֶם, ) ( תִּשְׁמְרוּ; וְשֵׁם אֱלֹהִים אֲחֵרִים לֹא תִזְכְּרוּ, לֹא יִשְׁמַע עַל-פִּידְךָ ). You should guard all of what I have told you and the names of Avoda Zora should not be mentioned through you. You should not tell a Goy I will meet you at this place which is near this Avoda Zora. You should not mention Avoda Zoras. What in the world is this doing smack in middle between Shemittah and Shabbos on one side and the 3 Regalim on the other side with Avoda Zora smack in middle. Tzorech Biyur. Al Pi Pshat I have no idea.

Let me share with you a Machshava that it says in the Pachad Yitzchok. He does not ask this question, but I would like to share a Pachad Yitzchok in Maimar 76:8 and use it to explain why the Posuk is here.

The Mishnah in the beginning of Avoda Zora says that the days before a holiday of an Avoda Zora are days in which a person should not cause benefit to someone who is an idol worshipper. Because the days before their holiday they are already looking at their holiday and if you are going to give them any type of financial benefit it will cause them to talk to their Avoda Zora, to express gratitude to their gods.



The Chazon Ish explains that this is not an Aveira of Lifnei Iveyr Lo Sitain Michshol. If you cause a non-Jew to give thanks to his idol, that is not Lifnei Iveyr because the non-Jew has not done an Aveira. A non-Jew is commanded not to bow or offer sacrifices to an idol, or not to believe in an idol as his god. But once he believes in an idol as his god to go and say thank you is not a sin for a Ben Noach. Therefore, this concept is not a concept related to Livnei Iveyr. It is a concept related to (לֹא יִשְׁמַע עַל-פִּידָה) which we are learning now. This idea that you should not cause thanks to be offered to the Avoda Zora is part of (לֹא יִשְׁמַע עַל-פִּידָה) you should not give the non-Jew a reason to express gratitude to his Avoda Zora. This is what the Chazon Ish says.

Rav Hutner quotes the Chazon Ish and then says Mai'ohavai Ti'chakmeini, from our enemies we learn wisdom for ourselves. Rav Hutner writes an interesting concept, that anything that we find that the non-Jews did as a measure of serving their Avoda Zora is something you should think about as to whether it is an applicable Mussar for a way for us to serve Elokim Chaim, to serve the Ribbono Shel Olam. With that, he talks about Kabbalas Ol Malchus Shamayim, and the idea of (לֹא יִשְׁמַע עַל-פִּידָה) in Maseches Avoda Zora and he goes off into that.

However, what he implies is just like an idol worshipper takes the days before his or her holiday and sees everything that happens as being related somehow to that holiday which is to come, so too, we before our holidays should really do the same exact thing and that is that before the Yomim Tovim we should take the days before and see them as days of preparation, days of Hachana, days leading up to a Yom Tov should be days of meaning. Now of course since the Oved Avoda Zora do it for 3 days, we do it Sheloshim Yom Kodem Hachag. That is the idea of (לֹא יִשְׁמַע עַל-פִּידָה) which is something that idol worshippers do before their holidays is something from which we learn Mai'ohavai Ti'chakmeini, we try to learn to do in our Avoda of the Ribbono Shel Olam.

If that is the message of (לֹא יִשְׁמַע עַל-פִּידָה) then it fits beautifully. The Posuk mentions Shemittah, mentions Shabbos, and then going into the Sholosh Regalim tells us look (לֹא יִשְׁמַע עַל-פִּידָה) is a Halacha that applies to Avodah Zora in such and such a case. It should apply to serving HKB"H Mitzad Hatahaira in a very proper way as well. An interesting Limud in any event and perhaps it helps us in the Seder of these Pesukim.

## 2 - Topic - 3 Different Situations of Ribbis

Let's move from a Machshava to a Halacha. In Parshas Mishpatim we have the Issur of Ribbis. This Issur appears 3 times in the Torah. Once in Mishpatim, once in Behar and once in Ki Seitzei. There is a basic difference in the way it is explained in each place. In our Parsha, in 22:24 (אִם-כֶּסֶף (לֹא תִהְיֶה לוֹ, כְּנִשְׁאָה) When you lend money (לֹא תִהְיֶה לוֹ, כְּנִשְׁאָה). Don't pressure him to pay. (לֹא-תִשְׁמַע עָלָיו, נִשְׁאָה) and don't charge him Ribbis. Our Parsha talks only about money.

In Parshas Behar it says in 25:37 (אֶת-כֶּסֶף--לֹא-תִתֵּן לוֹ, בְּנִשְׁאָה; וּבְמִכְרֵי-בַיִת, לֹא-תִתֵּן אֶחָדָם). It talks about not only lending money but food as well. That even when you lend food don't do so with Ribbis. In Parshas Ki Seitzei it is even broader, there it says in 23:20 (לֹא-תִשְׁאָה לְאֶחָיו, נִשְׁאָה כֶּסֶף נִשְׁאָה אֶחָדָם: נִשְׁאָה, (כָּל-דָּבָר אֲשֶׁר יִשְׁאָה) Neshech of money as in our Parsha, food as in Parshas Behar but also (כָּל-דָּבָר אֲשֶׁר יִשְׁאָה) anything that you lend. Now while there are Drashos in the Gemara about the 3 Parshios, Rav Chaim Kanievsky in Taima Dikra (page # 91) wants to explain Al Pi Pshat the 3 levels of

Ribbis and as you will see that there is quite a bit of Halacha L'mayseh which you may not be aware of.

Zagt Rav Chaim Kamievsky, the 3 different situations of Ribbis. In our Parsha we are talking about someone who is lending money. He is not out to make money, he is out (אם-כֶּסֶף תִּלְוֶה אֶת-עַמִּי), he is lending a fellow Jew money. However, he wants to make sure that he gets paid back. If there is no interest then the other person has less motivation to pay him. He charges Ribbis as a means of pressuring a person to pay. That is the case in our Parsha and it fits the words perfectly. (אם-כֶּסֶף (תִּלְוֶה אֶת-עַמִּי, אֶת-הָעַנִּי עִמָּךְ if you are looking to make loans to Jews, it is a Mitzvah to lend money to Jews. (לֹא-תִשְׁיִמּוֹן עָלָיו, נִשְׁשָׁה). Don't pressure him to pay. (לֹא-תִשְׁיִמּוֹן עָלָיו, נִשְׁשָׁה). Neshech is also a means of pressuring him. If he knows that the amount of his Chov is compounded by additional interest then of course he will pay sooner. That is one level of Ribbis that is Assur.

The second is in Parshas Behar. Kesef or Ochel, Ochel there meaning merchandise. A farmer has merchandise that he has to sell. If he runs out of merchandise, he borrows from someone and sells it and repays it later when his crops are ready. In business, when you borrow to do business, don't pay Ribbis. There you might think what is so terrible. I am doing it after all for the purpose of doing business. There too it is Assur.

The third is in Parshas Ki Seitzei (כֹּל-דִּבָּר אֲשֶׁר יִשָּׂה). Here we are talking about somebody who has money, who has merchandise and he is a wealthy man. He doesn't want his money to sit idly around. So therefore, he lets his money be used by others and this is what he calls fair Ribbis. He is lending out money which would have been earning interest. He would find a way for the money to make money. Therefore, if instead of selling his merchandise he lends it he feels that he is entitled to some sort of a pay back and that is also Assur.

So you have the person pressuring someone to pay back a loan, the person who is doing business in Parshas Behar. He is doing his normal business, he needs normal merchandise and in Parshas Ki Seitzei the idea of somebody who wants to take interest because his money is sitting idly by while otherwise he would use it to make money. 3 Issurim of Ribbis.

What I would like to point out to you is first of all that it is Assur to set Ribbis even if the only intention of setting the Ribbis is in order to pressure the person to pay. You are lending him money and the contract says that you have to pay me 10% interest. He may not even plan to ever collect it. You just want it to be a pressure for him to pay it. That is called Sima Shelo Bo Lidai Gulvaina. Sima with a Sin. You have placed Ribbis but you never intend to collect it. All it is, is a way of pressuring someone to pay. (לֹא-תִשְׁיִמּוֹן עָלָיו, נִשְׁשָׁה). The Bach and the Shaarei Mishpat talk about this and L'mayseh you are not allowed to even set such Ribbis.

The second case which is merchandise, people in business don't realize that there is an Issur Ribbis. The third case which I call fair Ribbis. People feel, look I have a CD that is earning 2%. You need money and I will lend you the money and give me the 2% that I would get anyhow. It is a favor to you because you would never be able to get a loan for 2%. By me it is just getting what I would have gotten anyway and that is "Fair" Ribbis. Replacing what I would have earned if I had placed it in a CD. That is Assur as well. Fair Ribbis is Assur Ribbis. The Mitzvah is to lend for free. The

fact that you could make money by lending to Goyim has absolutely nothing to do with the Issur of Ribbis.

So, this is an important Halacha. Every time I mention Ribbis there are some people who say Oy I didn't realize, Oy I didn't know. Ribbis is something that comes up more often than you are aware of.

3 - Topic - Question of the week.

I would like to end with a Kasha. I asked this question in the learning of Zecharya in our Hakhel Shiur on President's day, however, not everyone was there so I would like to share with you the question. Find me a great answer, please.

In Zecharya we have Pesukim that are well known because the Gemara brings it in Rosh Hashono and they are Pesukim that tell us that after the Bayis Sheini was built the Jews in Bavel, in the exile sent a letter to Zecharya asking a Shaila. They asked him that the Tzom Hachamishi (Tisha B'av) is coming. Should I continue to fast?

The response was that the Tzom Harivii (Shiva Asar B'tammuz), the Tzom Hachamishi (Tisha B'av), Tzom Gedalya in the 7<sup>th</sup> month and Asara B'teves in the 10<sup>th</sup> month, these are no longer days of Aveilus, celebrate and rejoice as the Gemara says Simcha. So by the Bayis Sheini there was Simcha on these 4 fast days.

Question. What happened to Tannis Esther? Taanis Esther was a 5<sup>th</sup> fast day of the year. It is a fast day which began during the reign of Achashveirosh which was during the 70 years between the Bayis Rishon and Bayis Sheini. Zecharya is during the building of the Bayis Sheini. Why did they not inquire about fasting on Taanis Esther? What did they do on Taanis Esther? Did it remain a fast day?

Tzorech Iyun. It just surprises me that I have not found anyone to ask the question in the Meforshei Hanavi but I am sure that there is someone who asks it and I am sure that someone will relate it to me. I'm not so sure that I will remember to report it back to you before this coming Taanis Esther but perhaps.

With that, I wish everybody a happy, wonderful Chodesh Adar Marbim B'simcha. A Heilige Shabbos Kodesh coming up. A meaningful Parshas Shekalim and a Gevalidge Shabbos Chodesh Adar to one and all!

### **Rabbi Reisman – Parshas Mishpatim 5776**

1. Parshas Mishpatim of course is the introduction of Dinei Mamanus, of the financial honesty, the financial laws and the obligation to be honest in following those laws. For that, the Torah in Parshas Mishpatim introduces us to a wide variety of Dinei Maman. Things that have to do with Shomrim, watching other people's things and has to do with Mazik, damaging other people's things, or damaging people, and animals damaging people etc. A long list of Dinei Maman.

It is interesting that in Shas, Dinei Mamon is considered something that depends on Sevara. The Gemara says, Kra Lama Li Sevara Hu. The Gemara says regarding for example Hamotzie Maichaveiro Alav Haraya (a basic rule) that Kra Lama Li Sevara Hu. It does depend on Sevara. Nevertheless, there are Gezairas Hakasuv mixed in. There are Chukim mixed into Dinei Mamon. In other words, wherever we can understand what the Torah says B'derech Sevara the Gemara does that and where not there are Chukim.

For example, the most famous, is that if a person digs a Bor (pit) in a street and someone comes driving by and his car becomes damaged in that pit, the person who dug the pit is not obligated to pay. It is a Gezairas Hakasuv. Shor V'lo Adam, Chamor V'lo Keilim. That one is Patur. One is obligated for causing a fire, however, he is Patur on Tamun. There are certain things that he doesn't have to pay and so on and so forth. There are many Dinim that are Chukim.

I want to tell you of an important Ramban and an interesting discussion. The Ramban in Parshas Vaeschanan in 6:18 says on the Posuk (וַעֲשֵׂתָ הַיָּשָׁר וְהַטּוֹב, בְּעֵינֵי יְרֹנָה). The Ramban says (לפי שאי אפשר להזכיר בתורה כל הנהגות האדם עם שכניו ורעיו). It is not possible for the Torah to delineate all of the financial obligations (all of the Dinei Mamon) that a person would have with his neighbors and friends. (וכל משאו ומתנו) and it is not possible to deal with all of the back and forth (ותיקוני הישוב) and all the rules that cities and countries have to have. Therefore, says the Ramban there is a catchall. (וַעֲשֵׂתָ הַיָּשָׁר וְהַטּוֹב). Be careful to do things that are Yashor, that are straight. G-d created man Yashar, the ability to understand what is straight. So it is a catchall. Even when the Torah doesn't say that you have to do it, be honest.

About 20 years ago, I was flying to a wedding in the Midwest (perhaps Cleveland). On the flight, I was privileged to go with two great Talmidei Chachamim, Rav Feivel Cohen and Rav Schwartzman who is the Rosh Yeshiva of Lakewood East in Eretz Yisrael. During the trip, I asked them the following question which is something I really lack clarity about.

Let's pick one of these examples and I think that the example that I chose was if someone digs a pit in the street and someone else comes by and his car is ruined in the pit. The Gezairas Hakasuv is Bor is Patur on Keilim. That Bais Din cannot obligate me to pay. The question I asked was whether I still have a moral obligation to pay, am I supposed to pay.

Rav Feivel Cohen quoted this Ramban and said that you should have to pay because Sevara says you have to pay and it is only Bais Din that can't obligate you. Rav Schwartzman disagreed. He said the Torah says that you are Patur so how can you turn around and say that you are Chayuv. If there is a Gezairas Hakasuv that you are Patur then you are Patur. This was the disagreement that they had.

Later, I saw that on a different Gezairas Hakasuv and that is the Din of Bailav Imo in this week's Parsha in 22:13 – 22:14 where there is a Chok that if you borrow something from someone and it is stolen from you, you have to pay which is logical. If that person from whom you borrowed it is working for you then you don't have to pay. It is a Gezairas Hakasuv. Bailav Imo you don't have to pay. There is no Sevara to it.

The Ohr Hachaim Hakadosh seems to be Mesupak in this week's Parsha on our question, whether still a person has an obligation to pay. It would seem that there is a Raya brought in the Pardes Yosef that you don't have to pay. There is a Gemara in Maseches Bava Metzia 97a (17 lines from the top) where the Gemara says that Rava gave a piece of advice that if you ever borrow something from someone, when you borrow it from him tell him (אשקיין מיה) do a small amount of work for me and in that way he will have a Patur that he won't have to pay. Obviously, if you have to pay anyway (if you are morally obligated) then Rava's advice would seem to make no sense. It seems from there that the Patur is an absolute Patur.

As far as the Ramban is concerned. The Ramban seems to be talking about things that have no Gezairas Hakasuv and therefore, this would seem to be a Tzad to say that you are not obligated.

On the other side of the coin, we do find for example, in the Shulchan Aruch Siman 259:5 (Reish Nun Tes S'if Hei) that if you find a lost item in a city which is mostly non-Jews, we assume the person who lost it is Meya'aish and if you find it you are allowed to keep it. Nevertheless, it says in Choshen Mishpat in Siman 259:5 that Af Al Pi Kein Tov V'yashar La'asos Lifnei Mishuras Hadin La'hachazir. Nevertheless the right thing to do is to return it. The Rama says that if the finder is a poor man and the one who lost it is a wealthy man, then since the strict Din is that the Ani can keep it, he has no Lifnei Mishuras Hadin. But outside of that there seems to be a Raya to the other side of the coin. We are not going into this at any greater length, however, the point I am making is an important point. That is that it is a question, something that needs clarification.

When the Torah has a Gezairas Hakasuv that says you are not responsible and you don't have to pay, to what degree do you have to seek Mechila. That is something which is sort of inconclusive at the moment but it is a question worth thinking about.

2. Let's move on to a totally different topic. The Haftorah of this week's Parsha seems to be related to the beginning of the Parsha and it is. The Haftorah of this week's Parsha tells us from the time of Yirmiya where people failed in their obligation to free their Eved Ivri (Jewish slaves) at the end of six years and the Navi speaks very harshly to them about it. That certainly is the connection of this week's Haftorah to this week's Parsha. However, it is not usual. It is unusual that a Haftorah is connected to the beginning of the Parsha. Usually it is either the theme of the Parsha or something at the very end.

Therefore, I would like to suggest a connection to the end of the Parsha. We have in the Haftorah that the Ribbono Shel Olam in criticizing the Yidden for their failure to free Avadim mentions the following. It says in Yirmiya 34:18, you violated a covenant which was made (אֲשֶׁר כָּרְתוּ לִפְנֵי--הָעֵל) (אֲשֶׁר כָּרְתוּ לַשָּׁמַיִם, וַיַּעֲבְרוּ בֵּין בְּתָרָיו). The Meforshim here explain that at some point there was a covenant to free the Avadim and it was done by cutting an Eigel in half and people walking between the two halves of the Eigel. This we already have at the Bris Bein Habesarim, we have an idea that this is the way a covenant was made. It was made by dividing something in half and having the people who agreed to it walk between the two halves. This was as we shall see in a moment a very important type of a Torah accepted formality which obligated someone, we are not used to it and it is difficult for us to understand. Maybe we can compare it to a handshake nowadays which is a solid agreement to do things.

In this week's Parsha towards the end of the Parsha, we find that Moshe Rabbeinu took the blood of the Olah and Shelamim and as we learn in Pered Chaf Daled Posuk Vav, he took half of the blood for the people and half of the blood for the Mizbaiach ( וַיִּשָּׂם בְּאַגְנֹת; וְחֻצֵי הַדָּם, ) וַיִּקַּח מִשְׁהָ חֻצֵי הַדָּם, ( וַיִּקַּח עַל-הַמִּזְבֵּחַ ) and Rashi says ( שֶׁנִּכְנְסוּ אֲבוֹתֵינוּ לְבְרִית בְּמִלָּה וְטָבִילָה וְהִזְאָת דָּמִים ). This Hazaa was a Bris. The Posuk after this Posuk says ( וַיִּקַּח סֶפֶר הַבְּרִית ). So this was some sort of a Bris.

Rav Hutner in the letters of the Pachad Yitzchok twice writes, I believe it is Ayin Zayin and Pei Zayin and describes this as an example of a Bris formality, the Bris formula where things were divided in half, people went between them so to speak, and in that way obligated themselves in a solemn obligation to do whatever they had agreed to.

Rav Hutner writes there beautifully, that there are two Luchos, one Luach is Bein Adam L'chaveiro and one Luach is Bein Adam L'makom. Why isn't it all on one? It was for this idea. Have the two Luchos, and so to speak Klal Yisrael pass between them. He says that is why it is called Luchos Habris. The Luchos of the Bris. A Bris is something that is two equal parts.

Shabbos is also called a Bris. Says Rav Hutner, Shabbos is also two parts. Everything about Shabbos is two. The Zachar and the Shomer, the double Korbanos. As we know, Shabbos is related to the idea of twos says Rav Hutner, because Shabbos is a Bris.

We can add along this line of thinking, the other Bris which is Tefillin, also comes in twos. The Tefillin Shel Yad and the Tefillin Shel Rosh and the person in between them. So we have this symbol of going between the two. That idea, that concept, is something which obligates a person. The idea of Bris is very foreign to us. We are not accustomed to making these types of solemn official declarations as we are very informal people. I think we would be better off if we would be more formal than we are. But as things are this is very strange to us, but it happened. It happened in numerous places in Tanach where the people came together, in the time of Ezra and in the time of Shmuel and so to speak renewed their vows and renewed their covenant. They obligated themselves to buckle down and do the Ratzon Hashem. The Bris was the formula for it.

I am not ready to do a Bris, by putting the half of a calf on one side and half a calf on the other side, but we need to have that ability to renew our obligation and to keep the Torah and to keep to all the things we have to do and then slowly, slowly, the Yeitzer Hora makes slip from our grasp. Renewal.

3. There is a very important Halacha regarding the Haftorah that unfortunately I believe many people will not realize this until the last minute. This week's Haftorah is rarely read. It is normally Parshas Shekalim when Parshas Mishpatim comes and it is only this year because it is a leap year that it is not Parshas Shekalim. Even when it is a leap year, occasionally it is Rosh Chodesh on this Shabbos or Mochor Chodesh. It is not that often that this Haftorah is read.

This Haftorah is unusual in that it is Perek Lamed Daled of Yirmiya but it ends to end with a Davar Tov with two Pesukim from Perek Lamed Gimmel.

Agav those Pesukim are Yirmiya 33:25 (כֹּה אָמַר יְהוָה, אִם-לֹא בְרִיתִי יוֹמָם וָלַיְלָה) which supports what I mentioned earlier that the theme of the Haftorah is Bris. But anyway, we go back to Perek 33 for

two Pesukim. If you are not Laining from a Klaf there is no problem reading Perek Lamed Daled and then going to Perek Lamed Gimmel. If you are reading from a Klaf, doing this is a mistake. On Klaf, a person is not allowed to read something which is earlier in the Klaf later. Therefore, the proper Hanhaga is not to end at the end of Perek Lamed Daled which ends with 34:22 (אָפֿטן יִשָּׁב (שְׁמֶמֶה, מַאֲיִן יִשָּׁב) with Purinisa. But to go into Perek Lamed Hei. I would suggest reading the first six Pesukim of Perek Lamed Hei (עַד-עוֹלָם) which is a normal ending. Therefore, to do it that way. In the Klaf you can choose whatever you like to Lain in Perek Lamed Hei. But certainly the mistake that people will make by taking out the Klaf and just looking at the Chumash (for what the Haftorah is and just reading that) is an error. Hachacham Einav Berosho. A person should be aware of it ahead of time and that is why you are listening to me. With that I wish everyone an absolutely wonderful, meaningful, Torahdika Shabbos! Good Shabbos!

### **Rabbi Reisman - Parshas Mishpatim 5775**

The Torah here begins with the Mitzva of Bain Adam L'chaveiro something for the most part has not been mentioned, and therefore, this week we will talk about these type of topics, the Mitzva of Bain Adam L'chaveiro and I would like to start with one of my favorite thoughts.

1. The Gemara says that Rabbah and Abaya came from the house of Eli and in that family people died young. The Gemara says that Rabbah who was Osek BaTorah lived for 40 years. He lived longer than the others of Bais Eli because he had the Zechus of Torah. Abaya who had both Torah and Gemilas Chasadim lived for 60 years because he had both Torah and Gemilas Chasadim. When I learned this Gemara the first time and as a matter of fact almost 30 years ago when the Navi Shiur began we started with the story of Eli and I asked a Kasha then that what is the difference between Rabbah and Abaya. Rabbah learned and Abaya learned and was Osek in Gemilas Chasadim. Well, if they both used all of their time properly then what is the difference. Let's say Rabbah slept 4 hours a night and spent 20 hours serving Hashem and Abaya slept 4 hours a night and spent 20 hours serving Hashem. What is the difference how you use the 20 hours? Why is one so much greater than the other?

To answer that I remember something that I once heard from Rav Moshe and I have often repeated to make a different point. I once asked Rav Moshe whether it is appropriate to stop in middle of learning to say Tehillim for a Choleh who is for example undergoing surgery or is in a moment of danger. Is it appropriate to take boys from a Beis Medrash and go to a room to say Tehillim?

To my surprise Rav Moshe said yes and he explained. He said the Choleh Darf Dem and the Choleh Darf Dem. Saying that Torah and Tefillah are separate medicines, separate pillars of the world and therefore, it is like someone who needs two medicines. It is not saying that Tefillah is greater than Torah or Torah is greater than Tefillah. The point is that they are two medicines and the Choleh needs both. Therefore, even though Talmud Torah K'neged Kulam, nevertheless it is appropriate to stop learning to say some Tehillim on behalf of a Choleh. Along those lines, I would venture to say that the same thing is true about the third pillar of the world Gemilas Chasadim. Chesed is a separate medicine, it is something else. Therefore, even if Rabbah and Abaya both used their time wisely nevertheless Abaya who had this extra medicine, the extra time spent on Gemilas Chasadim was that much ahead of Rabbah. Rabbah had Torah while Abaya had Torah and Gemilas Chasadim. Therefore, he had two medicines and he lived longer. A beautiful explanation and it is

a meaningful lesson to some of the Masmidim who are really learning with Hasmada Gedola that nevertheless we have to look every once in a while to take time, steal it away from the learning to be involved in Chasadam. Chasadam which are E Efshar Al Yidai Acher. Chasadam with parents, Chasadam with relatives, Chasadam with elderly grandparents. We have to take away the time and go and get the other medicine, the medicine of Gemilas Chasadam. Besides that Gemilas Chasadam which is E Efshar Al Yidai Acher you are obligated to do but the lesson here is a lesson in Bain Adam L'chaveiro.

2. I would like to move on to a second topic. This week's Parsha deals with different types of Mazikim, those who cause financial damage. The Steipler in Kehilas Yaakov on Maseches Bava Kamma Siman 45, Os 3, at the end of the Sefer has a beautiful Chakira. His Chakira is whether one who damages in an unnatural way is obligated to pay. For example, let's say someone takes his fingernails and puts them on the floor in a way that causes a pregnant woman to lose her child. Now obviously we can never know that that is what happened. But theoretically if it was possible to understand that a person put fingernails on the floor where a pregnant woman walked and that B'derech Segulah can cause a miscarriage, if he did cause a miscarriage does he have to pay? Now this is not only a question in Bava Kamma by a Mazik it is a general question. How do we look at supernatural things? Does Halacha take into account a Mesorah that supernatural things work or do we say no the world is a world of the natural order?

This is similar to the tumult that took place in Europe a 100 or maybe 200 years ago over a Talmid Chacham who Paskened that for the sake of a Choleh (someone who is deathly ill) it was permitted to have a non-Jew write a letter on Shabbos to send to his Rebbe so that his Rebbe would Daven for him and perhaps save his life. Rav Shlomo Kluger at the time made a tremendous tumult over this and forced the person who gave this Psak to publicly withdraw his Psak. This incident is brought in the Maharsham Cheilek Gimmel Siman 224 and the Tzitz Eliezer has a long Arichus on this as well. What is the issue? The same issue. We understand that Tefillah could work, it can save someone's life. Is one allowed to be Mechaleil Shabbos to get a holy man to Daven for a Choleh? If we take a Davar Seguli as something natural then I would think it is permitted. On the other hand, if we say no, that a Davar Seguli is not natural and Halacha only reckons with natural things then not.

3. A third topic which would seem to be similar to this besides the topic of Mazik Al Yedai Segulah and Davening for someone Al Yedai Segulah is a Shaila that I had once seen. Reuvain told Shimon to take something in his car to a second city. Shimon was not borrowing (the car) he was a Shomer. On the way there was an accident. The driver was not a Poshea and therefore, he should not be obligated to pay. The person who gave him the object to transport asked him if he had said Tefillas Haderech and the person admitted that he had forgotten to say Tefillas Haderech. He took him to Bais Din and said we believe that saying Tefillas Haderech helps a person when he travels you are a Poshea because you didn't say Tefillas Haderech. A third example of the same Shaila. Do we take into account a Davar Seguli something that is not in the natural order of the world when we deal with these types of situations.

4. Many years ago I asked Rav Pam a Shaila. At the time I had only sons and no daughters. There is a Tefilas Haramban which married people say which asks Hashem for children. In the language of the Ramban's Tefila it mentions male children (Banim Zecharim). Now I am happy with any child that the Ribbono Shel Olam blesses me with, boy or girl. Nevertheless, to be Mekayeim the



Mitzvah of Pru Ur'vu I would have to have a son and a daughter. Therefore, I asked Rav Pam if I should change the language of the Tefila and Daven for a daughter. I reasoned Mimanafshach, which way do you look at it. If you don't believe that praying helps then why am I wasting my time? Tefilos are there because I have full faith that Tefilos have the potential to help. Therefore, I asked Rav Pam if it helps and I am obligated to be Mekayeim Pru Ur'vu shouldn't I Daven for a daughter? To that Rav Pam said no. He said that is HKB"H's business whether he blesses you with a son or a daughter. Therefore, he told me not to change the Seder in which I Davened. It seems that Rav Pam holds like Rav Shlomo Kluger that even though we know that the power of Tefila is something which we know exists the realm of Halacha deals with the natural order of things.

I have a Kasha on this. This Kasha was presented to me by someone with whom I was discussing the topic and it is a Gemara in Masseches Bava Metzia 106a. In that Gemara, a man owns a field and he has a sharecropper who is taking care of the field and the agreement is that the sharecropper will plant wheat. Instead, the sharecropper planted barley. During that year, a disease destroyed the crop and the barley crop was destroyed. The Gemara asks what is the Halacha in such a case. Was the sharecropper a Poshea, is he guilty for changing. After all, even if wheat had grown it would have been destroyed by whatever disease came.

To that, the Gemara suggests as follows. The Gemara says that the sharecropper can say had I planted wheat it would have also been destroyed. Or perhaps not. The owner of the field can say to him if you would have planted wheat the promise of the Posuk would have come true that when you pray for something HKB"H listens. In other words, he says I prayed for wheat to grow well and to be saved from disease and there was no wheat. This Gemara seems to hold that we can take into account the Koach Hatefila in dealing with Halacha. This would seem to be a problem with the Yesod that Tefila is not something that we reckon in Halacha. And so, this is a difficulty (a question) on the idea and I think that there a likely many more Mar Mekomos on this topic. If I can put them all together you will hear about it one Motzoei Shabbos IY"H.

5. And so, we have touched on a couple of topics here in the Parsha and I would like to end with a quick thought, a point. The point is this. This Parsha talks about slavery. There are a number of Parashios and it is no secret that in the time of Chazal, the time that the Jewish people controlled the land of Israel by their own government that slavery was permitted. Two types, Eved Ivri and Eved Canani. Slavery as you know is one of the stains on the history of humanity and it would seem strange to us that the Torah endorses it. In fact, the Torah nowhere allows one human being to grab another one and turn him into a slave. A person becomes a slave by choosing to become a slave. By choosing to become a slave, by choosing to slave himself as a slave or in those cases where someone steals and the punishment is to be sold as an Eved. That is true that a child born to a slave is also a slave. That in essence is the Yesod of our Torah. The Yesod is that what parents do matters to the children. That a person who does things creates an effect that last for many generations, forever, for eternity. That parent and child are an unbreakable chain and that everyone is born into that which his parents create. The Jewish people. Hashem didn't create Jew and non-Jew. Avraham, Yitzchok, and Yaakov our Avos created the Jewish people.

In Gemara we find a man named Tevi. Tevi was Rav Gamliel's servant. We find a maidservant known as Amsa D'rebbi. Rabbi, Rav Gamliel's grandchild had a maidservant quoted in Gemara. Both Tevi and Amsa D'rebbi are considered great people. There are collections of Gemaras which

talk about the fact that they were extraordinary people. The Gemara in Yoma says that Tevi was Ra'ui L'smicha. Smicha? Smicha of those generations.

The Gemara in Pesachim 74 tells us that Halachos were learned for the things that Tevi did. The Gemara in Berachos 16 says that when Tevi died Rav Gamliel said it is appropriate to be Mekabeil Tanchumim, to practice some sort of Aveilus about him. Tevi was a great person. In the Torah a slave could also be a Ben Olam Habo. The idea that anybody because of the circumstances that he is born into can't reach the highest level is not true. The Gemara says Akum Shelamad Torah Hu K'kohen Gadol. Even a non-Jew who studies Torah and Tosafos says that that means the Torah connected to the Mitzvos that pertain to him Harei Hu K'kohen Gadol? He can achieve the greatest levels. Nobody is limited. Everybody has the potential to be an Eved Hashem. This is true about Tevi and Amsa D'rebbi two very great people who are mentioned in Shas in numerous places then it is true about anybody else who is born into a situation which he feels depressed about, which he feels gives him less opportunity. Perhaps a poor family, or a family with illness G-d forbid, a family with difficulty. HKB"H deals with everyone equally, even an Eved and even an Amsa. Everyone can achieve the highest levels. You just have to believe that you can do it. With that I wish everyone an absolutely wonderful Shabbos Parshas Mishpatim, Shabbos Shekalim. Purim can't be far behind. Looking forward. A Gutten Shabbos!

### **Rabbi Reisman - Parshas Mishpatim 5774**

1. I will start with something at the beginning of the Parsha and go to something at the end of the Parsha. At the beginning of the Parsha we have the Gizairas Hakasuv of as is found in 21:6 (וַעֲבָדוּ לְעֶלְם) that an Eved Ivri who agrees to have his ear drilled works for his master forever. However, Rashi brings from Chazal (לְעֶלְם) is actually (עַד הַיּוֹבֵל). Here in the Sefer Haksav Vehakabala (page # 371) on Posuk Vav he explains the meaning of the word Olam. Really the meaning of the word Olam is unclear, on the one hand the word Olam is used to refer to time, forever, (מְעַתָּה, וְעַד-עוֹלָם), for eternity. On the other hand the word Olam is used in the concept of space, a place, as in Olam Hazeh Olam Haba. So we find the same word Olam to refer to the world in the concept of space and to refer to time (לְעֶלְם וְעַד). Of course here we have it referring to Olamo Shel Yovel, to a period of time that ends when Yovel comes which could be 50 years later or 2 - 3 years later whenever Yovel will come. Strange expression this word Olam.

The Haksav Vehakabala explains that the Shoresh (root) from which Olam is constructed is from the language of Al - on or Aliya - going up. In general, words that have the letters Ayin Lamed in them are words that refer to growth. For example, a child that is growing is called Elem a child. We find that Shaul says in reference to Dovid Hamelech after he killed Golias as it says in Shmuel I 17:56 (מִי-זֶה הַעַלָּם), who is this young man. Elem is used as a reference for somebody who is growing up. Or as we had in Parshas Shemos as it says in 2:8 (וַתֵּלֶךְ, הַעֲלָמָה). Miriam is called an Alma a young person who is growing. So that really the idea of this word is a concept of growth used in reference to people as is the case of Elem or Alma and used in reference to time and space as well. The purpose of creation is Aliya. The purpose of creation is growth for human beings, to be able to use nature, use the world to grow. Nature itself grows so to speak. Nature itself is bent towards growth. We find as the Kesav V'kabala brings that a Domem (earth) gives its minerals to a Tzomaich, to a plant which is growing. So that it is in the nature that the minerals of the Domem the earth go and flow to something which is growing, something that is a Tzomeach. That is the

way it is in Olam Hazei. Olam Hazei is a place for growth. Therefore, the word Olam is a reference to eternity, it is a reference to forever. Olam, a potential of unlimited growth. It is also referred to space as in Olamim, large areas of space. In other words to something which is the world, something which is Olam Hazei, Olam Haba. References to things whether it is time, space, or people who are in a process of growth. Yovel of course is a Shana of Aliya (of growth). A borrower becomes even with his lender on a Shemittah or on a Yovel. Somebody who sold his land because he didn't have money, it goes back to the way it was originally. It is a sense of growth. Even a slave or maid goes free. Yovel is sort of the reset button for growth, it is a time that people who have not been successful until now can reset their buttons and attempt to grow. So that L'olam means growth.

Now this also answers a number of difficulties when we talk about Davening. We say (יהא שמה) (לעולם ולעלמי עולמיא) which is usually translated as many worlds (ר' מלכותה קאם) (ר' ימלך לעולם ועד). (ר' ימלך לעולם ועד) is a translation of (ר' ימלך לעולם ועד) which certainly refers to time. Therefore, it seems a bit strange that it should be translated as a reference to worlds. But according to the Yesod in the Kesav V'kabala we can understand (לעולם ועד) is time when it is an idea of eternity, of a period of time in which growth is possible. (לעולם ולעלמי עולמיא) is existence. Existence is a tool to growth.

In (פרוך ש'אמר) and (ישתבח) we talk about G-d who is a king who is (יחיד ח' העולמים) or (ח' העולמים) depending on what your Minhag is in the pronunciation. Is that time or space? Is the translation of (ח' העולמים) the eternal life giver, meaning time or is the translation he who gives life to all of existence. There are two translations and I think that you will find both. Rav Shamshon Refael Hirsch translates (לעולם) in general as time and Rav Schwab of course follows Rav Hirsch in this regard. But I think that you will find different translations. According to this they come to the same idea.

In Ribon Kol Olamim, Rav Schwab writes on page 60 in his Sefer on the Siddur that by the taking out of the Sefer Torah (on Shabbos) we say B'olamos Shebara Haolam Hazei V'haolam Habah. Plural for world is Olamos. Rav Schwab says that when Olam refers to space, refers to worlds, the word is Olamos. When it refers to time it is (עולמים) and (ח' העולמים) means the eternal life giver. (רבון כל העולמים) is a reference to time. So again they are related. I think that when you are Davening and if you pay attention, you will find that you yourself are confused sometimes as to whether Olam means worlds or it means time.

2. Let's move now to the end of the Parsha to a second thought. We have at the end of the Parsha in 24:11 that at the time of Matan Torah Nadav and Avihu gazed improperly at the Shechina (ואל-) (ויחזו, את-ה'אלרים, ויאכלו, וישתו) and HKB"H did not punish them (לא שלח ידו). They did something improper and they deserved death as Rashi says (מכלל שהיו ראויים להשתלח בהם יד). Chazal say that Hashem did not want to disturb the joy of Matan Torah with the deaths of Nadav and Avihu. Of course, later we have that Nadav and Avihu do die. The question is what is going on, why is it that when it comes to Matan Torah HKB"H doesn't want to cause a diminishment of the joy by the deaths of Nadav and Avihu and yet when it comes to the building of the Mishkan, the Chanukas Habayis of the Mishkan, a time of celebration that HKB"H Kavayochel is M'areiv the Simcha with their deaths. Why didn't he push off their deaths there as well?

Rav Schwab addresses this in Parshas Acharei Mos (page # 268 in Mayan Bais Hashoeva) and he says something beautiful. He says that Simcha is always a wonderful thing. When it comes to Limud Hatorah it becomes an absolutely crucial ingredient. Therefore, by Matan Torah specifically there could be no Iruv Hasimcha. There could be no mitigating of the joy that was felt and here it had to be that the Simcha would not be less. When it comes to Mitzvos and the Chanukas Habayis of the Mishkan, when a person does a Mitzvah B'simcha it is extraordinary. If it is not B'simcha he does it not B'simcha. Aharon and his surviving sons Elazar and Isamar were told to continue to eat the Kodshim despite the fact that they were sad. But by Matan Torah it is uniquely important.

We find a Posuk in Shir Hashirim 4:11 (דְּבַשׁ וְחֶלֶב תַּחַת לְשׁוֹנְךָ) honey and milk under your tongue. The Hebrew word (דְּבַשׁ) and the Hebrew word (חֶלֶב) appear about a dozen times in Tanach and (חֶלֶב) is mentioned before (דְּבַשׁ). That is because milk is an essential for life it is a staple of life, it gives vitamins and it gives energy. (דְּבַשׁ) is desert, it is candy something that is sweet and because (חֶלֶב) is more important than (דְּבַשׁ) so therefore, (חֶלֶב וְדְבַשׁ). (אֶרֶץ זֵבֶת חֶלֶב וְדְבַשׁ) is always mentioned before (דְּבַשׁ). Here though by (דְּבַשׁ וְחֶלֶב תַּחַת לְשׁוֹנְךָ) the one place where honey is mentioned first, it seems strange. The answer is that this Posuk is referring to Limud Hatorah and it is a reference to teaching a child Torah. When it comes to teaching a child Torah, you should know that sweetness is not something extra, it is not something that is less essential. It is part of the essential ingredients of Limud Hatorah. (דְּבַשׁ וְחֶלֶב תַּחַת לְשׁוֹנְךָ), by Matan Torah, by Kabbalas Hatorah, by Limud Hatorah the sweetness is an essential part.

3. Let me end with a Dvar Halacha regarding this week's Haftorah. Parshas Mishpatim is almost always Parshas Shekalim. It has been a very long time since we read the Haftorah of Parshas Mishpatim. This week's Haftorah is primarily the 34th Perek of Sefer Yirmiya. However, that Perek ends off in Posuk 22 (וְאֵת-עָרֵי יְהוּדָה אֲתֹן שָׂמָמָה, מֵאִין יֵשֶׁב) words of destruction. Because of that, many Chumashim have two Pesukim added so that we don't end with something bad we add two Pesukim, however, those two Pesukim are from Perek 33. It is actually Laining backwards from Perek 34 back to Perek 33. The Shulchan Aruch in Orach Chaim Siman 144 we read in the Shulchan Aruch that a person is allowed to skip (Midaleig) when reading a Haftorah from one place to another. However, in regards to Dilug L'mafrai'a (to going backwards), the Mishna Berura brings two opinions. He brings the opinion of the Pri Chodosh who says that it is permitted and obviously the Nusach in the Chumashim is based on the Pri Chodosh who allows Dilug L'mafrai'a, who allows going back and reading other Pesukim. However, the Mishna Berura brings the Magen Avraham and the Eliyahu Rabah who disagree. In the Shar Hatzion he says that the Halacha is like the Magein Avraham. Therefore, we really should not be jumping Pesukim backwards. Therefore, it is a bit of a question as to how to Lain the Haftorah. We will certainly Lain Perek 34, however, what about these last two Pesukim?

In Taima Dikra, Rav Chaim Kanievesky suggests Laining Perek 35 and it sounds like he would suggest to read all 19 Pesukim of Perek 35 which without a doubt is quite challenging for a Baal Korei to prepare. I am not sure why he requires all 19 Pesukim, it would seem that if a person read the first 4 Pesukim that it would be adequate to end with a Davar Tov and that would seem to be a good ending point. I am certainly speaking of people who read from a Klaf (not to go backwards when reading from a Klaf). I am not sure why the assumption is only when you are reading from a Klaf. The rules of Medalgin apply even when reading from a Chumash. I am not sure why all the Chumashim have it a certain way. 99% of the Shuls will probably do what it says in the

Chumash while the Mishna Berura did not Pasken that way. Certainly those who Lain from a Klaf should be Zahir not to be Medaleig L'mafrai'a and even those who Lain from a Chumash need a Ketzas Iyun to see where this rule applies. I wish one and all an absolutely wonderful Shabbos!

### **Rabbi Reisman - Parshas Mishpatim 5773**

In the Ayalas Hashachar from Rav Aharon Leib Shteinman on page # 209 he makes an incredible point in this week's Parsha. At the end of the Parsha in 24:13 (וַיֵּקָם מֹשֶׁה, וַיְהִי שָׁעָה מִן־הַיּוֹם) we learn that Yehoshua is Moshe Rabbeinu's Talmid who was so close to Moshe that he sat for 40 days at the base of Har Sinai waiting for Moshe to return and of course because he did that he was saved from being subject to the Nisyonos of the Cheit HaEigel. Rav Shteinman makes the following incredible point. Yehoshua we know was Moshe Rabbeinu's Ikkur Talmid but Freikt Rav Shteinman for how long did Yehoshua learn at the foot of Moshe Rabbeinu?

Matan Torah was 7 weeks after Yetzias Mitzrayim. Moshe Rabbeinu arrived in Mitzrayim at most 10 months before they left Mitzrayim. According to the Shittah that each Makkah was a month, there would actually be 9 months because Makkas Bechoros was just one day. So we have a total of 9 months and 7 weeks. Either way, Yehoshua was not a Talmid of Moshe Rabbeinu for a very long time that he should be called (Meshorais Moshe) the prime Talmid of Moshe Rabbeinu.

Rav Shteinman says that we see from here that the depth of a Kesher between a Talmid and a Rebbe has nothing to do with the amount of time you are there and it has to do with the depth of the dedication that the Talmid has for the Rebbe, the depth to which a Talmid is willing to learn from a Rebbe. The degree to which he sees a Rebbe as a role model to learn from what he does and what he teaches that is the definition of a Talmid.

Rav Shteinman also points out that Rav Chaim Vital is known as the prime Talmid of the Arizal. Everything that we have written from the Arizal that is considered reliable comes from the writing of Rav Chaim Vital. Rav Chaim Vital was with the Arizal for only 20 months (a year and 8 months) and that was it. Everything that we have from the Arizal comes from there. Again, the point is that the depth of a relationship is what defines the significance of a relationship not the amount of time.

What Rav Aharon Leib Shteinman says regarding a Talmid and a Rebbe we should take notice of regarding friends. I am referring to Yonason and Dovid. Dovid Hamelech and Yonason the son of Shaul who are known in Tanach as the closest friends. The closest level of Ahavah between individuals. For how long did Dovid know Yonason? The entire Malchus of Shaul was only 2 years and before that Dovid did not meet Yonason. At the end of the Malchus of Shaul, the day Shaul died Yonason died as it says in Shmuel I 31:6 (וַיָּמָת שְׂאוּל וַיִּשְׁלָחֵת בָּנָיו וְנִשְׂאָה כָּלָיו גַּם כָּל-אֶנְשָׁיו, בַּיּוֹם) (קהלוא--יִהְיֶה). So that leaves a maximum of two years but it wasn't two years because for a great period of time Dovid Hamelech was running away from Shaul. Likely from the Pesukim that it was at least a year of time that he was running away from Shaul and had no contact with Yonason except for the incident of Machar Chodesh (which can be found in Shmuel I 20:18 - 20:42). Even the time that Dovid was with Shaul the Posuk says that Shaul Hamelech had set up the army in two encampments. One was with Yonason in the north and one was with Shaul in the south and Dovid was the arms bearer of Shaul. So that they did not spend a tremendous amount of time together. There were no cellphones that they could contact each other at this distance. We see the

depth of a Chavershaf is not tied to the amount of time spent together. Incredibly a person can have a deep relationship with someone else, a role model type relationship with someone else, a relationship of love for someone else and it is not tied to time.

Of course we all see this when a young Yeshiva Bochur and a Bais Yaakov girl date and they date 7 - 9 times for 3 - 4 hours each time and they are ready to get married. People ask how could it be. How could it be that the marriage rates among people who date in our way is more permanent than the outside world where they think that they have to know each other for an extended period. The answer is that the depth of the relationship has to do with the meaning that is there, with the respect that is there, with the Ahavah that is there, with a willingness to give to each other. With quality and not with quantity. This is an important message from the Parsha.

For Parshas Mishpatim I would like to discuss some Dinei Mamon, some Shailos that have to do Mamon. Our failure to be honest where we want to be honest, our Nisayon is that we judge Dinei Mamon logically, we think that it depends on logic. While most of Dinei Mamon is tied to logic, a lot of it is tied to Gizairas Hakasuv, to the way things work technically. On the technical issue there is a way to decide a Psak Halacha in Dinei Mamon. I would like to discuss a couple of Dinei Mamon Shailos that have to do with the Halachos of Kinyan Chatzeir. Kinyan Chatzeir is something which we discussed in Yeshiva in Bava Metzia when we learned Daf 10 - 11 for those who get that far in the Masechta. Sadly, Kinyan Chatzeir is one of the most beautiful Sugyos and is not always reached by Yeshiva Bochurim in today's world of learning that is without much quantity at all. Hopefully the quality is good. So let me talk about Kinyan Chatzeir and a couple of Shailos that come up.

Someone once called and asked me the following Shaila. He had just come out of a car service. Sitting in the back of the car service he found a blank unwritten envelope. There were no Simanim. Inside there were 6 \$100 bills. He knew that if he asked the car service driver about it that the car service driver would certainly claim it and somehow he suspected that it was not true that it belonged to the car service driver. Therefore, he put it in his pocket and figured that he would ask a Shaila and find out what to do. What is the Halacha regarding the money found in the back seat of a car (a taxi)?

This Halacha depends on technical Dinim and depends on the laws of Kinyan Chatzeir. The law is that every Kinyan you can only acquire things if you know about it except for Kinyan Chatzeir. If you acquire something because it is in your property that Kinyan alone works even if you are not aware of it. However, there is a requirement and that is that Kinyan Chatzeir needs to be what is referred to as Kinyan Chatzeir Hamishtameres. It has to be a Kinyan in a Chatzeir that is safe and guarded. What about in the back seat of a car? In a private car the things in the car certainly belong to the owner of the car. If you find \$600 in the back of my car please give it to me immediately. Whoever dropped it or lost it assuming the loser was Miya'aish then it would defer ownership to me because my car is a Chatzeir Hamishtameres. It is a place where my things are kept and they are kept safely. What about a car service where people come and go?

In Maseches Bava Metzia (Perek Eilu Metzios) 26 we learned that if you find something in a store you can keep it. If you find a dollar bill in the aisle of a store you are allowed to keep it. The loser was likely Meya'aish. Why isn't the owner of the store the owner of the dollar, why don't we say that his Chatzeir is Kone for him? Chatzeir Hamishtameres it has walls around it?

Says the Rosh because people are constantly coming and going. Since people are constantly coming and going and the same thing would apply to a back seat of a car service where people are constantly coming in and going out, therefore, the Halacha would be that the Chatzeir is not Kone and that the person who found it could keep it. Of course if the loser was not Meya'aish for whatever reason we would have to track down the person who lost it but as far as the car service driver or whoever is the owner of the car owning the money that was found, that is a Chatzeir She'aino Hamishtameres. So here we have a difference between a car service car and my car or any other private car which would be Kone for the owner as opposed to such a case.

We have a similar Shaila in the Igros Moshe Choshen Mishpat Cheilek Bais Teshuva 44. The Shaila is an amusing Shaila. The question is about a bank vault. Someone walked in to a bank vault and found money on the floor and put it in his pocket to later ask a Shaila. What is the Shaila? If you find money we assume that the owner is Miya'aish. The question is does the bank own it. I would think that the vault is a Chatzeir Hamishtameres. It is a joke to ask if a bank vault is a Chatzeir Hamishtameres, a guarded place. Rav Moshe says that the bank vault is not a Chatzeir Hamishtameres since people are coming and going all day that is not a Chatzeir Hamishtameres. Now from Rav Moshe we see that it doesn't have to be a store where people are coming and going on a constant basis. Even if people come in and go out 5 - 10 people over the 8 hours of the day that is a Chatzeir She'aino Hamishtameres which is the same thing with the back seat of a car.

A fascinating Shaila, what about a Shul? What happens if you found a dollar bill in Shul on the floor. Or an umbrella that was abandoned in Shul or a Tallis for that matter that was abandoned. Can you take it or do we say that it belongs to the Shul?

What is interesting is that the Mishna Brura in 154:59 brings from the Sefer Aguda that Ain Yad L'hekdesh. Hekdesh has no Yad, has no Chatzeir to make a Kinyan and therefore, a Shul does not own what fell. The Mishna Brura does not tell you but in the Ketzos Hachoshein 200:1 he wonders what do our Shuls have to do with Hekdesh. Our Shuls come in two types. Some Shuls are private property a Rav or a Rebbe who owns a Shul and it is part of his house and there certainly it is his Chatzeir. The question is what about a public Shul? The Ketzos wonders that that should not be called Hekdesh, of course it is holy but it is not Hekdesh. Nevertheless, as the Ketzos himself points out the Shul itself is a place that people come and go and therefore, the Shul itself is not Kone with Kinyan Chotzeir. We could Kler, we could wonder if something is left in a Shul overnight and let's say that it is pouring and you want to go take umbrellas that have been abandoned in the Shul does it belong to the owner of the Shul or to you. If I am finding it now is it Hefker. There you can argue that when the Shul is locked up at night that it is a Chatzeir Hamishtameres and that therefore, it should belong to the owner of the Shul however, the Psak in this is not so clear. Certainly if it is a Shul that has no clear owner, a public Shul like some of the Young Israel's, the Agudah's which are not owned by any individual, there certainly the item remains Hefker. At any rate my point is that Dinei Kinyanim drive Dinei Mamon. Don't be quick to Pasken without learning Halachos because these questions the questions of ownership depend on technical questions in Halacha. It is not on the Yosher logic of the individuals and that is really where many people go wrong.

With that I want to wish everybody an absolutely wonderful Shabbos Parshas Mishpatim. Getting ready for Rosh Chodesh Adar. We should be Zoche to get in the mood of Adar. Now that most of

you are out of Yeshiva, Adar and Purim is just another day. It is not just another day. It is a day where the world around us rejoices and the world comes alive and we should be coming alive in everything we do. In our Bain Adam L'chaveiro, in our serving Hashem, and the spring in our step as you walk in the street (if only there won't be a snow storm this Shabbos). Well, at least when the snow storm passes it will be Rosh Chodesh Adar and G-d willing we look forward to a wonderful spring of Hischadshus. A Gutten Shabbos to all!

## **Rabbi Reisman - Parshas Mishpatim 5772**

This week's Parsha Parshas Mishpatim is primarily a Parsha of Mishpitai Hatorah 21:1 (וְאֵלֶּיךָ, הַמִּשְׁפָּטִים). This week's Parsha has 53 Mitzvos in the Minyan Hamitzvos. Of those 53 not all are Bain Adam L'chaveiro. Not all of the Mitzvos are Mishpatim. It is interesting that the Chasam Sofer writes (וְאֵלֶּיךָ, הַמִּשְׁפָּטִים) of the 53 only 42 are Mishpatim which is Gematria (וְאֵלֶּיךָ).

Many of these Mitzvos are in Maseches Bava Kamma which Yeshiva is learning this year and many of you have learned it in Yeshiva a number of years ago. So today, we will have a special edition of getting ready for Shabbos. I am going to present you with a list of Shailos of Bava Kamma Shailos. These will not be complicated ones. These will be ones that touch on the basic Yedia (a piece of knowledge) that anybody who learned Bava Kamma would know, but as you know we are very very far from being able to apply it as a Halacha L'maiseh unless it is pointed out to us. And so, let me begin the 5 Shailos.

1. This is a Shaila that took place. A man paid a debt to another man, this was one Yid to another Yid and he paid him cash. The next day, the person who received the money came back to the one who gave it and said that one of the \$100 bills that he had received from him was counterfeit. He had gone into a store to change it and he was told that it is counterfeit. He checked in the bank and indeed one of them was counterfeit. Therefore the person who received the payment is demanding payment from the one who paid because he says the \$100 that you gave me is no good and therefore, you still owe me a hundred dollars. What is the Halacha, does he have to pay? This is an application of the well-known Sugya in a number of places in Seder Nezikin of Bori V'shema. The person who is claiming the money says that he is certain that the money that is counterfeit is from the money that he received. The one who paid it doesn't know. Is it true that the \$100 that was counterfeit was the one that he gave? He has no way of knowing for certain. We Pasken Bori V'shema Lav Bori Odif. That when there is a Bori and a Shema the Bori can't be Motzi Mamon (meaning he can't demand payment from the Shema) because the Shema doesn't have to pay. Still it says in Shulchan Aruch that Latzeis Yidai Shamayim, It is better to pay if you trust the person who is demanding payment. Therefore, in this case, someone who wants Latzeis Yidai Shamayim should pay. However, Mai'ikur Hadin it is Bori V'shema Lav Bori Odif. A Bori can't be Motzi Mamon, he can't demand payment. It is a simple application of a Yesod that we all learned in the Gemara.

2. Somebody was sitting in a Shul Davening and there was a nail sticking out of the bench on which he was sitting. He ripped his suit. He went to the Rav who owned the Shul, it was a Shul in someone's house and demanded payment. He said that it is a Bor Birshus Harabim. After all, a Shul is a public area because people come and go and it is a Bor Birshus Harabim and he ruined his suit because of the Rav's negligence of having a bench with a nail sticking out. What is the



Halacha? As you all know Bor is Pattur on Keilim because of the Drasha of the Posuk 21:33 (נָכִי- (יִפְתָּח אִישׁ בּוֹר, אוֹ כִּי-יִכָּרֶה אִישׁ בֶּרֶךְ--וְלֹא יִכָּסְנוּ; וְנָפַל-שָׁמָּה שׁוֹר, אוֹ חֲמוֹר נָפַל לְתוֹכּוֹ) is Shor V'lo Adam and Chamor V'lo Keilim. The Gemara that Darshuns this Posuk is found on 53b (6 lines from the bottom) (שׁוֹר וְכִלְיוֹ וּנְשַׁתְּבְּרוּ כֹּי: מִתְּנִיתִין דְּלֹא כִרְיָהוּדָה דִּתְנִיָא ר"י מַחֲיִיב עַל נֹזְקֵי כְלִים בְּבוֹר מֵאֵי טַעְמָא דְרַבְנָן דְּאָמַר קָרָא וְנָפַל (שָׁמָּה שׁוֹר אוֹ חֲמוֹר שׁוֹר וְלֹא אָדָם חֲמוֹר וְלֹא כְלִים). So even if it true that the bench is a Bor Birshus Harabim, however, ripping the suit which is an object is excluded from the payments of Bor. If you remember when we learned Maseches Bava Kamma in Yeshiva I pointed out that if someone were to go to Ocean Parkway and dig a huge hole in middle of the street with a jackhammer and stand at the side giggling and waiting for a car to come through, fall right into the hole and the car would be totaled, Al Pi Din the person who dug the Bor is Pattur because of the Miut in Dinai Bor of Shor V'lo Adam and Chamor V'lo Keilim. Even though it is a Chok and we don't understand the reason why it should be so, but Bor is Patur on Keilim.

3. This Shaila happened to someone in the class when we learned Bava Kamma 2 cycles ago. He was a tenant in an apartment in a lower floor of a 2 family or 3 family house. One day when he was in Yeshiva, a water pipe that was in the ceiling burst. No one was home. The water came cascading out soaking and ruining the couch and the carpeting. The landlord was settling with him to pay him for his losses and they had a dispute over how much to pay for the couch. The landlord said it was a used couch and I only have to pay a partial value. The tenant said what do you mean, I can't buy a partial couch. I have to buy a new couch so pay for the amount of a new couch. They decided that they would ask me. This young man in Yeshiva asked me the Shaila. I responded that we had just learned a Gemara on Daf 6b in Bava Kamma (3rd line from the top) (רַבִּינָא אָמַר לְאַחֵיוֹי) (הָא דְתַנְן הַכּוֹתֵל וְהָאֵילָן שֶׁנִּפְּלוּ לְרֵה"ר וְהִזִּיקוּ פֶטוֹר מִלְּשֵׁלֶם נִתְּנוּ לוֹ זְמַן לְקוֹץ אֶת הָאֵילָן וּלְסַתּוֹר אֶת הַכּוֹתֵל וְנִפְּלוּ בְּתוֹךְ הַזְמַן הַזֶּה חַיִּיב (הַזְמַן וְהִזִּיקוּ פֶטוֹר לְאַחַר הַזְמַן חַיִּיב) that Kosel V'ilan Shenafila L'rishus Harabim the Bailim are Pattur. The Halacha is that even though Adam is a Muad L'olam (if a person does damage he is responsible for those actions), however, if his Mamon (objects) does damage, if someone is an Ones (guiltless) he is Pattur. If somebody has a perfectly good wall and over the years it gets old and one day it collapses and ruins somebody's car or damages somebody's animal he is Pattur. This is because an Ones is Pattur (הַכּוֹתֵל וְהָאֵילָן שֶׁנִּפְּלוּ לְרֵה"ר וְהִזִּיקוּ פֶטוֹר מִלְּשֵׁלֶם). Unless there was a prior history. Meaning there was a warning that there was a water leak. But here where there was no such warning the person asking the Shaila doesn't get a full couch or even a partial couch. The Bal is Patur L'gamri. I might add that this third Shaila would apply to the second as well in the case of the bench in Shul. If the owner of the bench was guiltless and it just so happened that a good bench over time had a nail that started to protrude, then he too is Pattur for this reason. We learned 3 Klallim in a few minutes. The rule of Bori V'shema Lav Bori Odif, the idea of P'tur Keilim Min Habor, and now the idea of Kosel V'ilan Shenafila L'rishus Harabim that even though Adam Hamazik we say Adam Muad L'olam, however, when it comes to Mamon Hamazik, someone's property, then there is no such rule.

4. This one will most probably be the most confusing to everybody. Somebody takes a torch and goes over to someone else's house and lights his curtains and carpeting and the whole house was burned down. In the house there was money that was hidden in a very unlikely place. Maybe in the tank of a toilet or some other unlikely place that a person would think of hiding money. Does the arsonist have to pay? The Gemara says that Aish is Patur on Tamun. Something hidden in a house that is burned and a person would be Chayuv for Aish, Tamun is Pattur. Many of you are thinking that this is a trick question because you all know that Tamun is Pattur. Well, I have to

explain something to you. If you remember in the second Perek there is a Sugya of Aisho Mishum Chitzav. This can be found on 22a (6 lines from the top) (אתמר ר' יוחנן אמר אשו משום חציו וריש לקיש). Today, Yeshiva Bachurim learn Bava Kamma the whole year for much time in the morning and Chazeir the Shiur in the evening but they don't know what Aish actually is. We Pasken that (אשו משום חציו) Aisho Mishum Chitzov which means that just like when a person takes a hammer and breaks someone's window that is called Adam Hamazik and not hammer Hamazik. The (Adam) human being who did damage used the tool. We Pasken the same thing regarding a fire. If someone takes a fire and torches someone's building that is Adam Hamazik and not Aish and is Chayuv on Tamun. The Gemara explains the case of Aish is really rare. We need a case of (כלו ליה חציו) Kalu Lo Chitzav which the Gemara explains as follows. The Gemara on 23a (2 lines from the top) says (אמר רבא קשיא ליה לאביי למ"ד אשו משום חציו טמון באש דפטר רחמנא היכי משכחת לה) וניחא ליה כגון שנפלה דליקה לאותו חצר ונפלה גדר שלא מחמת דליקה והלכה והדליקה והזיקה בחצר אחרת דהתם כלו ליה חציו אי הכי לענין גלוי נמי כלו ליה חציו אלא למאן דאית ליה משום חציו אית ליה נמי משום ממונו וכגון שהיה לו לגודרה ולא גדרה דהתם שורו הוא ולא טפה באפיה וכי מאחר דמאן דאית ליה משום חציו אית ליה נמי משום ממונו מאי (בינייהו איכא בינייהו לחייבו בארבעה דברים) when someone torches someone's house wherever the fire travels it is like his arrow and it is Adam Hamazik. However, if at the time he torched it there was a wall that would have prevented the fire from spreading and subsequently that wall fell down, Kalu Lei Chitzav (the person's arrows have ceased) it is a place where his arrow could not go at the time he lit the fire. If he was negligent in not preventing the fire from travelling further, only there does it have a Din of Aish. So again, a very basic idea but something not well known that Aisho Mishum Chitzav (arrows). I have reminded you as of now of 4 Sugyos that hopefully sound familiar from your years in Yeshiva.

5. A person stepped into a car service in the neighborhood and as he was riding to his destination he noticed on the floor an envelope which he picked up and it contained a large amount of cash which he quietly slipped in to his pocket. Then he called me. His question was the following. We learn out of this week's Parsha 22:3 (אם-המצא תמצא קידו), the Gemara on 64b (bottom line to top of 65a) (והאי אם המצא להכי הוא דאתא הא מיבעי ליה לכדתניא ידו אין לי אלא ידו גגו חצירו וקרפיו מנין ת"ל אם) (המצא תמצא מ"מ א"כ לימא קרא או המצא המצא או תמצא תמצא מדשני קרא ש"מ תרתי) learns from here Kinyan Chatzeir that a person can acquire something without his knowledge if the Hefker item is in his Chatzeir (in his property). It doesn't have to be a courtyard or a house it can even be in a car or in a Keili, anything that a person owns. The question is, is this car service owner or perhaps the owner of the car that was driving perhaps be the owner of that cash. Why? That cash was in his Chatzeir, it was in his car and it had become Hefker when the owner realized he lost it and was Miyaeish. Therefore, it should be his. Or if it is a type of Aveida that you don't have to return such as that of a non Jew then it should transfer to the ownership of the driver of the car or the owner of the car with Kinyan Chotzeir. Is he Kone with Kinyan Chotzeir or not? Well my time is very limited for today but I will introduce you to a beautiful and Geshmake Teshuva in the Igros Moshe, Choshen Mishpat Cheilek Bais Teshuva 44. This is a great Teshuva to learn especially for this week's Parsha. There we find a Shaila that came to Rav Moshe of someone who found an envelope of cash in a bank vault. It is the same Shaila, was the bank Kone or is it his? Rav Moshe makes the unlikely argument that a bank vault is a Chotzeir She'aino Mishtameres. The only time that a Chatzeir is Kone is a Chotzeir HaMishtameres, a Chotzeir which is safe and which is guarded for its owner. A Chotzeir that people come and go is called a Chotzeir She'aino Mishtameres and is not Kone. That is the short answer of the Shaila here regarding the cash. Although Rav Moshe has a very interesting insight into this whole discussion.

And so with these few minutes I hope we have Chazered 5 old friends: 1) Bori V'shema Lav Bori Odif, 2) the idea of P'tur Keilim Min Habor, 3) the idea of Kosel V'ilan Shenafla L'rishus Harabim that even though Adam Hamazik we say Adam Muad L'olam, however, when it comes to Mamon Hamazik, someone's property, then there is no such rule and Ones is Pattur by Mamon Hamazik, 4) The case of Tammun, Aisho Mishum Chitzov, and now 5) the idea that a Chatzeir needs to be a Chotzeir HaMishtameres and you can look it up in the Igros Moshe for a more in depth analysis of Chotzeir HaMishtameres.

The question of the week is and was dealt with in Shiur many years ago: we know that Hamotzi Maichaveiro Alav Haraya. If you and I have a dispute and there is a question and something is unclear (we don't know all the facts), the question is do I have to pay you. So we say, Hamotzi Maichaveiro Alav Haraya. The one who wants to take money from another person has to bring the proof. So therefore, I am not sure if I owe you money, you are not sure if I owe you money, something happens which throws this into doubt, I don't have to pay because Hamotzi Maichaveiro Alav Haraya. That is a basic rule in Shas.

The question is, if it is your money then we should apply a different rule, the rule of Safeik D'oraisa L'chumra. It is a question of Lo Tignov or it is a question of Lo Sashok. It is a question of whether I am stealing money from you. Why don't we say Safeik D'oraisa L'chumra. If I am unsure if it is your money or mine I should have to give it to you. Why do we say Hamotzi Maichaveiro Alav Haraya. It is not a Gizairas Hakasuv, it is a Sevara. The Sevara seems to be Mufrach. Now with that Geshmake Kasha I will bid you farewell for this Shabbos.

## **Rabbi Reisman - Parshas Mishpatim 5770**

יח וְכִי-יִרְיֹבֶן אֲנָשִׁים--וְהִכָּה-אִישׁ אֶת-רֵעֵהוּ, בְּאֶבֶן אוֹ בְּאֵגֶרֶף; וְלֹא יָמוּת, וְנָפַל לְמִשְׁכָּב יַם אִם-יָקוּם וְהִתְהַלֵּךְ 21:18, 19 The Halacha is, if someone is Mazik someone, he pays Sheves and Ripui. The Gemara in Masseches Bava Kamma 85a (16 lines from the bottom) learns, that Rapoi Yirapei דתניא דבי ר' ישמעאל אומר (שמות כא) ורפא ירפא מכאן שניתן רשות לרופא לרפאות, that Rapoi Yirapei teaches us that a doctor has permission to heal. The Gemara goes on to explain that you shouldn't say that the Ribbainoi Shel Oilam harmed someone so how can you say that a doctor has the right to heal him, because the Posuk comes to teach that a doctor is permitted to heal someone.

The Chofetz Chaim in Sheim Oilam which is printed in Likutai Chofetz Chaim on Parshas Mishpatim brings from this Drasha a Raya to a fundamental Shaila in Yahadus. We have discussed many times in the past, that there is a Machloikes Rishoinim in Hashkafa whether it is possible for a person to hurt another person. If Reuvein wants to punch Shimon in the nose, does he have Bechira (free will) to do so or not. Or do I say about Shimon that a person doesn't get hurt on earth unless decreed on by Hashem?

The Rambam and the Chinuch hold that it is impossible to hurt anybody unless it was Nigzar Alav Min Hashamayim. Therefore, Hashkafa wise a person is not permitted to take Nekama as it had already been Nigzar that he would get hurt.

The Alshich and the Ohr HaChaim Hakadosh disagree and say that a person has Bechira to do Aveiros. So if someone wants to hurt someone else, he is able to do so.

According to Alshich it is very Shver, as what is the Raya from this Posuk? Maybe when a person becomes sick and it is straight from Shamayim, you have no right to heal him. Over here it wasn't that he got hurt Min Hashamayim, however, it was the other person who used his Bechira to harm someone and therefore a doctor should be permitted to heal him. So it is a Raya that whenever someone gets hurt it is only because it was Nigzar Alav Min Hashamayim as the Rambam and Chinuch say. It would be a Mitzvah to try to find a Teretz for the Alshich to fit in as well.

To cause someone else a loss of money is possible as the Gemara says that when you steal from someone you are Matriach the Ribbinoi Shel Oilam to get the money back to him. Davka by causing Hezek to a Guf do we have this idea that Rapoi Yirapei since no one can be hurt unless it was Nigzar Alav Min Hashamayim.

The Ben Ish Chai in Ben Yehoyada explains the difference and significance between Salma and Smalois. The difference is that Salma means cheap clothing and Smalois means expensive clothing. How so? The Posuk that we just quoted from Parshas Bo is saying that the Bnei Yisrael didn't borrow dungarees or T-Shirts from the Mitzrim, they borrowed the fancy clothing. By our Posuk it is talking about anything of value because you can go to Bais Din for anything that is worth a Perutah even though it is insignificant.

Another example of this is in Parshas Bo 12:34 לֹד וַיִּשָּׂא הָעָם אֶת-בִּצָּקוֹ, טָרֵם יְחֻמָּץ; מִשְׁאֲרֹתָם צָרְרֹת The Yidden wrapped the extra dough which was going to be their Matza

B'simloisam in their Chashuva clothing. It was Matza from a Mitzva so they didn't wrap it in a Shmata.

A Dvar Mussar: Parshas Mishpatim discusses Dinei Mamon which is always a big Nisayon. Being honest in finances is a big Nisayon. However, the fights and arguments between people regarding money could mostly be avoided if people would realize something that is true about the nature of people. You all know that what is for your good you see your way. 2 Honest people will see things 2 different ways.

There was a case that came to Rebbi as a Din Torah which is a good Mashul of the truth of most disagreements. The employee as part of her compensation package was receiving health insurance benefits at no extra out of pocket cost. Her husband started receiving health insurance benefits as part of his compensation package from his job. The employee went to her boss and said that since she will no longer be needing the health insurance benefits, she would like an increase in her salary commensurate to the health insurance cost that the employer will now be saving. He agreed. After awhile that she had not received an increase in her salary she once again approached her boss with her request. This time she thought that she would receive it as a onetime bonus for the full year. The employer said it is true that the employee came to me; however, I never promised her the money. So she came to me a second time and again I did not promise her money. I don't know where she is getting this from? They were being very nice to each other; however, they were both accusing each other of being liars.

Upon pinning them down to the exact words used in the exchange, the employer after being approached by the employee to increase her salary as she didn't require health benefits anymore said, Zeh Nehene V'Zeh Loi Chasar. The employee understood it to mean, I will get the money that anyway the employer was spending, so I gain and the employer doesn't lose. The employer understood the exchange as I will gain as now I don't have to spend money on health benefits and the employee doesn't lose as she still will have health benefits albeit from her husband. So each one heard that I will be Nehene. However, there were 2 translations of the phrase.

Very often there are disagreements between 2 honest good people where something is translated one way and what is being heard by each party is that only they are going to gain.

The Halacha is if you take someone to court Sheloi K'din, not only are you not entitled to the money that the court gives you, you really have to reimburse him for his legal expenses as well even if you are the one who is right.

Parshas Mishpatim is a time to remind oneself of their obligations in Dinei Mamunus.

The question of the week is: In the first Perek of Maseches Gittin which Rebbi is learning in Yeshiva this year, there is a Machloikes between the Chachamim and Rav Meir whether it is a Zcus for an Eved Canani to go free or a Choiv (bad for him). Rav Meir says it is a Choiv because he loses the ability to be married to a Shifcha Cananis and if he is an Eved of a Kohen he can no longer eat Terumah. The Chachamim say it is a Zcus for the Eved to go free. L'choira, it should be a strong Raya from the Parsha of Eved Canani itself. We know that if the master knocks out a tooth, eye or any of the 24 Roshei Eivarim, the Eved goes free. That is good according to the Chachachim that say that it is a Zcus for him to go free, however, according to Rav Meir that it is

a Choiv for him to go free, what is the Pshat? Because the master knocked out his tooth or eye, the Eved should be forced to leave even if he doesn't want to? This is a Davar Pele that needs a Hesber.

## Rabbi Reisman - Parshas Mishpatim 5769

There is a Chidush B'sheim R' Chaim Kanievsky in Derech Sichah volume II page # 109. In 21:5 the Pasuk says if an Eved Ivri says (אֶת-אִשְׁתִּי וְאֶת-בְּנֵי; לֹא אֶצְאָא, הִקְפִּישׁ). The Nido'in is, if someone gets married, and his father is a Goi, it could be a Jewish child or it could be a Ger. In a Shtar Kesubah or Get, they write Ben his natural father. Pashtus, this Shtar would be Posul because there is no Yichus after a Goyishe father. Rav Chaim's Chidush is since this Goy is really his father, it would be a Kosher Shtar. The Raya is, the Toirah says this Eved Ivri says (אֶת-אִשְׁתִּי וְאֶת-בְּנֵי, אֶת-בְּתוּלָתִי), Ai she is not his wife and they are not his children Al Pi Halachah.

This Vort helps with a Vort from Rav Yoinason Eibushitz. He says Haman was actually a Jew. The Gemara says Haman was an Eved Canani to Mordechai. An Eved Canani when he goes free is certainly a Yid and even while he is an Eved is considered a Yid. So Haman was a Yid. Where it says that Mordechai refused to bow to Haman, it says 3:4 (כִּי-הָיִיד לָהֶם, אֲשֶׁר-הוּא יְהוּדִי). So Rav Yoinason says that it means that Haman is a Yehudi. The velt asks how can it be that Haman was a Yehudi if it says Zeresh Ishtoi V'es Roiv Bonov? The Pesukim say what he perceived, that it was Ishtoi U'bonov.

The Mishnah B'rurah has a Shaila about Bentching Goimel. If someone gets robbed does he have to Bentch Goimel. The Mishnah B'rurah Paskens that you do Bentch Goimel. Why? He brings from the Parsha, in 22:1 (אִם-בִּמְהֻרָּת יִמָּצֵא הַגֵּנֵב, וְהָכָה וָמֵת--אֵין לוֹ, דְּמַיִם), if someone came to steal money and you kill him, you are not Chaiyov. Ai, he just came for money, so why aren't you Chayov for killing him?

Rashi brings from the Gemara, (אין לו דמים: אין זו רציחה, הרי הוא כמת מעיקרו. כאן למדתך תורה אם בא ) להרגך, השכם להרגו, וזה להרגך בא שהרי יודע הוא, שאין אדם מעמיד עצמו וראה שנוטלין ממנו בפניו ושותק, לפיכך that everyone knows that people don't stand by while their money gets taken. He comes with the thought that if the person he is robbing will try to defend himself, he will kill him. So if someone gets robbed, he should have to Bentch Goimel. It's Shver. Rashi doesn't say he is coming to kill you. Rashi says that if the person getting robbed will fight back, the robber will kill him. What if there would be a case where someone was getting robbed, and he just handed over the money with no qualms, such a person was never in Sakanah according to this, because Rashi is saying only if the Bal Hamamon would stand to defend himself and his money than he would get killed. So it seems that Rashi has the exact opposite Psak than the Mishnah B'brurah?

People defend Rashi's position, that by nature, people would defend themselves and this person who held himself back from defending himself Bentches Goimel on the fact that he held himself back from defending himself. This is not true. A person who holds himself back from performing a life threatening task doesn't Bentch Goimel. You only Bentch Goimel when the Sakanah is there, not when you could have done something foolish. It seems to be a Shtaker Kasha on the Mishnah B'rurah. Rabbi said that Halachah L'maiseh we would do as the Mishnah B'rurah Paskens.

The K'tzois is on Hoidoas Baal Din K'maiya Aidim Dami. We learn this Din out of our Parsha. By Moideh B'miktzas the Posek says (אֲשֶׁר יֹאמַר כִּי-הוּא זֶה). This is found right after Shlishi in 22:8. The Drash on (כִּי-הוּא זֶה) Rashi says is to teach that you don't need to swear unless you are Moideh B'miktzas (עד הדיינין). עד הדיינין (עד הדיינין) עד הדיינין, ואם ירשיעו את העדים, שנמצאו זוממין, ישלמו הם שנים לשומר. ורבותינו ז"ל דרשו כי הוא זה, ללמד שאין מחייבין אותו שבועה אלא אם כן הודה (במקצת לומר כך וכך אני חייב לך, והמותר נגנב ממני). There is a famous Chakirah in Hoidoas Baal Din K'maiya Aidim Dami about how it works. There are those who say that Hoidoas Baal Din K'maiya Aidim Dami is like Palginan Ne'emanus. An example would be, if a man walks into Beis Din who we don't know if he has any brothers, and he says ploini is my brother, later when his father dies, he has to share the Yerusha with Ploini. However, for any other Halachah like Yibum or Chalitzah, if he would die without children, there would be no Chiyuv. The reason is, there is no Chazakah that they are brothers. It is just Hoidoas Baal Din K'maiya Aidim Dami. We believe him L'gabai himself but we don't believe him regarding others. So there are those who understand, that this is P'shat in Hoidoas Baal Din K'maiya Aidim Dami. There are those who argue on this and say, Hoidoas Baal Din K'maiya Aidim Dami, either Bais Din believes him or they don't believe him. A person never has a Ne'emanus on himself. Ai, so why when a person comes into Bais Din and says I owe Ploini \$100, we make him pay. Or if he says Ploini is my brother, he must share the Yerushah with him?

That coming into Bais Din and saying I owe someone \$100, creates a new His'chaivus to pay. There is a similar Chakirah that the K'tzois is Toileh Zeh BaZeh. By Shava Anafshi Chatichah B'isura. Someone who says something is Treif, even though we don't believe him, in a Matziv that it is not his, so there is no Eid Echad Ne'eman B'isurin. He himself is not permitted to eat the food. Some are of the opinion that it is a sort of Palginan Diburoi and others believe that the person created a new Issur on himself, almost like a Neder not to eat this food. Do these Gemaras actually fit into the Chumash?

Our Posuk is talking about someone who got a Pikadoin as is seen in Posuk Vav. So when the owner comes to retrieve his object, let's say it is \$100, he is told you only gave me \$50 to watch. You are Chayov to swear, a Shvuas Moideh B'miktzas. What would happen if someone came and said I gave you \$100 to watch. He says back, you didn't give me anything to watch, however, he is Mechayeiv himself somehow to \$50. Is that a Moideh B'miktzas? There is no Hava Aminah that this is not a Moideh B'miktzas. So when the Toirah says that there is a Parsha here of swearing, there are 2 choices. Either, there is a new Chidush of Moideh B'miktzas L'kol Hatoirah Kuloi. If you are going to learn that there is a new Hischaivous, you will have to say that there is a new Din. That a person who creates a new Hischaivous for half the money and he is Chayov to swear a Shvua. No one ever heard of this second new Din. This is the first Din of Moideh B'miktzas. How does this Chakirah of the K'tzois fit into the P'sukim? Maybe Drashois don't have to fit into the Parsha.

22:30 It says in the Posuk, (לְכָלֵּב תְּשַׁלְּכֹן אֹתוֹ), that we give the Nevailah to the Kelev. So it is well known that Chazal say that the Kelev deserves a reward for keeping quiet on the night of Makas Bechoirois. The Klovim get rewarded, very good. What about the Tzefar'dim (the frogs), where is their reward for jumping into the ovens?

The Velt says a Teretz, that to be quiet, not to bark, is much harder than jumping into an oven. Therefore, the Kelev gets the S'char. The message is Emes. Sh'tika is very difficult. The Rambam writes on Pirkei Avos, Sh'tika Yafeh L'chachomim, Kal Vachomer L'tipshim.

On the Inyan of Keifel, paying double. The Gemara in Maseches Bava Kama 79b (16 lines from the top) says (שאלו תלמידיו את רבן יוחנן בן זכאי מפני מה החמירה תורה בגנב יותר מגזולן אמר להן זה השוה כבוד) עבד לכבוד קונו וזה לא השוה כבוד עבד לכבוד קונו כביכול עשה עין של מטה כאילו אינה רואה ואוזן של מטה כאילו אינה שומעת שנאמר (ישעיהו כט) הוי המעמיקים מה' לסתיר עצה והיה במחשך מעשיהם וגו' וכתוב (תהילים צד) ויאמרו אמר ר' מאיר <תניא> לא יראה יה ולא יבין אלהי יעקב וכתוב (יחזקאל ט) כי [אמרו] עזב ה' את הארץ ואין ה' רואה משלו משל משום רבן גמליאל למה הדבר דומה לשני בני אדם שהיו בעיר ועשו משתה אחד זימן את בני העיר ולא זימן את בני המלך ואחד לא זימן את בני העיר ולא זימן את בני המלך איזה מהן עונשו מרובה הוי אומר זה שזימן את בני העיר (ולא זימן את בני המלך) the Ganaf is showing that he is scared of people, and is not afraid of the Riboinoi Shel Oilam. For that, we give him an Oinesh of Keifel. The velt asks a Kashya, when Rav Yoichanon Ben Zakai died in Maseches B'rachos 28b (19 lines from the bottom), (אמרו לו) רבינו ברכנו אמר להם יהי רצון שתהא מורא שמים עליכם כמורא בשר ודם אמרו לו תלמידיו עד כאן אמר להם ולואי (תדעו כשאדם עובר עבירה אומר שלא יראני אדם) he told his Talmidim, Halevai you should be as afraid of Shamayim as of people. So the Talmidim asked, that is a B'rachah?

So he responded, people are afraid of what other people see them do, however, they are not afraid of doing Aveiros in front of Hashem. So this seems to be the Teva of a person, since they don't sense the presence of Hashem they are not afraid. So if it is so normal not to be afraid of Hashem, how come we punish the Ganaf?