

INSIGHTS

Into The Weekly Parsha

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1 ADAR

Based on the Torah of our Rosh HaYeshiva HaRav Yochanan Zweig

PARSHAS MISHPATIM

Money Can't Buy Self Esteem

...an eye for an eye, a tooth for a tooth, hand for a hand, a foot for a foot (21:24).



This week's *parsha* devotes quite a bit of space to jurisprudence and judicial matters, with a special focus on torts and assigning compensatory damages for a variety of damages to person and property. An oft quoted *possuk* relating to how Judaism applies justice is likewise found in this *parsha*: "...an eye for an eye, a tooth for a tooth, hand for a hand, a foot for a foot" (21:24).

Simply understood, the Torah seems to be proscribing a "law of retaliation" for injuries caused to the physical body. In other words, the Torah seems to advocate that one who causes physical injury to another be penalized to a similar degree. The Talmud quickly dispels that notion and explains that "an eye for an eye" refers to monetary compensation for the loss of an eye. The Gemara goes on to explain that Judaism requires that all justice be fair and evenly applied, "But what of a case where an already blind person causes another to lose his eyesight? How can we fairly exact justice?" The Gemara ends with an exegetical analysis of the language used by the Torah to determine that the law requires equitable monetary compensation, not a physical maiming as retribution (See *Bava Kama* 83b-84a).

This verse has been misunderstood even as far back as the Sadducees* and has been termed by uninformed "Bible Scholars" to be one of the most controversial verses in the Bible as it seems to reveal the "vengeful nature" of the Torah. Though we don't take the verse literally, Shi'ite countries that use Islamic Sharia law, such as Iran, actually apply the "eye for an eye" rule as stated.

Of course, the Gemara's understanding of the *possuk* requires further explanation. If the Torah merely meant a monetary payment and not a literal retribution of "an eye for an eye," then why should the Torah write it in such an oblique manner? Why doesn't the Torah plainly state, "If one causes another to lose his eye, he must pay an equitable amount of money?"

Rambam in the *Yad (Hilchos Chovel Umazik 5:9)* makes a curious statement: We cannot equate one who damages another monetarily to one who damages another physically. For one who damages another monetarily is considered forgiven when he repays the money that is owed. But one who damages another physically and pays him in full for the damage caused isn't absolved of his responsibility until he begs for forgiveness from the injured party. While this may be true in the laws of repentance, what does this have to do with paying what is owed? Why does Maimonides list this requirement among the laws of compensation?

This is why the Torah writes "an eye for an eye." While on the surface this statement seems to be advocating vengeance, the Torah is revealing the very nature of the compensation required in the case of a physical injury. In Hebrew, the word for vengeance is *nekama*, which has its roots in the word *kam* – to stand or reinstate. Meaning, one of the reasons vengeance is so pleasurable is because it restores the dignity and self-respect of the injured party.

The Torah is teaching us that when a person suffers a physical injury there is an emotional injury that must be addressed as

well. Even if the injured party is financially compensated, the loss of self-esteem hasn't yet been addressed. In order to properly fulfill "an eye for an eye" the one who caused the injury has to beg forgiveness in order to restore the self-esteem of the person he injured. By begging for forgiveness he is acknowledging the human value of the injured party, and begins the process of restoring their self-esteem.

*Those who insist on the literal interpretation of the Torah when the literal reading seems to contradict the rabbis' interpretation.

Did You Know...

This week, in addition to *Parshas Mishpatim*, we also read *Parshas Shekalim*. *Parshas Shekalim* is the first of the "four *parshios*" that are added to the Torah readings in the next six weeks. *Parshas Shekalim* deals with the obligatory half *shekel* that was used to count males from the age of 20, and then contributed to the funds for parts of the Mishkan and its offerings. The *minhag* (custom) nowadays is to give a *zecher* (commemorative) half *shekel* as *tzedakah* as a remembrance of the half *shekel* which was collected in the time of the Beis Hamikdash before Nissan.

The first and most obvious question is; exactly how much was the half *shekel*? Since we know it was made out of pure silver, we simply need to establish its weight. →

And Dignity Above All

When a man will steal an ox or a sheep or a goat, and slaughter it or sell it, he shall pay five cattle in place of the ox and four sheep in place of the sheep (21:37).

Rashi (ad loc) quotes the Tanna R' Yochanan Ben Zakkai's opinion recorded in the Gemara (*Bava Kama* 79b) as to the reasoning behind the discrepancy in the multiple of the ox compared with that of the sheep: "Rabban Yochanan ben Zakkai said – The Omnipresent had compassion on the dignity of people; an ox that walks on its own feet and through which the thief was not humiliated by having to carry him on his shoulder, the thief must pay five times its value. But for a sheep, which he must carry on his shoulder, he only pays four ties its value since he was humiliated through it."

To clarify, the payment made by the thief isn't merely compensatory, the Torah is levying a punitive fine as well. This being the case, asks the Gemara, why should there be a difference in the fine for stealing an ox versus stealing a sheep? R' Yochanan Ben Zakkai gives us a reason for the discrepancy.

However, the additional humiliation that the thief is suffering when stealing a sheep needs to be explained. To start, this humiliation is self inflicted; the thief decided on his own to commit this crime, why should he get a break in the fine for subjecting himself to this indignity?

Moreover, the Talmud (ad loc) goes to great pains to distinguish a thief from a robber. The difference between a thief and a robber is that a thief steals surreptitiously at night while a robber steals even during the day (e.g. a mugging – where there is an overt act against the victim). The Gemara explains that this is a case of a thief who is trying to avoid detection. In other words, this thief is concerned that others may see him but he is not concerned with the all-seeing presence of the Almighty, and this is why there is a special fine levied against him. But if this thief took great care to avoid detection, what indignity did he

suffer by carrying the sheep on his shoulders if no one saw him?

The answer is that he denigrated himself. Animals are supposed to serve humans, not the other way around. Obviously, one has to meticulously care for the animals that one is responsible for. Nevertheless, animals are beasts of burden for people, people aren't supposed to become beasts of burden for the animals.

By carrying the sheep on his shoulders he was lowering his own status vis-à-vis that of the animal. In order to improve his situation he sacrificed a level of his own dignity – he took the human form and made it lower than that of the animal. The Torah is acknowledging his lowered status and recognizing this indignity by crediting him for some of his fine.

This is a very important lesson and quite relevant to our everyday lives. We must carefully elevate the potential within ourselves to improve upon who we are. This is the reason that the Gemara states that a funeral has an advantage over a birth in the sense that when a person is born they only have potential, but once that person dies it is possible to see that potential actualized. Similarly, it is reputed that Maharal created a golem from the clay of the earth; that is, he raised the physical to make it somewhat more spiritual. A golem is not quite on the level of humans created by Hashem, but they are an elevated life form.

In contrast, much of today's society, including our educational systems, takes elevated human beings with real potential and turns them into golems – barely reasoning beings who are content with merely satisfying their physical desires and a stupefying superficial existence. We must always remember what we are capable of achieving and we must chart a path to fulfilling our God-given potential to grow and become God-like.

We can then calculate the worth based on today's market value for silver, which is 88 cents per gram. Like many things in the Jewish world, there are multiple opinions. Josephus (*Antiquities* 3:8:2) says that it was equal to the weight of two Athenian Drachma, or estimated at about \$7.60 in today's silver. Another opinion (Rabbi Aryeh Kaplan) notes that it weighed 0.4 oz. (11.34 grams), or about \$10.

Interestingly, Rambam (*Hilchos Shekalim* 1:5) says a half *shekel* weighed 160 barley grain's weight in silver. So of course, the crack Did You Know investigative team counted out and weighed exactly 160 grains of barley, and it weighed 6.8 grams (equal to almost exactly \$6). Remarkably, archaeological excavations conducted in Israel in 1999 to 2001 "dug up" a half *shekel* coin minted in the 2nd century CE, with "Half-Shekel" in ancient Hebrew written on it. This coin possessed a silver content of 6.87 grams, or almost the exact weight assigned to it by Rambam (*Oxford Centre for Hebrew and Jewish Studies*, London 2009, pp. 96; 118).

Nowadays, the accepted Ashkenazi *minhag* is three half dollars, or whatever coins are common in that place. The accepted Sefardi *minhag* (Rav Ovadyah in *Yalkut Yosef* and *Chazon Ovadyah*) is to give an amount equal to 9 grams of silver, as the Kaf Hachaim (694:20) concludes that that is equal to the original half *shekel*.

The second question is; when do we give it? Rama 694:1 (and *Mishna Brurah* 694:4) writes that the *minhag* is to give it before *mincha* of Taanis Esther.

Though other opinions, like Kitzur Shulchan Aruch (141:5), write that the *minhag* is to give it before the reading of the Megillah. This is based on Gemara Megillah that says our *shekalim* counteract the *shekalim* of Haman read about in the Megillah.

