

Parsha Encounters

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26 Shevat 5766/Feb. 24, 2006

Parshas Mishpatim - Rabbi Eliyahu Weinschneider, Psy.D.

Selective Perception

Parshas Mishpatim begins by teaching us the laws of slaves. The pasuk teaches us that if an *eved ivri*, a Jewish slave (who has been sold into slavery for stealing, according to Rashi), chooses to stay beyond six years "...then his master shall bring him to the court and shall bring him to the door or to the doorpost, and his master shall bore through his ear with the awl, and he shall serve him forever." (Shemos 21:6)

Rashi on this pasuk brings a gemara (kiddushin 22b): "Rabban Yochanan ben Zakkai... How is the ear different from all other parts of the body? Hashem said, "the ear is what heard My voice on Har Sinai, at the moment that I said "For unto me the children of Israel are servants' and not the servants of servants. And this person has gone and bought a master for himself - Let his ear be pierced."

Although ear piercing seems to be a fitting punishment for not listening, it does seem strange that a specific body part is held responsible for a person's behavior. Why not give this person a more general punishment, be it physical or monetary? What lesson is there to be learned by specifically "punishing" the ear?

The medrash on the pasuk "I considered my ways and returned my feet to Your testimonies" (Tehillim 119:59), teaches us that Dovid Hamelech said to Hashem: "Every day I would begin by going to specific places, but my feet would always lead me to shul and to the beis medrash". Meaning, that Dovid hamelech's feet somehow would "overpower" his conscious thoughts and plans. How did his feet get such power?

R' Chaim Shmulevitz explains, that by constantly going to the beis medrash, Dovid Hamelech trained his feet to go there on "autopilot". In other words, Dovid

Hamelech trained his body to be in synch with the *ratzon Hashem* at all times. So much so, that if he ever had to go somewhere that wasn't 100% involved in *ruchnius*, his body would nevertheless automatically take him to the beis medrash.

R' Shmulevitz teaches us that this concept goes even a step further. Not only can a person achieve mastery over one's own instincts, movements, and perceptions, but this mastery can be transmitted to one's descendants. This slave's ear didn't physically hear anything at Har Sinai, but the ears of his ancestors that received the Torah did. The Torah was then passed from father to son throughout the generations, so that it is as if this slave had actually heard it himself. By piercing the slave's ear, we are reminding him that he has retrained his body to react in ways that are not consistent with the values that were passed down to him. By customizing himself to stealing, he ended up being sold as a slave. And now, instead of learning a lesson and changing, he grew comfortable in his state of decline and is choosing to not hear "*ki li Bnei Yisrael avadim*", which is echoing in his ears if he would only stop to listen. By piercing his ear, we are teaching him and all who see him a lesson. One has the ability and the responsibility to mold ones' body and behaviors to always do the *ratzon Hashem*, thereby becoming a true *eved Hashem*. If we don't shape our behaviors properly, we can easily become "slaves" to other things.

May we be zocheh to exert and train ourselves to the point that we instinctively do the *ratzon Hashem*, and then we will Im Yertzah Hashem be zocheh to banim ubnei banim oskim baTorah ubmitzvos.

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Halacha Encounters

Neighborly Interest

Rabbi Dovid Greenberg

In this week's parsha the Torah commands us, "*Lo sisimim alav neshech*" (22:24) *You shall not place interest upon your debtor.* The prohibition of charging interest, (also called "ribbis") is called here "neshech", literally, a bite. Rashi explains that similar to a snake bite in the foot which one might ignore until suddenly the deadly venom begins to affect the brain, so too one may charge a seemingly small interest rate, which rapidly grows into a large debt of money. The stringency of ribbis is especially pronounced in that the prohibition applies even to the borrower who is paying interest willingly. The Ramban (Devarim 23:20) explains the significance of the Torah's objection to this common business practice, as a means to teach Klal Yisrael that their relationship with each other should be one of loving brotherhood, and not mere partners in commerce.

Lending Food

Ribbis applies not only when lending money, but also when lending any consumable item. (This excludes borrowing utensils, wherein one returns the same item that was borrowed. Generally charging rent in such a case is permitted.) Therefore, when lending foodstuffs, one must be careful not to return more than was taken, as the excess would be termed ribbis (Y.D. 161:1). However, regarding neighborly lending, the poskim have enumerated some exceptions.

1. If the excess being returned is insignificant, as when returning a loaf of bread even though it may be slightly larger than the one borrowed, the problem of ribbis does not apply. However, a set quantity of items is always significant. Consequently, if one borrows five eggs, he may not return six. Even an established size is a problem, as when one borrows small eggs and returns larger ones. (Rema 162:1 Bris Yehudach ch.17 f.n.6)

2. Ribbis does not apply if one forgot the exact amount he borrowed and is returning an amount which will surely repay the loan. Although there is a possibility that the repayment is more than what was borrowed, this is permitted since the borrower's sole motivation is just to fulfill his moral obligation of repayment and not to overpay. Preferably, one should state outright, that any excess returned over the principal loan is just a gift and bears no relationship to the loan. (B.Y. ch5 fn.35)

3. Many neighbors are in the habit of borrowing and lending each other items without expecting the other to return what was borrowed. If there exists such a relationship, then no loan has really taken place. In this case it is as if a gift has been given. Consequently no prohibitions of ribbis apply and one may return even a greater measure than what was borrowed, for he is also just offering a gift. However, if one pledges to return the item borrowed, then its' status is that of a loan. (The Laws of Ribbis by Rabbi Y. Reisman)

Seah B'Seah

In addition to the Torah prohibition of ribbis, the Rabbis forbade many transactions which are similar or could be confused with ribbis. One of these enactments is termed "Seah B'Seah", a measure for a measure. This law states that one may not lend anything except for money, with the expectation of getting back the exact amount lent. The reasoning behind this is that the value of merchandise is based on its' monetary value. If the price goes up for this item by the time of repayment,

the borrower will have returned more value than he originally took. Therefore, the Rabbis enacted that when lending an item, one should state that he's lending the value of the item at the time of the loan. As a result, when repaying the loan, one returns only the amount equal to the original value, and not the whole amount borrowed. (Even if one didn't stipulate at the onset of the loan that he's lending the value of the product, if the value increased by the end of the loan period, one must pay back only the value of the item from the time of the loan.) For example, if Reuven lent Shimon a bushel of apples worth \$100, and a month later when the loan is due, a bushel is worth \$110, Shimon may only repay Reuven \$100 worth of apples. (162:1)

Exceptions to the Rule

There are three significant exceptions to the prohibition of Seah B'Seah. Since this enactment is of Rabbinic origin they found room for leniency in the following situations:

1. When borrowing small amounts of merchandise from your friend or neighbor (i.e. a bag of sugar) one may return the exact amount of the item. The reason for the prohibition of Seah B'Seah is that repaying more value than received resembles Ribbis. However, most neighbors are not even aware of the fluctuations of the market value (as opposed to merchants who are acutely aware of even slight fluctuations). (Rema ibid.)

2. There may be a situation when one is borrowing an item, and already has in his possession the same item he is borrowing. For example, one borrows a 2L bottle of soda, but he also has a 2L bottle of soda at home. In such a case, it would not be a problem for the borrower to return a 2L bottle of soda - even if the price has fluctuated. The reason for this being, that we view the original transaction as if the borrower "traded" his item for the item of the lenders. Consequently, even if the price of soda goes up, there is no ribbis concern, for it is as if the item (i.e. the bottle of soda) is already in the "possession" of the lender. This rule applies even if the borrower has only a tiny amount of the item being borrowed (i.e. A 12 oz can of soda) and even if what he has is inaccessible (i.e. locked up in a building and the key is misplaced). (See Taz 163:2 for further explanation) In a situation where the borrower doesn't own any of the merchandise, the lender may sell or give him a small amount to facilitate this leniency. (162:2)

3. When the items being borrowed are readily available on the market at a set price, one may stipulate to return the amount borrowed. (See Divrei Sofrim pg. 73 for different explanations of this leniency.) In the contemporary marketplace, most products are easily available all year round, and the prices remain steady within a given range. Most poskim hold that this is considered a set market price, despite the disparity in prices between merchants. (162:3)

In conclusion, one may return the exact amount borrowed from one's neighbor unless ;

There is a stark rise in the value of the item which the lender would be aware of, and

The borrower doesn't have even a tiny amount of the product at the time of the loan, and

The product is not readily available at a set price. (i.e. summer fruit during the winter.)

Rabbi Greenberg learns full-time at the kollel.