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PARSHA INSIGHTS

by Rabbi Yaakov Asher Sinclair

Rights and Obligations

When you lend money to My people (22:24)

I live in a city of kindness.

In Jerusalem, if your daughter suddenly becomes engaged and you don't have a bottle of whisky to make the customary *l'chaim* with family and friends, don't worry, look in the phone book and call the *gemach!* (A *gemach* is a free loan organization.) You'll be able to borrow a bottle of Johnny Walker black label (could even be gold but I don't think they stretch to green or blue). Later on, just replace what you took. No charge. There are *gemachs* for everything under the sun.

Let's say it's Shabbat, the drugstores are closed and you need a certain unusual antibiotic. No problem. There are people with *gemachs* of medicines in their homes that rival a commercial drugstore. There are *gemachs* for clothes, chairs, cameras, tapes, tables, telephones, money, free advice hotlines, mezuzahs, tefillin, bridal outfits, wigs, cooking gas cylinders, baby strollers, cribs, lactation pumps, drills, saws and other tools, embroidered cushions to bring a Jewish baby to the arms of the *Sandek* for his *brit milah*. In fact, I have a friend who has a talent for dreaming up new *gemachs* for people.

And Jerusalem isn't alone in its kindness. Many, many cities share this distinction. We are a kind people. It's in our genes.

Gemach is an acronym for *Gemilut Chassadim*, the bestowing of loving-kindness. In Judaism you are what you do. Kindness is not a spectator sport. Being kind means *doing* kindness.

There is no word for charity in Hebrew. Look up the word for charity in the English/Hebrew dictionary and you'll find the word *tzedaka*. *Tzedaka* doesn't mean charity. It means righteousness. There's no such thing as a Robin Goodfellow in Jewish thought. We believe a person who gives charity doesn't deserve a slap on the back. Someone who *doesn't* give charity deserves a slap on the wrist.

If you look in the written Torah, you'll be hard pressed to find a single mention of the word "rights". Obligations of these, the Torah is full. Look at this week's Torah portion: obligations of a master to a slave; the obligations of a child to its parents; of a

pupil to his teacher and vice versa; of a community to the poor; of the individual to the community; obligations to the orphaned, to the sick, to the convert; the obligations of man to G-d. Rights, however, are something that the Torah hardly mentions. Why?

Because to the extent that I have obligations, you don't need rights.

You can construct a legal system that spells out peoples' rights or you can write a code that lists their obligations: *All men are created equal and endowed by their Creator with certain inalienable rights* comes to the same thing as *And these are the laws that you should put before them*. The end result will be the same, but with one big difference.

A system that focuses on rights breeds a nation of takers. One that focuses on obligations creates a nation of givers.

Linguistic idiom reveals national character. In English, we say "My duty calls." Meaning, I start off unencumbered by obligation. My obligation calls to me. I am over here and my duty is over there. If I'm a good person I will heed that call. But still, my duty calls. I have to go to it. In the Holy Tongue we talk about a person being *yotzei chovoto*, literally *going out from his obligation*. In other words, a Jew starts off by being obligated. He doesn't have to go anywhere or heed any call. Life and obligation are synonymous.

There are three places in the Torah where the Hebrew word *im* is not translated by its usual meaning *if* but *when*. One of those is in this week's Torah portion:

"When you lend money to My people."

Lending money to the poor is not optional, it's obligatory.

What reads like an *if* to the rest to the world, to the people of G-d is a *when*.

• Sources: Rashi; Rabbi Uziel Milevsky, *zatzal*

TALMUD TIPS

by Rabbi Moshe Newman

Mishpatim: Berachot 44-50

When Permission Meets Obligation

“Women make a mezuman for themselves.”

A few words of introduction to the mitzvah of *zimun*: When three or more people have eaten together they become obligated in the mitzvah of *zimun*. One person of the group leads the others, inviting them in a prescribed manner to say Birkat Hamazon together. The group’s leader is known as the *mezamen* – “the one who invites.” The group is called a *mezuman*. According to most authorities the mitzvah of *zimun* was instituted by our Sages and is not a mitzvah of the Torah.

What is the reason for this mitzvah? In general, a person can make a *beracha* for someone else only if they form a single unit – as if they are one body. There is a very special pleasure derived by the diners when eating together as a group of three, a pleasure that binds them together as if they were one body. Therefore, it is correct that they also give praise to G-d in gratitude for their sustenance in this same combined manner of togetherness.

The Maharal of Prague explains the significance of the number three as being the “minimum of a multitude” that combine to form a single unit. We see this in geometry. If one takes one or two straight lines he cannot join them together to produce a closed form. However, with three lines he can make a triangle – a closed unit.

In this *beraita* on our *daf*, Rashi and Tosefot explain that three or more women who ate together have permission to make a *mezuman* for themselves. Although men who ate together have an obligation – and not merely permission – women have permission but not an obligation. The *Poskim* explain that women nowadays do not make a *mezuman* of their own, based on this ruling that their status is one of permission and not obligation.

Rabbeinu Asher and Rabbeinu Yona, however, write that women in fact are obligated in the mitzvah of *zimun*. A few reasons are offered for this position, especially the words of *Chazal* (Erachin 3a): “Everyone is obligated in *zimun*,” which comes to “also include women in the mitzvah.”

The Aruch HaShulchan answers for Rashi and Tosefot that this teaching refers to women who eat together with three or more men, in which case the women are indeed

as obligated as the men. But when the women eat alone, they have permission to make a *mezuman*, without an obligation.

The halacha is stated in Shulchan Aruch Orach Chaim 199:7: “Women may make a *mezuman* for themselves (i.e. they are not obligated to do so but have permission to do so). But when women eat together with (a *mezuman* of) men, they are obligated in the mitzvah of *zimun*.”

An interesting question arises in the case where three men and three women eat together and want to make one *mezuman* for the men and a different one for the women. The halacha is that that are permitted to split into two groups, even though the women – who had an obligation due to their eating with the men – would seem to be in a lesser mitzvah-status of “permission” when making a *mezuman* separately. How can they fulfill their obligation when they are separate and apparently no longer obligated?

One answer is that the obligation they gained when eating with the men does not cease to be an obligation for them even when they separate from the men to make their own *mezuman*. It is an obligation that is part of their being and stays with them despite the changed makeup of their *mezuman*. An addition point to allow this separation and to help understand it is to give consideration here to the ruling of the Gaon from Vilna, that even had the women eaten separately they would have a *zimun* obligation (like the opinion of Rabbeinu Asher and Rabbeinu Yonah). (*Chafetz Chaim in Shaar Hatziun* 199:9)

More than forty years ago I heard from Rav Chaim Pinchas Scheinberg, *zatzal*, that when a woman has eaten with a *mezuman* of men, thus having a *zimun* obligation, it is important for the men to be sensitive to her obligation. This entails an obligation on them to call for her if she is busy away from the table when they are ready to say the *beracha* of *zimun*, and they should also wait a reasonable amount of time for her to return so that she may fulfill her obligation along with them – an obligation that is identical to theirs.

• *Berachot 45b*

Questions

1. In what context is a *mezuzah* mentioned in this week's Torah portion?
2. What special mitzvah does the Torah give to the master of a Hebrew maidservant?
3. What is the penalty for wounding one's father or mother?
4. A intentionally hits B. As a result, B is close to death. Besides any monetary payments, what happens to A?
5. What is the penalty for someone who tries to murder a particular person, but accidentally kills another person instead? Give two opinions.
6. A slave goes free if his master knocks out one of the slave's teeth. What teeth do not qualify for this rule and why?
7. An ox gores another ox. What is the maximum the owner of the damaging ox must pay if his animal had gored no more than twice previously?
8. From where in this week's Torah portion can the importance of work be demonstrated?
9. What is meant by the words "If the sun shone on him"?
10. A person is given an object for safe-keeping. Later, he swears it was stolen. Witnesses come and say that in fact he is the one who stole it. How much must he pay?
11. A person borrows his employee's car. The car is struck by lightning. How much must he pay?
12. Why is lending money at interest called "biting"?
13. Non-kosher meat, "*treifah*," is preferentially fed to dogs. Why?
14. Which verse forbids listening to slander?
15. What constitutes a majority-ruling in a capital case?
16. How is Shavuot referred to in this week's Torah portion?
17. How many prohibitions are transgressed when cooking meat and milk together?
18. What was written in the *Sefer Habrit* which Moshe wrote prior to the giving of the Torah?
19. What was the *livnat hasapir* a reminder of?
20. Who was Efrat? Who was her husband? Who was her son?

All references are to the verses and Rashi's commentary, unless otherwise stated.

Answers

1. 21:6 - If a Hebrew slave desires to remain enslaved, his owner brings him "to the doorpost *mezuzah*" to pierce his ear.
2. 21:8-9 - To marry her.
3. 21:15 - Death by strangulation.
4. 21:19 - He is put in jail until B recovers or dies.
5. 21:23 - (a) The murderer deserves the death penalty.
(b) The murderer is exempt from death but must compensate the heirs of his victim.
6. 21:26 - Baby teeth, which grow back.
7. 21:35 - The full value of his own animal.
8. 21:37 - From the "five-times" penalty for stealing an ox and slaughtering it. This fine is seen as punishment for preventing the owner from plowing with his ox.
9. 22:2 - If it's as clear as the sun that the thief has no intent to kill.
10. 22:8 - Double value of the object.
11. 22:14 - Nothing
12. 22:24 - Interest is like a snake bite. Just as the poison is not noticed at first but soon overwhelms the person, so too interest is barely noticeable until it accumulates to an overwhelming sum.
13. 22:30 - As "reward" for their silence during the plague of the first-born.
14. 23:1 - Targum Onkelos translates "Don't bear a false report" as "Don't receive a false report".
15. 23:2 - A simple majority is needed for an acquittal. A majority of two is needed for a ruling of guilty.
16. 23:16 - *Chag Hakatzir* - Festival of Reaping.
17. 23:19 - One.
18. 24:4, 7 - The Torah, starting from Bereishet until the giving of the Torah, and the mitzvahs given at Mara.
19. 24:10 - That the Jews in Egypt were forced to toil by making bricks.
20. 24:14 - Miriam, wife of Calev, mother of Chur.

WHAT'S IN A WORD?

Synonyms in the Hebrew Language
by Rabbi Reuven Chaim Klein

Stealing and Robbing

The Torah offers two prohibitions for “stealing,” and these two prohibitions have different rules associated with them. When the Torah says *lo tignovu* (Lev. 19:11), this means that a type of stealing called *genivah* is forbidden, and when it later says *lo tizol* (Lev. 19:13), it prohibits another form of stealing called *gezeilah*. The Torah even mandates returning the stolen goods or otherwise compensating the victim of theft twice – once concerning a *ganav* (Ex. 22:3) and once concerning a *gazlan* (Lev. 5:23). Indeed, in the Talmud’s list of twenty-four types of damages, it reckons *genivah* and *gezeilah* as two separate items (*Bava Kama* 4b), and Maimonides’ *Sefer HaNizikin* splits the Laws of *Geneivah* and the Laws of *Gezeilah* into two separate sections. So what is the difference between *genivah* and *gezeilah*, and how do these words for “stealing” differ from *listim* and *chamas*? [According to Torah tradition, the prohibition of *lo tignov* in the Ten Commandments (Ex. 20:13, Deut. 5:17) actually refers to kidnapping, not to “run-of-the-mill” stealing.

The Midrash (*Ber. Rabbah* 54:3) explains that the definition of *gezeilah* is stealing something in public or out in the open. One of the opinions cited there states that in order to be considered a *gazlan* one must steal in such an overt way that he does so in front of ten people. If he steals in front of only nine, he is “only” considered a *ganav*. Another opinion states that to be considered a *gazlan* a thief must come face-to-face with his victim and grab the item in question out of his hand. The *ganav*, on the other hand, conceals himself from his victim and steals in a stealthier, sneakier way (*Bava Kama* 79b). Even if the victim ends up seeing the robber, the fact that the robber *tried* to hide himself from him is enough for him to be considered a *ganav* (*S’ma* to *Shulchan Aruch*, *Choshen Mishpat* 348:7).

Similarly, Maimonides (Laws of *Geneivah* 1:3) writes that a *ganav* is a person who takes another individual’s possessions in a clandestine way, such that the true owner does not know about it, like in the case of a pickpocket. But if he took it out in the open with violence or by force, then he is not a *ganav* – he is a *gazlan*. Elsewhere, Maimonides (Laws of *Gezeilah* 1:3) expands on his definition of *gazlan* by citing several examples: a *gazlan* is somebody who grabs another person’s moveable objects from his hand (see *Bava Basra* 34a), or he enters somebody’s property without permission

and takes their stuff (see *Shavuos* 44b), or he overpowers their slaves or animals and makes them work for himself (see *Bava Kama* 97a), or he goes into somebody else’s field and eats their produce (see *Bava Basra* 38a).

Ernest Klein (no relation) writes that the Hebrew word *gezel* is related to the Arabic word *jazala* “cut off,” which is a violent way of ripping out an object from the hands of its rightful owner.

In fact, Rabbi Shlomo Pappenheim (1740-1814) and others explain that the biliteral root GIMMEL-ZAYIN primarily refers to “shaving” or “trimming,” which is a type of cutting that leaves some parts attached and some parts detached. Other words derived from this root include: *geiz* (Ps. 72:6), the grass remaining after trimming; *gozez* (Gen. 38:12, 31:19), the act of shearing wool from sheep; *gazam*, a type of grasshopper which eats some produce and leaves over the rest; *geza*, a tree with a truncated top; and *gazit*, hewn stone. Although Rabbi Pappenheim does not explicitly connect the word *gezel* to this two-letter root because the third letter (LAMMED) does not fit with his theory, we can still argue that since *gezel* is the act of stealing or robbing somebody’s possession, while leaving some of his other possessions intact, it too is related to this root.

Similarly, Rabbi Samson Raphael Hirsch (to Ex. 23:19) writes that *gozel* (“small bird”) is related to the word *gezel* because when one takes a small bird away from its nest, he is “severing” the connection between it and its mother, just like one who steals “severs” the connection between an item and its legitimate owner. (Of course, it is just a coincidence that the English word *robin* – which also refers to a small bird – is phonetically similar to *robbing*. Or is it?)

The Torah (Ex. 21:37) differentiates between a *ganav* and a *gazlan* by imposing special fines on the *ganav*. When a *ganav* is caught stealing he must not only pay back the value of what he stole but must pay an extra of penalty of that same value, so that in total he pays *double* the value of what he stole. Moreover, when a *ganav* steals a *kosher* animal and slaughters it or sells it, he must pay back multiple times the value of the animal (five times for a bovine, and four times

for an ovacaprine). These extra fines apply to a *ganav* – a stealthy thief – but not to a *gazlan* – an open robber.

The Talmud (*Bava Kama* 79b) explains that the Torah deals more harshly with the *ganav* than with the *gazlan* because the *ganav's* action bespeaks an especially heretical and unacceptable worldview. While the Torah condemns any form of stealing as unacceptable, the *ganav* has committed an especially heinous sin by respecting man more than he respects G-d. By virtue of the fact that the *ganav* tries to hide his thieveries from other people, but does not care to “hide it” from G-d, he shows that he cares more about what people think than about what G-d thinks. For this reason, the Torah imposes special penalties on the *ganav*. The *gazlan* does not care about what anybody thinks – but at least he does not afford man more respect than G-d. He is therefore exempt from these penalties.

By the way, if you ever get confused between the *ganav* and the *gazlan*, you can use this neat mnemonic I heard from my fifth grade Rebbi, Rabbi A. Y. Berman: The *gaNav* steals at Night (i.e. when nobody is looking), while the *gazLan* steals in the Light (i.e. out in the open).

Based on an uncertainty in the Talmud (*Bava Kama* 57a), there is a dispute among the authorities whether an armed *listim* (“robber”) is considered a *ganav* or a *gazlan*. On the one hand, he steals out in the open and the victim knows about it like a *gazlan*, yet on the other hand, he carries a weapon with him, which suggests that he is scared of being caught, like a *ganav* (see *Kesef Mishnah*, *Lechem Mishnah*, and *Even HaAzel* to Laws of *Gneivah* 1:3).

The Mishnaic Hebrew word *listim* is derived from the Greek word *leistes*, which means “robber.” The Hebrew word *listim/listin* is really the singular form of the word, but since its ending resembles that of a word with a plural suffix, it was also borrowed to mean “multiple robbers.” Verb forms of *listim* were also derived from this Greek word in Rabbinic Hebrew (e.g., *li'lastem* means “to rob”). (The Greek *-lestes* is

used in English as a suffix in scientific names for animals that are “predators.”)

The word *chamas* also appears in the Bible in the sense of “thievery” and “stealing.” For example, the Bible reports that G-d resolved to bring a flood upon the generation of the Deluge “because the land had been filled with *chamas*” (Gen. 6:13), which Rashi (following *Sanhedrin* 108a) explains refers to theft. The term *chamas* or cognates thereof appear some sixty times throughout the Bible, but do not always refer exclusively to “stealing.” Sometimes they are just general forms of “violence” and “injustice.” Indeed, Dr. Chaim Tawil writes that the Hebrew *chamas* is related to the Akkadian word *hamasu* which means “to oppress” or “to do wrong.”

That said, the Talmud (*Bava Kama* 62a) explains that a *chamsan* is not quite a robber. Rather, he is a coercive buyer who takes an object from his victim, but gives him money. While still considered a wrongdoer, the *chamsan* is not technically a robber or a thief.

In Arabic, the word *chamas* is related to the Hebrew word *chamesh* (“five”). This might be an allusion to the proverbial “five finger discount” to which thieves are privy. (The Hebrew word *chamas* is not etymologically connected to Hamas, the Arab terrorist organization which *de facto* controls the Gaza Strip, although there may be a certain thematic affinity between them.)

Interestingly, Rashi (to Yoma 39a and Ps. 71:4) and Radak (to Ps. 71:4 and in *Sefer HaShorashim*) write that a *chometz* or *chamtzan* is the same as a *gazlan* and *chamsan*. Radak notes that this is because of the interchangeability of the letters TZADI and SAMECH. Rabbi Naftali Tzvi Yehudah Berlin (1816-1893) writes that *chamtzan* does not technically refer to a thief; rather it refers to somebody who is akin to a thief in that he took from something he rightfully deserves but took more than his due. (In Modern Hebrew, *chamtzan* means “oxygen,” for reasons unrelated to our discussion.)

For questions, comments, or to propose ideas for a future article, please contact the author at rclein@ohr.edu

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LETTER AND SPIRIT

Insights based on the writings of Rav S.R. Hirsch by Rabbi Yosef Herschman

Crime against Society

Jewish law considers two types of theft: theft (*geneivah*) and robbery (*gezel*). They loosely correspond to the crimes of larceny (taking away an object in another's possession) and robbery (*forcibly* taking away an object from another). The difference, for example, would be like the difference between stealing a bike from a bike rack (larceny-*geneivah*) and between forcing an owner off of his bike and taking it (robbery- *gezel*). In the secular legal codes, robbery is almost always classified as a felony, subject to a greater punishment than larceny. But in certain instances in Jewish law, the reverse is true – a higher fine will be paid by the thief than by the robber.

A robber pays only the amount of restitution, but a thief usually pays a double indemnity. In the specific case of stealing an ox or a sheep and then selling or slaughtering it, the payment is fivefold (ox) or fourfold (sheep). This quadrupling or quintupling of the value is viewed not as restitution, but as a penalty. This fine is only imposed for *theft*, and not for robbery. Analysis of the special characteristics of oxen and sheep in reference to these concepts sheds light on the reason for this penalty structure.

A robber, *gazlan*, seizes an object that is under the *personal guardianship* of its owner. A thief, *ganav*, finds the object left under the *guardianship of public respect for the law*. Robbery is an ordinary crime violating the rights of the individual. Theft is a double crime: it violates the ownership right of the individual *and also* infringes upon *public* respect for the law. The importance of respect for the law is explained as follows.

When a property owner leaves his home, he leaves his property under the protection of public respect for the law. Respect for the law is the basic principle on which the whole of civilized communal life rests. In a place where public respect for the law cannot be counted on, no man can afford to leave any of his moveable property out of his sight for even one moment.

A thief pays compensation to the victim, restoring the value of the stolen object, and makes another payment of the same amount – a penalty for his contempt of public respect for the law. The violation of this public respect is even more apparent when the theft involves grazing animals, such as cattle and sheep. Animal owners rely on the power of public respect for the law, and commonly pasture their cattle and sheep, leaving them unguarded in the public domain. This was even more prevalent in the case of cattle – which were sent to pasture, as opposed to sheep which were commonly herded into pens. The Torah increases the penalty in the case of one who steals cattle or sheep and sells or slaughters them, because the contempt for public respect for the law is especially egregious when the owner relies so heavily on its protection. Thus, the fine for cattle is even higher than for sheep because the owner relied even more heavily on the public respect for the law in sending his cattle to pasture

- Source: Commentary, Shemot 21:37 .

PARSHA OVERVIEW

The Jewish People receive a series of laws concerning social justice. Topics include: Proper treatment of Jewish servants; a husband's obligations to his wife; penalties for hitting people and for cursing parents, judges, and leaders; financial responsibilities for damaging people or their property,

either by oneself or by one's animate or inanimate property, or by pitfalls that one created; payments for theft; not returning an object that one accepted responsibility to guard; the right to self-defense of a person being robbed.

Other topics include: Prohibitions against seduction; witchcraft, bestiality and sacrifices to idols. The Torah warns us to treat the convert, widow and orphan with dignity, and to avoid lying. Usury is forbidden and the rights over collateral are limited. Payment of obligations to the Temple should not be delayed, and the Jewish People must be Holy, even concerning food. The Torah teaches the proper conduct for judges in court proceedings. The commandments of Shabbat and the Sabbatical year are outlined. Three times a year Pesach, Shavuot and Succot we are to come to the Temple. The Torah concludes this listing of laws with a law of

kashrut not to mix milk and meat.

G-d promises that He will lead the Jewish People to the Land of Israel, helping them to conquer its inhabitants, and tells them that by fulfilling His commandments they will bring blessings to their nation. The people promise to do and listen to everything that G-d says. Moshe writes the Book of the Covenant, and reads it to the people. Moshe ascends the mountain to remain there for 40 days in order to receive the two Tablets of the Covenant.

ASK!

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Reproof in the Restaurant

David from LA asked:

I was in a restaurant the other day, and a person came up to me and told me I shouldn't be eating there because it's not kosher. What chutzpah! Shouldn't he mind his own business?

Dear David,
“Love means never having to say you're sorry” (Erich Segal). Despite the religion of the author, this quotation does not represent a traditional Jewish view of life.

Following certain guidelines Judaism teaches us that if we love our fellow man, we will admonish him and to attempt to improve his behavior if we see him stray. “Do not hate your brother in your heart; you shall reprove your friend...” (Lev. 19:17). One who is motivated by love, and not by hatred, is taught to take action in the face of wrongdoing.

In the “restaurant case” you describe in your question I honestly can't know if the person who spoke to you did so out of love for you and wanting only good for you, or if he did it for some personal ulterior motive. I would like to think that he did it for a positive reason.

The effectiveness of words of admonition is usually directly related to the sincerity of the person doing the rebuking and his love for the person being admonished. “Words that come from the heart enter the heart.”

People can sense if rebuke is motivated by love, anger, or righteous indignation, and will only be effective if love is the principle factor behind it.

An esteemed Torah scholar once entered a taxi (in Israel). The taxi driver was about to turn the key in the ignition, when the rabbi put his hand on the driver's hand and asked him, “Do you work on Shabbat?”

The driver looked into the rabbi's eyes and felt incapable of admitting that he transgressed Shabbat. On the other hand, being an honest person, the driver could not deny the truth. The driver immediately took an oath in his heart never again to drive on Shabbat, and turned to the rabbi and said, “No, I do not work on Shabbat.”

The rabbi smiled and replied, “Good, let's go.”

From that time on, the taxi driver and his family made a commitment to observe Shabbat. Of course, the taxi driver would probably have responded quite differently to anyone else, and the rabbi would not necessarily have made this inquiry of any taxi driver. However, the effectiveness of the “rebuke” was due to the spirit in which the words were said.



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