

Does the Punishment Fit the Crime?

by Andy Rosenberg ('22)

In this week's Parashah, after Miriam died, the people were complaining that they didn't have any water to drink. Then follows the famous story of Moshe Rabbeinu hitting the rock instead of speaking to it. The water still flowed from the rock but Moshe disobeyed Hashem, and because of that, Hashem forbade Moshe Rabbeinu to lead us into Israel or even enter Israel at all. But so what? He hit the rock instead of speaking to it. What's the big deal?

For starters, this is not the first time Moshe drew water from a rock. It's the third time Moshe had to do this. The first time was at Marah when Hashem told Moshe to throw a bitter branch into the water to make it sweet. The next time, Bnei Yisrael was at Refidim and Hashem told Moshe to hit the rock with his staff so that water would come out. Having done this twice before, one would think that Moshe would know what to do. However, when Hashem tells Moshe "*Kach Et HaMateh VeHakhel Et Ha'Eidah Atah Ve'Aharon Achicha VeDibartem El HaSela Le'Eineihem VeNatan Meimav*," "You and your brother Aaron take the rod and assemble the community, and before their very eyes order the rock to yield its water" (BeMidbar 20:8). As previously stated, Moshe uses the staff to bring out the water, instead of following

Hashem's instructions and speaking to the rock. But is this really what Hashem meant in his instructions?

Rashi says those *were* His instructions. However, the Ibn Ezra discusses this query. He points out that the word "*VeDibartem*" could be translated in multiple ways. The simple translation is "and speak to it". However, one could translate the phrase to mean "and strike it". Based on the second translation, Moshe didn't disobey Hashem, so what did Moshe do wrong? There are those that say that Moshe hit the rock twice when he was told to hit the rock once. The Ibn Ezra, supported by a Midrash of Chazal, thinks that because he spoke to Bnei Yisrael before fulfilling Hashem's instructions when Moshe said, "*Shim'u Na HaMorim, HaMin HaSela HaZeh Notzi Lachem Mayim*," "Listen, you rebels, shall we get water for you out of this rock?" (BeMidbar 20:10), he was punished.

There are many other opinions on this issue. The Abarbanel believes that this sin wasn't the reason for the punishment, rather it was because Moshe sent the spies. The Rambam believes that Moshe's sin was his anger, as displayed when he calls Bnei Yisrael "*Morim*" (ibid). Since Moshe couldn't control himself, he was punished. Finally, the Ramban's reasoning is that hitting the stone wasn't an issue because Hashem said, "*Kach Et HaMateh*," "take

the rod" (BeMidbar 20:8). The actual sin was Moshe saying "*Notzi*," "we" (BeMidbar 20:10). In context, the word implies that Moshe believed this miracle came from both himself and Aharon, but not Hashem. Moshe's belief that he and Aharon were capable of doing this miracle was the reason he was punished.

All of these answers would make the crime fit the punishment. Whether it was because he hit the rock when he should've spoken to it, or it was because of any of the other given reasons, any one of them would be a sufficiently significant sin to warrant not being allowed to enter into Israel, let alone lead us into our beloved Eretz Yisrael.

significant against the backdrop of Kenisat Eretz Yisrael.

One of the most surprising things about this scene is the sequence of sin and punishment. Let's examine it:

1. Bnei Yisrael settle in Shittim.
2. They then begin to participate in Zenut with Benot Moav.
3. Benot Moav invite them to partake in their sacrifices,
4. Resulting in Bnei Yisrael becoming attached to Baal Peor.
5. Hashem rages at them, sending a Mageifah.
6. Hashem instructs Moshe to hang the ringleaders before the sun in order to stop the Mageifah.
7. A Jewish man brings a Midianite woman into his tent before all of Bnei Yisrael, who are crying.
8. Pinechas stabs both the man and the woman, ending the Mageifah.

Hearsay of Heresy By Eitan Barenholtz ('23)

Parashat Balak is such a mysterious Parashah, with prophecy mixing with curse mixing with blessing. Of all this mystery, one of the most enigmatic events of the Parashah is Cheit Baal Peor, what Wikipedia terms "The Heresy of Peor." While the editors of Wikipedia jump to define the Cheit as heresy, it was actually more complex than that. Cheit Baal Peor was not a single sin, but a confluence of sins

By the time the Mageifah started, Bnei Yisrael had already been sinning with Benot Moav; Hashem is angry only when they start worshipping Baal Peor. Yet the Mageifah does not end with an end to the Avodah Zarah, but with the killing of those who committed Znuz. (Presumably, Bnei Yisrael had already stopped sinning, since they were crying when the Jewish man brought the Midianite woman into his tent. This man was the final sinner, and the only Aveirah mentioned by him is relations with a Midianite.) So what is the sin

with which Hashem is angry? Is it Znut, or is it Avodah Zarah?

I suggest that it is both, not in the sense of “the sins of Znut and Avodah Zarah,” but in the sense of “the sin of Znut-Avodah Zarah.” In a way, intimately related to settling in Eretz Yisrael, these are one and the same thing. After presenting Moshe with the 13 Midot HaRachamim, Hashem warns him of the dangers presented by settling in Eretz Yisrael:

“Shemor Lecha Eit Asher Anochi Metzavecha HaYom Hineni Goreish MiPanecha Et Ha’Emori HaKenaani HaChitti VeHaPerizzi VeHachivi VeHaYevusi. Hishamer Lecha Pen Tichrot Berit LeYosheiv Ha’Aretz VeZanu Acharei Eloheihem VeZavechu LeEloheihem VeKara Lecha Ve’Achalta MiZivcho. VeLekachta MiBenotav LeVanecha VeZanu Benotav Acharei Eloheihen VeHiznu Et Banecha Acharei Eloheihen,” “Mark well what I command you this day. I will drive out before you the Amorites, the Canaanites, the Hittites, the Perizzites, the Hivites, and the Jebusites. Beware of making a covenant with the inhabitants of the land against which you are advancing, lest they be a snare in your midst. No, you must tear down their altars, smash their pillars, and cut down their sacred posts; for you must

not worship any other god, because the LORD, whose name is Impassioned, is an impassioned God. You must not make a covenant with the inhabitants of the land, for they will lust after their gods and sacrifice to their gods and invite you, and you will eat of their sacrifices. And when you take wives from among their daughters for your sons, their daughters will lust after their gods and will cause your sons to lust after their gods” (Shemot 34:11-16).

Parashat Ki Tissa outlines a likely pitfall of life in Eretz Yisrael. If Bnei Yisrael do not fully remove the land of idolaters, they will be tempted to commit Avodah Zarah and intermarry. Although the order is slightly different in our Parashah, the concept is the same. It is not a coincidence that the Torah describes Bnei Yisrael as “settling” in Shittim; this sin was the very same sin that they would fall prey to in Eretz Yisrael. They settled in the land, intermingled with the native population, and ultimately committed Avodah Zarah.

There are a number of similarities between our passage in Parashat Balak and Ki Tissa which connect these two sins even further. The most glaring, I think, is the importance of Achilat

Zevachim to both. In both, Bnei Yisrael commit Avodah Zarah only after they eat the Korban the non-Jews have just sacrificed. This points to Baal Peor being a proto-Eretz Yisrael type of sin, as opposed to Bnei Yisrael's previous sins in the Midbar. Before, the sins were caused by cowardice or lack of faith in Hashem; now they are caused by the human impulse, represented by both the Zenut and the Achilah, of a nation in its land.

The second similarity concerns the use of Zenut as descriptors for the sins. In Balak, Zenut means what it says: illicit relations with foreign women. In Parashat Ki Tissa, however, Znut refers to straying after foreign gods. This is not by accident: in Eretz Yisrael, these sins are identical. As proclaimed in Ki Tissa (and numerous other places in the Torah), and evidenced in Parashat Balak, Zenut (actual Zenut) inevitably results in Zenut (Avodah Zarah).

With this, we can answer our original question. Why does the Mageifah begin with one sin, I asked, but end with another? The answer, I hope, is clear. The Mageifah started and ended with the same sin. Since Avodah Zarah was the only possible conclusion of Zenut, Avodah Zarah could not fully be wiped out until Zenut was first wiped out. The sin was Zenut the entire time, in both senses of the term.

Shimmy Greengart wisely comments that Avodah Zarah is Zenut

in the sense of casting aside those to whom we owe faithfulness. Both sins are thematically similar in that respect. But why does one Znut inevitably lead to the other? I think the answer lies in just that: those who have no respect for commitments or relationships will not keep them, whether on a personal scale or on a religious scale. The Gemara in Pesachim 25b derives the commandment to give up our lives rather than commit Avodah Zarah from the Pasuk, "*VeAhavta Et Hashem Elohecha*," "And you shall love Hashem your God" (Devarim 6:4). This is no coincidence: just like faithlessness to Hashem is akin to marital faithlessness, so too is love of Hashem.

Bilam HaNavi
by Rabbi Ben Krinsky

Immediately before recording Moshe Rabbeinu's death the Torah tells us "*ViLo Kam Navi Od BiYisrael KMoshe*," "And no other prophet arose in Israel like Moshe" (Devarim 34:10). The Midrash (Bamidbar Rabbah 14:20) observes that the pasuk specifically says that no prophet from Israel was like Moshe, however there was a non-Israel prophet who was a prophet like Moshe, namely Bilaam. The Midrash continues and explains that it was only fair that

the nations of the world had a great prophet on the level of Moshe Rabbeinu. After all, how the nations of the world would claim that it is not fair that Bnai Yisrael were given the Torah and are favored by Hashem when they had more of an opportunity. How could the nations have achieved spiritual enlightenment when they had no religious leader to teach them. Therefore Hashem gave Bilaam equal prophetic ability to Moshe to be the teacher and prophet of the nations. In theory, Bilaam should have brought Hashem's message to the nations of the world. Instead he used his talents and abilities for self enrichment. The obvious question on the Midrash is how giving Bilaam specifically would negate the nations' claim. If Bilaam doesn't bring Hashem's word to the nations, how is it the nations fault if they don't understand Hashem. The nations' claim of "you never told us" would not be solved if Hashem's messenger does not fulfil his role.

To answer this question, let us digress to the story of Shimshon. Shimshon, the most famous Nazir, was sanctified to Hashem even before he was born. As a N]azir from conception, he is granted supernatural strength. With this great power he wages a one man battle against the oppressive Plishtim. Radak

at the beginning of Shimshon's story (comment to Shoftim 13:4) poses a basic question on the Shimshon story: How could it be that Shimshon, who was supposed to be a holy man, intermarried? On multiple occasions he marries a Plishti woman. Radak answers, based on Pesukim, that Shimshon was doing all of this L'sem Shamayim. After all, he needed an excuse to fight and kill the Plishtim, so he used his relationship with Plishti woman. However this is difficult. Why did he need an excuse? Why couldn't he be like previous Shofetim who rallied an army and repelled the invaders? Why did Shimshon need to wage the war by himself? Had he acted like the previous leaders and fought with an army, he would not have needed an excuse to kill Plishtim. Radak answers with a fundamental answer that can help us understand our Bilaam question. Radak explains that Shimshon was not an ideal leader. He was not capable of leading the people like in previous generations. He did not have the skill or talent to rally the troops. All he had was his own strength. And this was not a good thing. A good leader would not have fought by himself. But Shimshon was not an ideal leader. He was just a strong individual. Nonetheless, Hashem sent him. Hashem didn't send a leader that could completely redeem the people, even though that's what they wanted and

that's what they needed. Hashem sent the leader they deserved, not the one they wanted or needed. Since the people had not completely removed themselves from worshiping idols, they didn't deserve to be completely redeemed. They did an incomplete Teshuva so they only got an incomplete leader to give them an incomplete redemption.

To return to our original question. How does Bilaam help the nations of the world? Bilaam was a selfish person interested only in increasing his standing in the world. How can Hashem believe that Bilaam's prophecy will help assuage any hard feelings that the nations have about the unfair opportunity? They did not have a prophet who was willing to help them, so how was it fair? The answer I believe is that Bilaam was the leader not that they needed or wanted, but he was the one they deserved. Bilaam was exactly what they valued as a person, selfish and greedy. He was someone who looked out for himself, because the nations were also selfish. They were not interested in helping anyone else, so they earned a leader who was selfish. It is true that Bilaam was not of high moral character, but the nations did not deserve that. They were not really interested in spiritual growth so they

didn't get a leader who would show them the correct path. They were interested in money and power so the leader they got was someone who could show them how to do that.

**Kabobs LeShem Shamayim:
Defining the Milah "Zealous"**
by Eitan Laub ('22)

At the end of last week's parsha we learn the story of Pinchas, Kozbi and Zimri. After seeing the horrible sin Kozbi and Zimri were committing, Pinchas decides to kill them as the pasuk says "VaYar Pinchas ben-Elazar ben Aharon HaCohein VaYakam Mitoch HaEidah Vayikach Romach B'Yado" "When Phinehas, son of Eleazar son of Aaron the priest, saw this, he left the assembly and, taking a spear in his hand," (Bamidbar 25:7). While many of us may see this as the logical response to sexual immorality, in the time of Pinchas this was quite a risk. But this risk was worth taking because Pinchas wanted to ensure that Zimri's sin would not make Hashem angry with Bnei Yisrael. In the beginning of this week's Parsha Hashem rewards Pinchas. He tells Moshe "Pinchas ben Elazar Ben Aharon HaCohen Heshiv et Chamati Mei-al Bnei Yisrael" "Phinehas, son of Eleazar son of Aaron the priest, has

turned back My wrath from the Israelites..." "Lachein Emor, Hineni notein lo et briti shalom" "Say, therefore, 'I grant him My covenant of peace' (Bamidbar 25:11-12). When giving Pinchas his praises Hashem refers to him as "zealous." When someone is zealous they will put aside their own problems to fulfill Hashem's will. Pinchas is not concerned for anything other than what Hashem wants.

But Pinchas is not the only one who is "zealous." Eliyahu HaNavi said "Kano KiNaiti La'Hashem" "I have been very zealous for the sake of Hashem" (Melachim I 19:10). In Fact Chazal, as quoted by Reish Lakish in Midrash Aggadah says "Hu Pinchas Hu Eliyahu" "Pinchas and Eliyahu are one and the same" (Midrash Aggadah Bamidbar 25:13). Eliyahu was zealous for Hashem and was so disturbed by what Bnei Yisrael was doing. While Eliyahu's criticism was L'sheim Shamayim, Hashem was still not thrilled to hear Eliyahu criticize his people. We should always be looking for the good in people. It is for this reason that Eliyahu became the one designated to come to every single Bris Milah. Eliyahu will come and see how faithful the Jewish people are to Hashem and their commitment to mitzvos. While it is good to be zealous for Hashem we should still try to find the good in people. Eliyahu's

job became finding the good in others and bringing people closer together. When Eliyahu comes to announce the Geula he will come "LaSum Shalom BaOlam" "to establish peace in the world" (Rambam Mishneh Torah Melachim uMilchamot 12:2), similar to Hashem's covenant of peace with Pinchas. Perhaps this is why we bring up Pinchas and his covenant at a bris where Eliyahu joins us to establish his covenant. We must remember to find the best in people and keep peace no matter how much we might desire killing people L'Sheim Shamayim.

Pinchas-The Next Best Thing To Aliyah

by Rabbi Ezra Wiener

1. In the middle of our Parsha (Bamidbar 27:12-13) Moshe is commanded to ascend Har Ha'avarim. "Ale El Har Haavarim Hazah Ure'ei Et Haaretz Asher Natati Livnei Yisrael. Vera'ita Ota Vine'esaf El Amecha Gam Ata Kaasher Neesaf Aharon Achicha. Kaasher Meritem Pi Bemidbar Tzin Bimrivat Ha'edah Lehakdisheni Vamayim Le'eineihem, Heim Mei Merivat Kadehs Midbar Tzin. Ascend this mountain of Avarim and behold the

land which I have given unto the children of Israel. And you shall see it and you shall then be gathered unto your people you also as Aharon your brother was gathered. Because you rebelled against my commandment in the wilderness of Tzin in the strife of the congregation to sanctify me at the waters before their eyes. These are the waters of merivat Kadesh in the wilderness of Tzin.

2. What has puzzled several Parshanim is the contextual relevance of this passage. We will read of this final injunction of G-d to Moshe in the end of Sefer Devarim, in the concluding Pesukim of Parshat Haazinu (Devarim 32:48) almost verbatim: “Vayedaber Hashem El Moshe Be’etzem Hayom Leimor. Alei El Har Haavarim Hazeh Har NevoAsher Be’eret Moav Asher Al Pnei Yereicho Ure’ei Et Eretz Kena’an Asher Ani Notein Livnei Yisrael La’achuza. U’Mut Bahar Asher Ata Oleh Shama Veheiasif El Amecha Kaasher Meit Aharon Achicha Behor Hahar Vaye’asef El Amav. Al Asher Me’altem Bi Betoach Bnei Yisrael Bemei Merivat Kadehs Midbar Tzin, Al Asher Lo Kidashtem Oti Betoach Bnei Yisrael.

3. Both texts make reference to precisely the three key components: a. Moshe is to ascend Har Haavarim. b. You will expire as did your brother Aharon and c. Your death prior to the

people’s entry into the land of Israel is a result of your failure to sanctify My name at Mei Meriva. Are we to believe that this command to Moshe in our parsha is a mere foreshadowing of this eventual actualization of this poignant reality? After all, “Alei” is a command, one that appears to communicate an immediate response not merely one that expects a readiness when the time is ripe.

4. RAMBAN claims that the context is critical in understanding the relevance of this passage. Indeed, this IS foretelling the very same command that Moshe will actualize in Sefer Devarim. Moshe is not to ascend Har Haavarim at this time but the Torah saw fit to record this future event and command here as it serves to bridge the gap between two transitional events. The investiture of the daughters of Tzelafchad as bona fide inheritors of property in the land of Israel and the investiture of Yehoshua as he assumes the mantle of political and spiritual hegemony over the people of Israel. Yes, the land will be divided and the daughters of Tzelafchad will be granted a portion but you Moshe will not assume this role as you and Aharon have tarnished your leadership competency at Mei Meriv and you will therefore expire as did Aharon.

5. ABARBANEL is unable to accept RAMBAN’s approach as the Torah

would never have repeated this directive. Well, if this is not a foreshadowing of what we will read sefer Devarim, is it more plausible to claim that it is here that Moshe ascends the mountain and dies and that Sefer Devarim is a recapitulation of this event? This is even more inconceivable as Moshe is still commanded in the next 2 parshiyot to avenge Midyan and establish the cities of refuge. It would be difficult to observe these commands if he were already dead. Moshe may have been superhuman and the archetypical prophet but that would be a monumental feat. So then what is this passage communicating to us at this juncture?

6. Inasmuch as these two texts present significant parallels there is a noteworthy omission in our parsha. And that is the command, "Umut"-And you shall die". And Whereas RAMBAN would claim that this omission is consistent with his exposition as Moshe was not to die as of yet, Abarbanel utilizes this nuance to expound his conception of this episode as an independent command and an independent event. Moshe is not to ascend Har Havarim at this juncture as a sign that he is to be relegated from his position of authority and prepare for the inevitability of his demise.

ABARBANEL writes: "Aval Tzivahu Sheyaaleh Bahar Shehaya Lifneihem,

Kelomar, Pe'amim Rabot, Viyireh Misham Et Haaretz, Shebechol Eit Sheyaaleh Shama Yisa Einav El Heharim Kedai Lirota Yom Yom." And after having many days of fulfilling this mitzvah daily, "Veraita Ota"-You will see it for a final time in the future and will die there.

7. Moshe was to ascend Har Haavarim and catch a glimpse of Eretz Yisrael daily from now until his death not to utilize this as a daily opportunity for remonstrance against G-d's decree that he will never enter the land nor is this to be viewed as an extension or expansion of his sentence where he would now agonize daily as one suffers as he covets his friends property, never to experience it for himself. On the contrary, this was an opportunity for someone who would never enter the land of Israel to fulfill an essential divine mandate that the Torah instructs here and although does not contain a concomitant charge for posterity can and should be a mitzvah that remains lodged in the heart and soul of every Jew living in the Diaspora. It is the mitzvah of Chibat Haaretz. Yes, love, fondness, longing, adoration for the land is not only an emotion. And is not only actualized by those whose Aliyah dreams have materialized. It can be practiced by all Jews, in all countries as was practiced by a greatest leader over 3,000 years ago.

8.If one cannot ascend to the land through Aliyah for whatever reason and Halacha as well as psychology provides several acceptable justifications for such a decision then he or she must be sure to fulfill the mandate of chibat haaretz. We, unlike Moshe at least, are privileged to visit. We must climb Har Haavarim daily. We fulfill this mitzvah by expressing our daily concern with the welfare of the State of Israel, its people, our soldiers, its economy, its security. Ascending Har haavarim as the name connotes is a demonstration of our will and desire to pass through the land and at the very least ensure that it remains within our consciousness on a daily basis.

Word for Word

by Ezra Lebowitz ('22)

In Parashat Matot, we go to war with Midyan, and we really decimate them. We kill all of their males. But wait, one more guy is pointed out. *"Ve'Et Bil'am Ben Be'or Hargu BeCharev,"* "And they killed Bilam Ben Be'or with a sword" (BeMidbar 31:8). Why is Bilam specifically pointed out? He's been soundly defeated, his moment was two Parshiyot ago! We already had our Mah Tovu moment, and now he doesn't

matter anymore. What is the reason for Bilam being mentioned at this point?

If we look a little closer, this Parashah has a lot of emphasis on the power of speech. It sets the tone by starting off by talking about Nedarim. Nedarim are the ultimate exhibition of the power of speech. One's words can completely transform an object from being Mutar to Assur. If you take a moment and think about it, there's really nothing else like it.

What is the significance of Bilam? In Parashat Balak, he's hired to beat the Jewish people, but not just however he wants. He's hired to curse them, to use his words to destroy a whole nation. We know that it didn't work, but it could have been detrimental. Bilam is an example of just how powerful one's words can be. They can be used to try to bring a person or group of people down, and they can cause you to be deserving of death, like in Bilam's case.

This is an extremely important message, especially Bein HaMetzarim. The Beit HaMikdash was destroyed in part because of Sin'at Chinam, hatred between people. Words have the power to make something Assur, and they have the power to turn friends into enemies too. We should all be watching the things we say at this time of year, making sure to keep our friendships

and even create new ones, and our words can help us rebuild the Beit HaMikdash before another Tish'a Be'Av in Galut!

The Men of War

by Shimmy Greengart ('21)

In Devarim 2:14, Moshe says that by the time Bnei Yisrael crossed Nachal Zered into the land of Moav, all of the generation of adults from the time of the spies had perished, whether naturally or due to Hashem's hand. Moshe uses a strange name to describe this generation: "*Anshei Hamilchamah*," "the men of war." This title normally refers to prominent soldiers, but here it refers to the generation that left Egypt. Why?

Devarim Perek 2 is one of only two places in Tanach that this name appears referring to this generation. The other place is in Yehoshua Perek 5, where the Torah explains that while the Anshei Hamilchamah that left Mitzrayim were circumcised, they had died after sinning to Hashem in the episode of the spies, while the people born in the desert were uncircumcised. Why is the appellation "men of war" used to describe this generation, and why only in these two places?

Rashbam explains that "Anshei Hamilchamah" specifically refers to the men of age twenty and above from the generation of the spies. They were called "Anshei Hamilchamah" because they were of the right age to fight in wars at the time. This is a fine explanation, but why is this term found only here? Men of age twenty and up is the same criterion used for several censuses in Parshiot Ki Tisa, Pekudei, Bamidbar, and Pinchas. It is also absent in the retelling of the story of the spies in Parshat Shelach and the first Perek of our Parshah of Devarim. Why is it only in the second Perek of Devarim and Yehoshua?

The Abarbanel uses a different explanation. His preferred explanation is that "Anshei Hamilchamah" refers to those who waged war against Hashem in the rebellion of the spies. This explains why Moshe would use that term to describe the people who died in the desert. But it does not explain its relevance to Sefer Yehoshua, or why it does not appear in either episode of the spies.

We suggest that "Anshei Hamilchamah" is used not to describe the generation while it sinned, but instead, in retrospect, seeing its legacy. In Parashat Devarim, "Anshei Hamilchamah" is used not when the generation sins, nor

when death is decreed upon it, but instead 38 years later, when Bnei Yisrael are crossing into Moav, on their way to the promised land at last. Only now does the impact of the nation's sin become clear. All those people who left Mitzrayim all those years ago, having been told that they would inherit the land, died far outside the land. A travesty.

Yehoshua Perek 5 uses the term because it too furthers the legacy of the "Anshei Hamilchamah." If that generation had gone into the land, they would have all been circumcised. There would have been no need for a mass circumcision. But because they sinned, and as a result, died, and were replaced with children born in the desert, now there was a need for mass circumcision. Yet another disastrous result that need not have happened.

We can learn from here the disastrous results of fighting against Hashem. The immediate results of the spies' actions were clearly bad. But so many more consequences would only become visible decades later, far into the future.

What Do I Ask? Only to Love Me as a Child Would

by Tzvi Meister ('21)

When one considers the image of a young child learning about dinosaurs or majestic sea creatures for the first time, one is likely to take notice of the fact that the child soon becomes enthralled by the image and complexity of the creature. To that end, we have seen studies that reveal the large extent to which children's attention and awe are captured not by toys, but by animals and creatures like those aforementioned. Much like the child whose attention is captured by the magnificence and aesthetic beauty of "majestic" members of the animal kingdom, it is striking to find that among adults, there is evidence pointing to a science of awe and reverence, particularly of nature. Awe of nature is an incredible and unique sight to the human eye, one which holds much prosocial and psychological benefit. And yet, we find that through the lens of this week's Parashah, it may indeed hold a key function in the continuation and conservation of the Jewish-religious identity, ubiquitous insofar as the human eye has been trained by the mind to take notice of said function.

Our first charge with the task of Jewish continuity is presented following the repetition of events that took place at Har Sinai, and the subsequent re-engraving of the Luchot presented to Moshe Rabbeinu. *“ViAtah Yisrael Mah Hashem Elokecha Sho’el Mei’Imach Ki Im LeYir’ah Et Hashem Elokecha Lalechet BiChol Derachav U’LiAhavah Oto ViLa’avod Et Hashem Elokecha BiChol Levavecha U’BiChol Nafshecha,”* “And now, Israel, what does Hashem your God ask of you? Only to be in awe of Him, to walk only in His paths, to love Him, and to serve Hashem your God with all your heart and soul” (Devarim 10:12). The Gemara takes note of the seemingly deprecating tone resultant from the word “Ki,” “only,” as a means of calling attention to the spiritual and cognitive greatness of Moshe Rabbeinu and the Dor HaYetziah, the exodus generation (ie. his generation). For Moshe and his kin, the accomplishment of these requests made by Hashem was not impossible to accomplish, for they were witness to a sea split before them, the air filled with locusts, and one of the most powerful global empires of the ancient world brought to its knees with the advent of the various other plagues brought down upon them. Yet the Bnei Yisrael knew there was a higher power at play, reasoning that the same God who shielded their ancestors from harm in generations past was indeed the very same who had freed them from bondage

As Rabbi Dr. Moshe David Tendler draws out (Mitokh Ha-Ohel, Essays on the Weekly Parashah from the Rabbis and Professors of Yeshiva University, pp. 429-231), these incidents were “empirical proof of His existence and of His control of the natural forces that are the Divine laws of nature.” The slow, tiered nature of the Makkot served as a demonstration of the later Pasuk: *“Asher Samti Bam ViDa’tem Ki Ani Hashem,”* “So that you will know that I am God” (Shemot 10:2). The generation of Moshe Rabbeinu and the exodus was privy to a marvelous sight beholden, one that served as the bedrock of the foundation of Yahadut which soon culminated in Ma’amad Har Sinai. Yet, Rav Tendler calls attention to the later warning of Moshe Rabbeinu, which, interestingly enough, succeeds our original set of commandments by only a few Perakim: *“ViDa’tem HaYom Ki Lo Et Bineichem Asher Lo Yad’u Va’Asher Lo Ra’u Et Mussar Hashem Elokeichem Et Gadlo Et Yado HaChazakah U’Zero’o HaNetuyah,”* “Take thought this day that it was not your children, who neither experienced nor witnessed the lesson of Hashem your God — His majesty, His mighty hand, His outstretched arm” (Devarim 11:2). The issue for later generations now comes to the fore, begging the question of how it is that we may instill and conserve our Jewish heritage, identity, and beliefs in our succeeding generations in spite of

the marvels so blatantly revealed to our ancestors? Perhaps the most difficult, yet critical aspect of our original charge to address is that of the love of God, in light of the development of humanism and human history itself.

Academic and Christian philosophers like Nietzsche and Thomas Aquinas, respectively, debated over the acceptance and existence of “good” and “evil”. This debate, grounded in the humanistic realm, is then used as the prevailing objection to the love of God; Human suffering and biological error are and stand to always be, one of the strongest arguments against the proposed “goodness” of God, hence preventing one from truly crossing the threshold to a perceptive love of Hashem in any sense of the word. One may try to defend our Pasuk by contending that the requests made by Hashem are directed only at the strongest of heart and mind, thus making this commandment esoteric and almost impossible to accomplish. The Netziv (Chumash Ha’Amek Davar, Devarim 10:12, s.v. Ki Im LeYir’ah), however, makes note of this Pasuk serving as a commandment to all, thus redirecting us to the original complication of humanistic obstacles to attaining an authentic love of God.

Perhaps the approach to such love is attainable through the first-step approach of fear of Heaven.

Rabbi Bachya ibn Paquda (Chovot HaLevavot, Sha’ar Asirei, Sha’ar Ahavat Hashem, Hakdamah) surveys the fact that in many areas of the Torah, including our very Pasuk (Devarim 10:12), the fear of God is placed before the love of Him. Fear of Heaven, in hindsight, can be seen as the lowest level of love of God, for the fear of sin and the fear of displeasing or corrupting oneself and Hashem’s Torah reflect a sense of love for these principles. This is paradoxical conceptually. As in the humanistic worldview, humans have the ultimate ability to control their lives and their environment, answering to no one save themselves and the laws of nature. But is the fear of Heaven truly a submission of free will to the divine as a means of attaining closeness, or is it just illusory due to the limits of the human mind? Indeed, Rabi Chanina (Megillah 25a; also found in Berachot 33b) famously declared: “HaKol B’Idei Shamayim Chutz MiYir’at Shamayim,” “everything is in the hands of Heaven, except for the fear of Heaven” based on our very Pasuk. Hence, we may reason that if the fear of Heaven, which potentially a

lower form of the love of Hashem, said love is indeed in our very hands as well; this, in turn, means that we are the arbiters of that love who are tasked with mining it and preserving/conserving it for future generations. But we again hit a brick wall, particularly in consideration of what truly makes us fear and subsequently love God in this day and age, particularly as our study of history has seemingly revealed countless incidents of strife and suffering?

Rabbi Tendler (Mitokh Ha-Ohel, ibid.) later draws attention to the words of Maimonides (Hilchot Yesodei HaTorah 2:2), who asks what is perhaps the greatest philosophical question pondered in the academies of ancient and modern history. This question, though complex to many, is the only question worth asking in the pursuit of attaining an authentic love of God: "When one observes the wonders and wisdom of nature - all being the works of His hands...one strives to know Hashem. This striving leads to the emotion of loving Hashem." It is with this position of Rambam that we again re-examine the role which awe plays in our lives. When one considers the nature of the universe's existence, one marvels at the precision and fine-tuning

with which it emerged to produce the conditions sustainable for the existence of carbon-based lifeforms, and even continues to expand, revealing a continually marvelous creation which we so often acknowledge in our Shabbat Kiddush and Zemirot. If we focused our attention slightly deeper to recognize the nature of conditions for planetary life-forms, we would be astounded to realize that of the thousands (at minimum) of planets that carry the ability to sustain carbon-based life to a certain degree, and the small number that can theoretically support human life, only one is home to living organisms (as of now at least) with the cognitive capacity to search for such planets.

The incredible systematic complexity of the universe on a wider scale is perhaps enough to serve as a catalyst for the growing awe with which Ahavat Hashem is later found, yet it is not only the universe that testifies to and sparks such feelings of trepidation. In conversation with my grandfather, Dr. Arnold Silverberg, Z"l, I happened upon the question as to what led him to a career in medicine. He posed the following question to me: "Do you know how many nephrons comprise a single kidney?" Admitting my lack of

knowledge of the answer, he explained that “of the hundreds of thousands [indeed perhaps even millions] of individual nephrons that comprise the whole of the kidney, the organ would fail if even a small number were damaged,” effectively stopping the filtration of toxic substances within the blood. This revelation, explained my grandfather, was one of his earliest primers for pursuing medicine, as a means of not only being able to partake in the sacred Mitzvah of Pikuach Nefesh but to grow closer to Hashem through the revelation of His most complex creation: the human body. Indeed the human body is a marvelous “machine” in that it has adapted not only the ability to self-heal in many cases on a molecular and visual level, but also provides protection to the inhabitant of the body (ie. the relative strength of the bones of the body and the skin, or the immune system) in a manner which only further promotes the protection of the body as humans evolve and progress through history. The specificity of said adaptations only further enliven the individual in recognizing the brilliance and beauty that is us, essentially.

Of course, the staunch (at this point - secular) humanist, in trying to

preserve the dignity of man without a divine hand in it all, would point to the evolutionary “mistakes” made or even the various ailments and diseases which so frequently present themselves. Yet, the unique beauty of the human body is not only its abilities mentioned above but its cognitive capacity to provide for its own sustenance and health. Indeed, we find a set of Torah mandates which even remind us of these very capacities; namely the Pesukim of “VeRapo YeRapei,” “and he shall provide the cure” (Shemot 21:19), “*U’Shemartem Et Chukotai ViEt Mishpatai Asher Ya’aseh Otam Ha’Adam VaChai Bahem*,” “You shall keep My laws and My rules, by the pursuit of which man shall live” (VaYikra 18:4), and “Lo BaShamayim Hi,” “It is not in Heaven” (Devarim 30:12). These Pesukim serve as the ultimate reminder of the fact that as human beings, we are granted the enormous ability to impart and actualize ethical ideals, and contribute to the advancement of creation, however novel we may perceive it to truly be.

And so we return to our original question of how it is that we may come to display fear and subsequent love of Hashem? It is indeed the case that much like the young child spoken of, who stands in awe of the marvelous beasts he

encounters in books or at zoos, aquariums, or museums, that we too may reach a basic level of understanding in how to fear and love God, if only we properly cognize and realize the inherent beauty and implications of the nature of the universe around us, from a simple drop of blood extracted from our veins to the enormity of the visible universe. When one stands in such awe, one will in turn eventually arrive at a sense of gratitude for being a part of this wondrous picture. As the philosopher, Ludwig Wittgenstein so famously quipped: *"Nicht wie die welt ist, ist das Mystische, sondern dass sie ist,"* "It is not how the world is that is mystical, but that it is" (Tractatus Logico-Philosophicus 6.44). Yet gratitude and love of God are not simple tasks, and thus Rabbi Tendler concludes his own assessment of our question reiterating the question of how we are to conserve and retain our Jewish-religious knowledge with later generations. Hence we are instructed to "Make them aware from earliest youth of the omnipresence of our God. When experiencing the clap of thunder, recite a blessing to Hashem [*"SheKocho U'Gevurato Malei Olam,"*] "Whose power fills the world." When seeing the ocean waves, recite a blessing to the One, [*"SheAsah Et HaYam HaGadol"*] "Who called the oceans into existence."" The instillment of awe is not an easy task, nor is the fulfillment of awe through the

study of the natural realm alone the ultimate pathway, but they do serve as individual paths which form a confluence of stronger knowledge and faith over time, a heritage which has served and will continue to serve "Hashem Elokeichem" who is "Emet," "Hashem our God" who is "true" through the study of His marvelous truths.

Not Your Average Tzedakah Appeal

by Tzvi Meister ('21)

Parashat Re'eh is arguably one of the most jam-packed weekly Torah portions that are presented to us, ranging in discussion from Hashem giving both Berachah and Kelalah to the Bnei Yisrael, instructions regarding all the species of Kosher animal and sea creature, and even the commandment to remember Yetziat Mitzryaim thrown in there as well. One of the most overlooked Mitzvot discussed, however, is the commandment to give Tzedakah, charity. The Pesukim, critical to outlining the Mitzvah, state: *"Ki Yihiyeh Becha Evyon MeiEchad Achecha BiEchad Shi'arecha BiArtzecha Asher Hashem Elokecha Notein Lecha Lo TiAmetz Et*

Levavecha VeLo Tikpotz Et Yadcha MeiAchecha HaEvyon. Ki Patoach Tiftach Et Yadcha Lo ViHa'avet Ta'avitenu Dei Machsoro Asher Yechsar Lo, "If there will be a needy man among you - one of your brothers, within one of your cities in your land that Hashem your God gives you - you should not harden your heart and should not close your hand from your needy brother. Rather, you must open your hand and lend him sufficient for whatever he needs" (Devarim 15:7-8). Even as one of the 613 Mitzvot, and perhaps one of the easiest to perform, people have always been reluctant to give Tzedakah. As I will try to demonstrate, Tzedakah is perhaps the easiest and arguably most fulfilling mitzvah that we can perform in our everyday lives; to quote the late 20th-century band of siblings, The Jackson 5, "it's simple as 1-2-3."

Rav Shlomo Ganzfried opens up his summary of Hilchot Tzedakah (Kitzur Shulchan Aruch 34:1) by first offering a few of the innumerable benefits that Tzedakah presents to an individual both in this world and the next. The first, possibly most crucial next to the very commandment itself is that the practice of giving Tzedakah is reflective of the same choices and decisions made by Avraham Avinu, the pious patriarch of

our heritage. The Kitzur then goes on to state that one of the only modes by which an individual establishes himself is through tzedakah, as it is stated, "*BeTzedakah Tikonani*," "Establish yourself through charity" (Yeshayahu 54:14). It is also based on a Pasuk in Mishlei that Tzedakah is more appealing to HaKadosh Baruch Hu than Korbanot, and this is corroborated by another Pasuk in Yeshayahu which states that Tzedakah is a prerequisite to the ultimate Geulah, redemption, of the Bnei Yisrael. If one were to refuse Tzedakah, Heaven Forbid, a person calls into question the nature of their Jewish identity and lineage according to the Gemara in Beitzah. Finally, and perhaps one of the most logically compelling arguments for giving Tzedakah is that no matter what one gives, they will not themselves be rendered poor as a result of this Mitzvah; this is well backed by yet another Pasuk in Yeshayahu.

Though I have laid out many reasons why one should give Tzedakah when possible, the Kitzur Shulchan Aruch was far from the first or only Halachic authority to outline such compelling reasons. Rambam was famous for his writings on the giving of Tzedakah, particularly his Eight Levels of Charity as outlined in the Mishneh Torah.

Additionally, Rambam was commonly referenced as having stated that Tzedakah is one of the most important Mitzvot to fulfill because it is the sign of a righteous individual. Rav Chaim Halberstam, commonly known as the Tzaddik of Sanz, was scrupulous in stressing the Kapparah, atonement, that giving Tzedakah brings. The Tzaddik noted that beyond just the 20% of one's money that is prescribed by the Shulchan Aruch to be given for Tzedakah, that "just as a person would give away everything he owns to be cured of an illness, so he can give away everything to remove his sins" (see *Seize the Moments* by Rabbi Abraham J. Twerski, ZT"L, for further reading).

It is seen throughout Tanach and throughout the many Halachic authorities throughout history that Tzedakah is a worthwhile Mitzvah. In essence, no matter how one approaches it, Tzedakah serves as a means for cleansing both one's mind and soul. The preconceived notion that people occasionally have regarding not giving Tzedakah on account of a poor person's financial status or physical presentation is highly ill-conceived, perhaps even Halachically wrong. Shlomo HaMelech showed his concern over this level of behavior when writing: "Do not rob a

poor man because he is poor, and do not crush the poor man in the gate" (Mishlei 22:22). Even well outside of the realm of Tanach and Halacha, there is a clear historical correlation between Tzedakah (the ancient equivalent of modern-day philanthropy) and happiness in life. Reluctance to give charity is not only psychologically and morally unhealthy for reasons not to be discussed here, there is a clear Halachic obligation and ideology that seems to point to the fact that Tzedakah is beyond just giving what you can, it is also a mindset which dictates how you approach those who may be less fortunate. Chazal very clearly point out that one should never judge his fellow until he has experienced everything which that person has. As such it is a moral and Halachic obligation--both DeRabanan and DeOraita--to never look down upon somebody in need of Tzedakah.

Rabbi Aharon Marcus writes that Tzedakah "is the best investment you can make. You can't take your money after 120, but the merit of Tzedakah you certainly can. Giving Tzedakah pushes off punishment and brings Hashem's mercy upon the giver" (Halacha 24/7/12, p. 147). The Bnei Yisrael's nationwide hesitation in giving Tzedakah was one of the main reasons why the second Beit

HaMikdash was destroyed. Perhaps with tremendous Tzedakah, it will be one of the central reasons it is brought back BiM'heira BeYameinu (see TB Shabbat 139a).

Tamim-The Making of the Ultimate Tzaddik

by Yoni Zelkowitz ('22)

Often, we tend to overlook things when they are short in nature and thereby they seemingly slip our minds without us giving it the necessary attention that it deserves. In Parshat Shoftim (Devarim, Perek 18) there is a short five word Pasuk which reads "*Tamim Tihey Im Hashem Elokeichem*". This Pasuk, although short in nature, is important that it should not be overlooked as it is a crucially important pasuk in order to strengthen our relationship with Hashem.

Rashi's Peshat on the meaning of that phrase is that when it says "*Tamim Tihey Im Hashem Elokeichem*", it really means to "HitHalech Imo Betimimot" - to walk before Hashem whole heartedly. Rashi goes on to say that one should not investigate the future and one should accept it wholeheartedly and then and

only then will he be with Hashem and become "a portion of Hashem". Now this last part of Rashi truly packs a punch as from this short 5 word pasuk, it gives the instructions for how to be a part of Hashem and in order for one to truly be with Hashem, one must be "Tamim". Interestingly we see this word of "Tamim" describe Noach, one of the biggest leaders and active followers of Hashem, no matter what was thrown at him. The Seforno comments that when the Pasuk describes Noach as "Tamim", it means that Noach was basically perfect and this is the reason as to why Hashem found "Chen", favor for Noach, more so than anyone else in his generation. Additionally, the Chizkuni comments on the Pasuk in Shoftim and states that in order for one to follow "Tamim Tihey Im Hashem Elokeichem", one must have a complete relationship with Hashem and not flirt with any alternatives. Chizkuni follows by contrasting this with the "Garei Ariyot", who professed to serve a Jewish way of life but without completely abandoning their other religion. Because these "Garei Ariyot" did not completely follow in the ways of Hashem, they did not fulfill "Tamim" and thus subsequently became victims of the lions invading their part of Israel. On the other hand, Avraham, whose own father sold idols and worshipped others Gods, completely dissociated himself from the other religions of the

world and thus one should take an Avraham approach to fulfill "Tamim".

Additionally the Alshich comments that for one to be "Tamim" with Hashem one must act in accordance with Hashem's manner and way he wants one to act even when no one is around.

Additionally Rav Twerski states that Tamim means a state of perfection. All these characteristics by many of the Mefarshim come to illustrate an image for us on what fulfilling this mitzvah of "Tamim" looks like and also more generally, what being a Tzadik truly looks like, being perfect, both in public and private, and ultimately completely following in the ways of Hashem, just as both Noach and Avraham have illustrated.

The Mitzvot that Maketh Man

by Tzvi Meister ('21)

It is interesting to find that as we near the completion of the Chamishah Chumshei Torah, that we the readers are presented with a rather large sum of Mitzvot and Halachot. However, despite the enormity and significance of there being 74 of the 613 Mitzvot grounded in the text here, one should be reminded that it is the individual commandments

themselves which are of enormity and significance, particularly as this week's Sidrah presents a sample of the Mitzvot most critical to an authentic Torah lifestyle. Through analysis and association of the Pesukim and their individual commands, we may come to recognize not simply a set of shifts in semantics concerning the Pesukim, but an entirely novel class of pragmatic truths. These truths underlie the ultimate experience of Torah, an experience that has not been wholly sustained since the eras of the academies belonging to Hillel and Shamai. The resultant product stands to demonstrate that not only does Judaism's strength lie in its past, but its future rests upon it as well. This concept, though alien, paradoxical, and perhaps even deleterious to the world of "progress at all costs," is indeed not only compatible directly with such a world but exactly what Judaism uses as its guiding light when navigating through space and time to the brighter future that mankind has enjoined itself to follow since birth. And so, in a true "*Torahdikke*" fashion, we begin this journey of survey and examination with perhaps the strangest, oft-misunderstood commandments found in Tanach: Shiluach HaKan, sending away the mother bird.

“Ki Yikarei Kan Tzipor Lifanecha BaDerech BiChol Eitz O’ Al Ha’Aretz Efrochim O’ Beitzim ViHa’Eim Robetzet Al HaEfrochim O’ Al HaBeitzim Lo Tikach Ha’Eim Al HaBanim,” “If, along the road, you chance upon a bird’s nest, in any tree or on the ground, with fledglings or eggs and the mother sitting over the fledglings or on the eggs, do not take the mother together with her young” (Devarim 22:6). What is the moral reasoning behind the prohibition and Mitzvah derived from Shiluach HaKan? What purpose is served by banishing the mother bird from having to witness the taking of her babies at the hand of a creature looking for a meal? It is indeed a difficult question to answer from the Halachic perspective, seeing as there is, quite strangely, a major Machloket between Talmudic decisim and the later codified expositions of Maimonides and Sefer HaChinuch. The Gemaras in Kiddushin (34a) and Makkot (17a) purportedly suggest that Shiluach HaKan is among several Mitzvot which are actually positive commandments (albeit not time-bound). Likewise, the Sefer HaChinuch (544:1-2) indicates similarly. Yet per Maimonides’ Code (Hilchot Mitzvot Lo Ta’aseh 306; see also Sefer HaMitzvot, Mitzvot Lo Ta’aseh 306), the Mitzvah is, in fact, a Lo Ta’aseh and constitutes not a command, but a prohibition simply based on the Pasuk’s own command of *“Lo Tikach Ha’Eim Al HaBanim,”* “do not take the mother

together with her young” (Devarim 22:6). In retrospect, this major contradiction between the Halachic bodies - despite Rambam having no authority when weighed against the Tannaim and Amoraim of the Talmud - is indeed null and does not reflect a contradiction in laws undermined by one exegetical and one eisegetical approach to the Mitzvah.

The former approaches of the Talmud and Sefer HaChinuch approach Shiluach HaKan from the perspective of resounding compassion. Conversely, the negative commandment approach of Rambam addresses the Mitzvah from the perspective of coarse warning and resulting judgment. What fundamentally differentiates these two approaches is that from the former’s approach, we witness the Mitzvah to send off the mother in the compassionate light, one that reflects the fact that despite the human tendency toward the faculty of anthropocentrism, Shiluach HaKan is a reminder of Hashem’s love and compassion for all life forms, despite His acquiescence and accommodation to the human condition when necessary. However, such compassion for all of His creatures must still be recognized, and indeed the Mitzvah of Shiluach HaKan

accomplishes this by reminding the one performing it of the most basic maternal and parental instincts endowed to the vast classes of the animal kingdom. By sending the mother off, we are reminded to demonstrate compassion and reflect our cognizance of a mother's instinct to protect her babies and spare them and herself from suffering. Thus, the former perspective is a recognition of compassion for the mother by sparing her the sight of losing her children. However, we may further cognize that Rambam is not satisfied with this "primitive" form of endowed and forced compassion. Hence Maimonides treats Shiluach HaKan, despite the earlier perspectivist approach of ultimate compassion through the action of sending the mother away, as revolving wholly around the last five words of the Pasuk alone. By shifting the burden of the Mitzvah to these five words, Maimonides in effect begs the individual to not simply cognize the Mitzvah as being an exercise in basic compassion for the mother but treating it so harshly as to charge one with having violated a negative commandment by failing to do so. It may have been sufficient for the layman to just have followed the letter of the law laid down in the Parashah as a means of actualizing the commandment, but for the educated and enlightened mind, this is not enough. Thus, the individual, in Maimonides view, is

charged with exercising not simply physical caution on the part of the Pasuk's warning, but cognitive-emotional caution as well in order to exercise greater compassion toward the mother while preventing the individual from losing sight of the behavior accorded to other members of the animal kingdom at certain points in time. Indeed, this may even be backed by the fact that the next Pasuk commands "*Shalei'ach Tishalach Et HaEim ViEt HaBanim Tikach Lach*," "Let the mother go, and take only the young" (Devarim 22:7), which would indicate that the epitome of the compassionate act is, again, sparing the mother the anguish of watching her children taken from her. And so, we find that in light of the complex nature of the Mitzvah of Shiluach HaKan, that there is indeed profound compassion embedded within it; one that only serves as the primer of the succeeding Mitzvot we read of.

Following this commandment, we are presented with the charge of securing one's rooftop. "*Ki Tivneh Bayit Chadash ViAsita Ma'akeh LeGagecha VeLo Tasim Damim BiBeitech Ki Yipol HaNofel Mimino*," "When you build a new house, you shall make a parapet for your roof, so that you do not bring bloodguilt on your house if anyone

should fall from it" (ibid. 22:8). This Pasuk begs the obvious question to the modern individual: what purpose does the fence serve in preventing someone's death if it is likely the case that the burden of culpability lies upon the victim themselves? Indeed, Rashi (ibid., s.v. *Ki Yipol HaNofel*) makes clear this very point by highlighting that "*Ki Yipol HaNofel*" should be taken to mean "if he that is to fall (*HaNofel*) falls from it." Hence the victim, while their death is nothing if not tragic, is potentially justifiable. Yet Rashi is careful to forewarn that despite the defensibility of such an event, coupled with its accidental nature, one is not exempt from the violation of this Mitzvah, for it is not within the individual's power to determine the legitimacy of one's rightful death or not. Thus, the commandment to reinforce one's rooftop stands as a great ethical-moral lesson on the legitimacy of preserving human life at all costs. One may be easily convinced that upon one's own property, the right reserved to the owner to act and function as he pleases legitimates his dissent with the idea of protecting anyone and everyone who steps foot upon it. This is a counterfactual if not simply counterintuitive notion given the meaning of the Pasuk. Despite man's said anthropocentrism as aforementioned, this Pasuk serves as Hashem's reminder to the individual

that despite what he may feel is good for him and how he feels when it comes to what is his own, this does not excuse him from his obligation to the greater good. Much like an individual who believes that car ownership gives them the right to do with it what they please, we acknowledge that the existing law requires that we consider others with cars and properties of their own as well when on the road, thus enforcing an aura of cooperation for the safety of the general public. This is exactly what the rooftop fence accomplishes as a Mitzvat Aseh, a commandment of doing rather than refraining from - and indeed it carries with it great reward - for, despite its visible incongruence to *Shiluach HaKan*, it carries a greater meaning than what meets the eye.

The succeeding three Mitzvot then come to highlight a critically important lesson in the treatment of day-to-day life as an observant Jew. "*Lo Tizra Karmicha Kilayim Pen Tikdash HaMilei'ah HaZera Asher Tizra U'Tevu'at HaKarem*," "You shall not sow your vineyard with a second kind of seed, else the crop—from the seed you have sown—and the yield of the vineyard may not be used" (ibid. 22:9). Interestingly, the prohibition of *Kilayim* concerning seeds is only applicable to *Eretz Yisrael* (*Sefer*

HaMitzvot, Mitzvot Lo Ta'aseh 193); yet, the punishment for Kilayim of this kind is likewise the more severe in contrast to the two Mitzvot which follow. It is important to realize the significance of this Mitzvah's limited jurisdictional reach, given that some archaeological studies suggest that the cradle of modern humanity originates from what is now modern-day Israel. What is so dastardly of Kilayim is not that it profanes the notion of HaKadosh Baruch Hu's creation and endowment of the natural world with self-efficacy but because of what the mixture acknowledges. In the eyes of the Gemara (Chullin 115a) and Chizkuni (Devarim 22:9, s.v. *Lo Tizra Karmecha*) the abomination of Kilayim is that represents on both a biological and philosophical level, a divergence from the natural for the prospect of personal prosperity resultant from the mixture. Through the mixture of seed species, one creates a representational shift from the concept of methodological to metaphysical naturalism, driving Hashem out of the picture of creation, and recognizing only the "natural law" and mankind as its apprentice-turned-master as the hands involved in the continuation of species, particularly on the ecological level. This idea, per the Chizkuni, is exactly what Kilayim serves to warn of: one must be ever-careful to recognize the Yad Hashem existent in nature, for the

mixture of species not simply uproots His creation, but the idea of humanity as a faculty itself. Thus, the Pesukim which follow take a similar tone when warning: "*Lo Tacharosh BiShor U'BaChamor Yachdav. Lo Tilbash Sha'atnez Tzemer U'Pishtim Yachdav*," "You shall not plow with an ox and an ass together. You shall not plow with an ox and an ass together." (ibid. 22:10-11). The beauty of creation is not simply derived from its having happened, but from continually happening in the sphere of the natural world, and presenting the world and its beholders with the beautifully diverse animal kingdom we see today. Judaism's derivation from that of the ancient and modern western worlds was not that it fought progress and innovation through its "old-school" methods, but that it cherished these methods as a means of granting meaning to the innovations which followed, and following the natural rather than artificial and dangerous path. The prohibitions found here not only highlight Judaism's lifelong goal of highlighting and preserving the beauty of the natural world but serving as a beacon of this very message since the beginning of human history. Such Mitzvot, with their unique ethical-moral characteristics, highlight only a sliver of what Judaism's message is and what it seeks to achieve in this material world. But these Mitzvot are not the end, for there is yet another which presents us

with the strong moral-bearing which we use as our guide through this world: the Tzitzit themselves.

“Gedilim Ta’aseh Lach Al Arba Kanfot Kesutecha Asher Techaseh Bah,” “You shall make fringes on the four corners of the garment with which you cover yourself (ibid. 22:12). What is the purpose of reintroducing the Mitzvah of Tzitzit into the equation of these precursory Pesukim, for did we not already find ourselves commanded in Parashat Shelach (BeMidbar 15:38-39) to adhere to the practice when presented with the opportunity to? Reiterating a takeaway point of that Parashah’s commandment of Tzitzit, we would be remiss if we did not note the unifying and underlying theme derived from Tzitzit: that of the remembrance of Kol HaTorah Kulah, the Torah in its entirety. What the commandment outlined in Shelach demonstrates is the philosophy of Tzitzit as a means of reminding the wearer of his obligation to Torah and Mitzvot, and to remember Hashem and His Torah whenever he glances at them. In the context of our Parashah, however, we see a somewhat updated version of this theme. We have witnessed the perpetuation of the idea of Chazal that *“Schar Mitzvah Mitzvah ViSchar Aveirah Aveirah,”* “the reward of a Mitzvah is

another Mitzvah and the reward of a sin is another sin” (Avot 4:2). The Midrash (Midrash Tanchuma, Ki Teitzei 1), in line with the Mishnah, puts forth that the very connecting features between Shiluach HaKan lie not in any standard visual relationship to the heart of their actions, but in the heart required of their actions, for the reward of the former Mitzvah thus leads to another Mitzvah to fulfill. Yet we are not satisfied with such an explanation, particularly as the Mitzvot of Shiluach HaKan and Kilayim, respectively, may actually serve as corollaries to one another in the sequence of these Mitzvot in the following manner: with the performance of Shiluach HaKan on the most basic level, one accomplishes cognition and with awareness of his actions as both a Mitzvah required to be performed on behalf of the mother bird’s natural emotional response - which will be triggered soon after witnessing the event - and the metacognition of a Mitzvah with extreme ethical implications being implemented through these specific actions taken. Thus, with this latter metacognition, one will be able to further cognize his performance of other equally ethically and morally weighty Mitzvot which present themselves afterward; namely that of placing a fence around one’s roof. For what is truly accomplished with the development and unraveling of these Mitzvot is in fact higher-order

processing from that of the most basic animalistic-maternal instinct and a recognition of the sacredness of life and assurance of its safety. regardless of personal interest. Following that we are starkly warned about the dangers of crossbreeding mixtures that disrupt the natural realm, for this can easily lead man astray from both God and the proper moral path. From there, one can then matriculate through the Mitzvot until the aggregate realization is that the Tzitzit reminds one of them all, helping to guide one in navigating the moral and ethical dilemmas they face every day while grounding them in the right path.

It is not a simple task to attain such a cognitive-emotional level, particularly as one must be able to fight their innate biases and prejudices to properly do so. Indeed seeing the objective moral standard hidden within the Pesukim considered here from the Parashah is not an easy task. Yet it is with these Mitzvot which we cognize the relative beauty of Torah and its rich moral lessons hidden within, lessons which, whether to our knowledge or not, will go wherever we do and be alongside us and presented to us whenever we actively seek them out. Citing a Midrash (Devarim Rab a, Ki Teitzei 3), Rav

Aharon Lichtenstein (in a Sichah delivered at Yeshivat Har Etzion, Shabbat Parashat Ki Teitzei 5774/1994) famously explained: "Wherever you go, the Mitzvot go with you." As Rav Lichtenstein asserts, there is no area of life not intimately connected to the realm of Halachah, and it is not sufficient to simply quip that whenever an individual engages the world, he will undoubtedly encounter a select number of Mitzvot along the way. Chazal's assertion is clear: all areas of human existence and all pursuits are intimately connected to Torah, and guided by it. There is certainly no area of life, no action taken by any individual, that escapes the realm of Halachah, for the Zohar states "there is no place devoid of Him" (Tikkunei Zohar, Tikkun 57). Thus, one may engage the world in whatever manner he pleases, in whatever sphere he wishes to place himself in, but one will never escape the Mitzvot which encompass the entirety of his material world. To engage the world with the light of authentic Torah, one must be readily able to accept and emerge from whence he came (as Rav Lichtenstein concludes) "with a powerful sense that the Halachah accompanies one wherever one goes and whatever one does." To this, it should be noted that the choice - while great and wide in expanse - is ours: do we wish to follow the Mitzvot, which in turn only lead us to further Mitzvot,

until we have actively sanctified the name of Hashem and our people through the actualization of the highest ethical ideals, or do we wish to disregard said opportunities for the world of anthropocentrism, where man dominates and saves only himself?

Fear Guiding Love

by Nachi Scheiner ('22)

In this week's Parashah we read the Tochacha. The Tochacha injects a bolt of fear through its readers' bodies. It accomplishes this through a series of terrifying Pesukim. In explaining one such Pasuk, the Torah concludes with this phrase: "*Tachas Asher Lo Avadta Et Hashem Elokecha BeSimcha UVeTuv Levav Merov*" (Devarim 28:47). One possible translation of the Pasuk is that we are being punished for not serving Hashem properly in times of prosperity. Rav Asher Weiss takes a different approach. Rav Asher Weiss understands the Pasuk in its simplest form: we are being punished for not serving Hashem in joy. In a similar vein, the Yerushalmi Sukkah uses this Pasuk to teach that the Shechinah doesn't rest itself except on those who live BeSimcha. One must understand that in order to access the

Kedusha of Hashem he needs to appreciate and enjoy all that Hashem gave him. Included in this is the six hundred and thirteen mitzvot of the Torah. When one does not value the Torah and its supremacy, they inevitably will fail to keep them. A parable to this is a teacher that feels like students are constantly a burden and never enjoys his job. That teacher will not only never reach his full potential, but he will even fail. The message the Torah is driving at is that in order to fully fulfill and be successful in one's Avodas Hashem he must cherish the commandments.

It is said about the Ari HaKodesh that he was able to understand the secrets of the Torah because of the Simcha he had. The value of simcha in avodas hashem is so fundamental to every single Jew that the Klausenberger Rebbe would say this Pasuk over and over again in Auschwitz. Even in the darkest place on Earth, the joy the Torah brings lights up the room. Without a loving relationship to the Torah and Hashem, the Nazi's, might have won the battle; but they didn't. If the Jews of the last two thousand years could persevere and be fully committed to the Torah, not just because they are commanded to, but because they value it, how much more so us in a generation with, thank God, very little persecution have to fully

commit to the Torah. The Gemara in Brachos (16b) defines an Adam Gadol as someone who has Simcha BeMitzvot. We should all strive to be an Adam Gadol who is fully devoted to the Torah and the Tochacha should, with Hashem's help, become a mere threat, not a reality.

Despite the value of simcha BeMitzvot, the Tochacha also stresses the importance of Yirah, fear. These two values are not contradictory (see the Talmidei Rabbeinu Yonah). Tanah DeBei Eliyahu has a beautifully poetic line stressing this point: "Yareis Mitoch Simchati VeSameichti Mitoch Yareisi". In order to truly love and appreciate God one must fear. The same is true vice versa. The fear one has allows him to understand the power of God on some level or another which inevitably creates a sense of respect and devotion. As Rosh HaShanah is rapidly approaching, there is no greater message than this. The Shofar has two aspects to it, to blow during the festivals and to blow during the fast days. The duality of the Shofar reflects both Yirah and Ahavah and truly they are really one entity, the Shofar. We should all be Zocheh to have only times of Simcha and Ahavah with the effort we extend to be better Jews and people.

It's In Our Hands

by Daniel Brauner ('22)

In Parashat Nitzavim, Moshe continues his speech to the Jewish people before they enter Israel. He tells them that they must keep the Torah, and by doing so Hashem will help them. The entire Parashah teaches us valuable lessons of reward, punishment, and our role as Jews, but perhaps the most powerful part of the Parashah and the Torah as a whole is towards the end, where Moshe lets the Jews know that they are capable of keeping the Torah - that it is not too difficult: "*Lo BaShamayim He*," "It is not in the heavens;" "*Velo Mei'Eiver Layam He*," "Neither is it beyond the sea;" "*Ki Karov Eilecha HaDavar Me'od Beficha UViLvavcha La'Asoto*," "Rather the thing is very close to you, in your mouth and in your heart, to observe it" (Devarim 30:12-14).

This speech is so meaningful because it gives the Jews hope and strength that they can fulfill Hashem's Torah. According to Seforno, Moshe is telling us that what Hashem wants is not so complicated. We don't require prophets to explain it (Devarim 30:11 s.v. *Lo Nifleit He Mimcha*). Ibn Ezra teaches us that when the Pasuk says the Torah is not "*Nifleit*," (Devarim 30:11), it

means either that it is not hidden from us or that it isn't a tiring burden on our backs (s.v. *Nifleit*). However we understand the Torah's message here, one thing is clear: we can do it.

Sometimes we find it difficult to keep all of the Torah. Whether we are hungry on Yom Kippur, too tired to learn, or struggling to focus during davening. It isn't always a cakewalk. But it is evident from this Parashah that Hashem knows we can succeed. If He wants us to do something, that means He knows it is within our reach. Hopefully this will give us the Chizuk to remain strong in our Avodat Hashem, even in the summer when we may feel less structure in our lives. Whenever we feel like we can't do it, remember the words that the great singer Eitan Katz named his beautiful song with: Ki Karov.

Priorities in Covid-19 Vaccine Distribution Part 6

by Rabbi Chaim Jachter

2. Does the Concept of Ein Ma'avirin Al HaMitzvot Apply to the Order of Saving?

Rav Moshe Feinstein (Teshuvos Igros Moshe 2:75:2) writes that a physician is obligated to treat the patient he encounters first. Similarly, Rav Moshe Feinstein is quoted (Kevod HaRav page 169) as instructing Israeli Ashkenazic Chief Rabbi Yitzchak Herzog that doctors with a limited supply of penicillin should provide the medicine to the first patients he encounters in the hospital.

Rav Aharon Lichtenstein explains Rav Moshe's ruling based on the principle of "*Ein Ma'avirin Al HaMitzvot*" (Yoma 43a). This oft-cited Halachic principle is that one does not bypass Mitzvot. In one well known example, a man places his Tallit before donning Tefillin, but if by mistake he encounters the Tefillin first, he may not leave the Tefillin in favor of his Tallit. In light of this rule, Rav Moshe Feinstein told Israeli Ashkenazic Chief Rabbi Yitzchak Herzog that doctors with a limited supply of penicillin should provide the medicine to the first patients he encounters in the hospital.

TABC Talmid Boaz Kapitanker suggests that Rav Moshe's ruling stems from the principle of Mai Chazit.

However, Rav Asher Weiss (Teshuvos Minchas Asher 2:126) strongly disagrees. He argues that only the

criteria set forth by the aforementioned Pri Megadim (greater need) and Mishnah Berurah (greater effectiveness) apply in this case. Indeed, these two authorities make no mention of priority accorded to the patient to whom the health care provider reaches first.

Rav Weiss adds that the principle of *Ein Ma'avarin Al HaMitzvot* does not apply to this situation. Rav Weiss explains this is a concept intended to avoid degrading Mitzvot by passing a Mitzvah such as the aforementioned Tefillin. However, Rav Weiss argues that this principle applies only to Mitzvot that are in their very essence Avodat Hashem (again, such as Tefillin) and not result based matters such as saving lives.

Rav Weiss concludes that the only factors determining order of saving are those that help achieve the goal of restoring a normal life expectancy to as many patients as possible.

3. The priority accorded in the United States to Health Care Workers

Rav Yair Hoffman[12] strongly argues against the United States government policy of administering the Covid-19 vaccine first to health care workers. Instead, he believes that priority should be accorded to the elderly who he

argues are far more at risk. Rav Hoffman marshals statistics which he claims prove that this policy might contribute to a staggering five hundred deaths a day by delaying the administration of vaccines to those most in need.

Rav Hoffman cites the Pri Megadim we have mentioned as those most at risk enjoying priority to receive scarce medical resources. He calls for an outpouring of outcries to the government to change this policy.

However, other Rabbanim, such as Rav Yonah Reiss[13] and Rav Michael Taubes[14] who have addressed the issue of vaccine distribution have not raised a similar concern with this policy.

We may argue against Rav Hoffman by setting forth a number of points: 1) Statistics are often open to interpretation and the statistics Rav Hoffman presents might be open to debate. Thus it could be that healthcare workers are at greater risk. 2) The elderly have the option, most often, to remain at home and avoid danger[15], which health care workers do not. 3) The competition between the elderly and health care workers might be reminiscent of the Gemara (Sanhedrin 32b) of the Te'unah and Einah Te'unah, in which the Te'unah enjoys priority. In other words, the

health care workers have assumed the great responsibility of placing their lives at risk to care for patients, especially during the Covid-19 pandemic, they enjoy priority[16]. 4) Health care workers are arguably more needed by society. 5) The elderly have an acute need for a full complement of healthy health care workers to care for them.

TABC's Nachi Scheiner notes that the situation is analogous to the commonly accepted wisdom for the mother to put on her oxygen mask before placing it on her child. The mother cannot help the child if her needs are not addressed. Similarly, the elderly cannot be properly helped unless health care workers are taken care of.

Finally, Chazal take steps to motivate health care workers to remain in their positions. For example, the Mishnah (Rosh Hashanah 23b) teaches that a midwife who comes to aid an expectant mother and someone who comes to rescue people from an invading army or a disaster may walk 2000 Amot from the town of their immediate destination. Chazal were concerned that the early stages of these tasks meet important communal needs and forbidding their completion would inhibit people from ever beginning them. On this basis, Rav Moshe Feinstein (*Teshuvot Igrot Moshe*, Orach Chaim 4:80) famously permitted

members of Hatzalah (New York's Jewish volunteer ambulance corps) to drive home completing a rescue mission on Shabbat[17].

Another example is the lenient approach Chazal taking to malpractice committed by health care workers, if it was not done deliberately. The Tosefta in Bava Kama (6:6) states that an expert doctor authorized by Beit Din to practice medicine is exempt from punishment by human law but held accountable in heaven if he damages someone.

The Tosefta in Gittin (3:13) distinguishes between accidental and intentional damages on the doctor's account. It states that if an expert doctor receives permission from Beit Din to practice, and damages someone mistakenly, he is exempt because of Tikkun Olam (prudent public policy). If he and others of his ilk could be sued, other potential doctors might be scared to enter the medical profession for fear of facing the same fate. On the other hand, if he damages the person purposely, he is liable for the injury incurred.

The Shulchan Aruch (Yoreh De'ah 336:1) codifies this Tosefta as normative Halachah.

In harmony with this approach of Chazal, we argue that health care

workers deserve priority in vaccine distribution. They have been serving in extremely stressful situations since March 2020 and the danger of burnout is considerable. We dare not send our health care workers to the front lines without proper protection. TABC Talmid Tzvi Meister adds that Rav Hoffman's argument has been criticized for its being based on weak data.

TABC Talmidim Aidan Samet and Tzvi Meister note that the Mishnah (Bava Metzia 33a) accords priority to one for whom one owes a greater gratitude. Society similarly owes a debt of gratitude for healthcare workers' extraordinary dedication during the Covid-19 crisis.

The temptation for many health care workers to abandon helping patients in favor of a career in finance is considerable. Giving high priority to health care workers in vaccine distribution helps motivate physicians to remain on the job[18]. All would agree that older health care workers should receive the vaccine before younger health care workers.

One cautionary note: Those in nursing homes and senior residencies are at extremely high risk and it seems they enjoy priority in vaccine

administration even before health care workers.

4. Priority Accorded to Smokers

In some jurisdictions, smokers are given higher priority to receive the Covid-19 vaccine. One might object that this is a situation of a "Chotei Niskar", rewarding a sinner[19].

The Mishna Challah (2:7) is a prime example of the application of this principle:

Shi'ur Challah, Echad Mei'Esrin Ve'Arba'ah. Ha'Oseh Isah Le'Atzmo, VeHa'Oseh LeMishteh Veno, Echad Mei'Esrin Ve'Arba'ah. Nachtom SheHu Oseh Limkor BaShuk, VeChein Ha'Ishah SheHi Osah Limkor BaShuk, Ehad Mei'Arba'im UShmonah. Nitmeit Mezidah, Echad Mei'Esrin Ve'Arba'ah, Kedei SheLo Yehei Chotei Niskar.

The [minimum] measure of hallah is one twenty-fourth [part of the dough]. If he makes dough for himself, or if he makes it for his son's [wedding] banquet, it is one twenty-fourth. If a baker makes to sell in the market, and so [also] if a woman makes to sell in the market, it is one forty-eighth. If dough is made unclean either unwittingly or by an unforeseeable circumstance, it is one forty-eighth. If it was made unclean

intentionally, it is one twenty-fourth, in order that a sinner should not profit.

Accordingly, although we follow the Pri Megadim and accord priority to those in greater danger, this should not apply to those who have made poor choices that bring them into a situation of danger.

However, Rav Michael Taubes questions this line of reasoning. He notes that it is a slippery slope as following this logic, obese individuals should also be denied priority as very often their being overweight are less than excellent choices made regarding the food they ingest. Moreover, as noted by Lander College graduate Yisroel Meir Perton, the goal of vaccination is to reduce the number of people needing to be admitted to hospitals for treatment for Covid-19. Thus, even if vaccine recipients are at fault for their being at high-risk, their being vaccinated serves the broader goal of protecting society.

TABC's Nachi Scheiner notes after how many cigarettes do we consider him no longer a sinner and more of an addict? Does Halachah penalize someone for not being able to do teshuvah on an addiction? Who knows maybe the smoker wants to stop but struggles to keep away? In addition, at what point is it their fault?

Can we really blame the Israeli soldier who is forced to join the army and gets addicted to smoking? (In no way is this anti-army rather just a sad but frequent occurrence). Tzvi Meister adds nicotine is extremely addictive and we may perhaps have more reason to blame the addiction at some point than the person. In addition, Hillel Jachter notes that some begin smoking as children (!) and become addicted at an age when they were incapable of proper judgment. Finally, the pandemic inhibits many from visiting rehabilitation centers.

Thus, the decision to prioritize smokers does not run counter to Halachah.

5. Prioritizing Prisoners and Those Suffering from Depression

Although it seems grossly unfair, early administration of the Covid-19 vaccine to prisoners does not necessarily run counter to Torah values. The goal is to reduce the risk to society and reducing the spread of Covid-19 in prisons where residents live in very close quarters, is a high priority. It protects prison workers who guard the prisoners and reduces the pressure to release dangerous prisoners due to widespread prison infection. In addition, those who are imprisoned for a very short term are at great risk from contracting Covid-19 in

jail and then spreading their illness upon their subsequent release.

TABC's Yossi Sherman adds that by this logic, people in ghettos and close communities should also be vaccinated before others.

Hillel Jachter adds that those who are medically certified as suffering from depression due to the prolonged isolation caused by the pandemic, should enjoy priority due to their acute need for interaction.

6. Prioritizing the Young

Some have suggested giving to the younger population as early as possible since they are the most social and most likely to be the leading super spreaders. However, this truly seems to be rewarding the sinners. Therefore the elderly certainly enjoy priority over the youth in terms of receiving the vaccine.

TABC Talmidim Tzvi Meister and Nachi Scheiner comment that a common occurrence is that after receiving one's first dose people stop exercising caution regarding Covid and end up infected with Covid-19. Thus, if we give the younger population first, we can not trust them to wait till they are ready for their second dose. Prioritizing the

young has the potential to create a large increase in covid cases.

7. Do Those who Have been Infected Covid-19 Have Lower Priority?

In his presentation, Rav Yonah Reiss cites an unnamed epidemiologist who advises those who have Covid-19 to allow others to vaccinate before them for a period of one year. This expert felt that these individuals retain antibodies for this period of time and are less at risk and enjoy lower priority in terms of vaccine distribution.

However, this assertion is subject to significant dispute. Other authorities report that the antibodies may be relied upon to last only ninety days from the time of illness. Thus, those who were infected with Covid-19 are not necessarily on a lower level of priority to receive the vaccine.

8. Priority Accorded to Those Who Pay?

Rav Asher Weiss (Teshuvot Minchat Asher 1:126) rejects in the strongest terms prioritizing those who can pay in triage situations. He condemns such practice as "ugly" and undermining the integrity of the medical system. It also brings to mind the riots caused by the

United States policy during its Civil War when those who could pay a large amount of money were excused from serving in the military.

Similarly, lying or even “stretching the truth” to receive the vaccine earlier is ugly and anti-Halachic behavior and cannot be countenanced. In addition, very often those in the greatest need, such as the elderly and infirm, have the least ability to pay for their inoculation.

TABC Talmid Yakov Halstuch observes: What if a person donates money so they can develop/distribute more vaccines? Shouldn't they deserve to be rewarded because it's a net gain and will help more people?

While Yakov certainly has a point, nonetheless it still smacks of bribery and appears to accord greater value to the lives of those with disposable income.

9. Dina D'Malchuta Dina

A most fundamental Halachah which describes how Jews should relate to the surrounding society is “*Dina DeMalchuta Dina*” (Bava Batra 54b). Literally translated, this means, “The law of the land is the law.” A fuller explanation is that Halachah demands obedience to the laws promulgated by the civil authorities.

The Rama (C.M. 369:11) rules that Beit Din applies the principle of *Dina DeMalchuta Dina* when the law is issued “*LeTakanat Bnei HaMedinah*,” “For the betterment of society.” For example, the Rama (Choshen Mishpat 73:14) rules that Beit Din must honor a civil law forbidding a lender from selling an item he holds as collateral until one year has passed, even though Halachah permits a lender to sell the collateral after thirty days in case of default on payment of the loan. Such a law serves to better society, as the government perceives a need to stimulate the economy by easing the terms of repaying a loan.

The Shach (Choshen Mishpat 73:39) strongly disagrees with the Rama. He writes: “Since according to Halacha the lender may sell the collateral after thirty days of default, how can we follow the Nochri laws and ignore the Torah law? God forbid - such a matter should not happen in the Jewish community!”

Nonetheless, many Poskim rule in accordance with the view of the Rama. These authorities include the Chatam Sofer (Teshuvot Chatam Sofer C.M. 44), Teshuvot Imrei Yosher (2:252:2), Teshuvot Doveiv Meisharim (number 77), Rav Moshe Feinstein (Teshuvot Igrot Moshe C.M. 2:62), and Rav Yosef

Eliyahu Henkin (Kitvei HaGaon Rav Y.E. Henkin 2:96).

Thus, the government vaccine distribution policies in the United States are designed “LeTakanah Bnei HaMedinah and must be followed. Even the Shach would agree as the vaccine system distribution does not necessarily run counter to Halachah.

Rav Hershel Schachter (*Nefesh Harav* p. 269) records the following about Rav Yosef Dov Soloveitchik:

Our master was very scrupulous about paying government taxes, and I heard in Rav Soloveitchik’s name that if one has specific knowledge that a particular store does not pay sales taxes to the government, it is forbidden to make purchases there, as it violates Lifnei Ivoir (the prohibition to cause others to sin).

I have similarly heard that an organization devoted to reaching out to less observant youngsters once asked Rav Soloveitchik if it was permitted to retain staff and not pay them “on the books” (i.e., pay them in cash to avoid taxes). Rav Soloveitchik replied that it is forbidden. The organization told Rav Soloveitchik that it would not have sufficient funds to operate the office if it were to pay its staff “on the books.” Rav Soloveitchik responded that if that was

the case, it should close the office, despite its noble work. TABC Talmid Yakov Halstuch adds that this situation smacks of a Mitzvah HaBa’ah Ba’Aveirah.

Rav Moshe Feinstein also rules that *Dina DeMalchuta Dina* applies in the United States, as is evident from many of his Teshuvot (*Teshuvot Igrot Moshe* C.M. 1:88, in which he specifically rules that one must pay taxes, as well as C.M. 2:29, 2:30 and 2:55). He writes the following in a responsum in which he forbids defrauding the United States government (which he calls a “government of kindness”) to receive more student aid than one deserves (*Teshuvot Igrot Moshe* C.M. 2:29):

There exists no manner in which to proclaim such behavior as permissible. Just as Hashem hates sacrifices offered from theft, Hashem hates support of Torah and those who study Torah by means of theft....The Rashei Yeshivah and directors, who are God-fearing individuals, are not, God forbid, suspected of violating the prohibitions of theft, lying, deception and violation of *Dina DeMalchuta Dina* by any possible proclamation of permissibility because they are aware that this severe sin brings heavenly punishments, in this world and in the next, and contravenes the very purpose of the establishment of Yeshivot – for the students to develop

into authentic God-fearing individuals who are exceptionally careful to refrain from any prohibitions regarding financial matters.

Some argue that *Dina DeMalchuta Dina* does not apply in the United States because of some corrupt politicians and some laws which one might regard as unjust. I have heard Rav Hershel Schachter respond to this argument by noting that Shmuel declared this principle to apply to the Babylonian government of his time, which was hardly perfect. Similarly, *Dina DeMalchuta Dina* applies to the United States and other decent governments, despite the fact that these governments are less than perfect. Shmuel's application of this rule to the government of his time proves that this rule applies to any reasonably decent government, even if these governments are imperfect. TABC Talmid Yakov Halstuch adds how indebted we are to the United States government for its tremendous kindness to the Jewish People including donating tens of billions of dollars to support the State of Israel during the past four decades.

Yirmiyahu HaNavi (29:5-7) prepares us for exile by teaching us to build homes, to marry and to pray and act for the benefit of the city in which we reside. The principle of *Dina DeMalchuta Dina* certainly is in harmony with Yirmiyahu

HaNavi's teaching. It also fits with the teaching of Chazal (cited in Rashi to BeMidbar 20:17) that a guest must benefit his host. Strict adherence to *Dina DeMalchuta Dina* helps ensure that we benefit the country in which we reside.

It is shameful and disgraceful to disregard the Halachah of *Dina DeMalchuta Dina* both in Israel and in the United States (and in any other just jurisdiction) especially in regard to the distribution of the Covid-19 vaccine. In the words of Rav Moshe Feinstein (*ibid.*), "Besides the prohibitions of theft, there are other terrible sins involved, including lying, deceiving, creating Chillul Hashem (desecration of God's name) and disgracing Torah and those who study it...and this sin also causes great harm to the great Torah scholars and their students who scrupulously avoid any trace of concern for theft and the like (by ruining their reputations)." In recent decades, many Jews have become exceptionally meticulous about Halachos such as Kashrut and Shabbat, even beyond what the letter of the law requires. We also be fastidiously observant of *Dina DeMalchuta Dina*, which constitutes a Torah-level obligation according to the Chatam Sofer (Teshuvot Yoreh De'ah 314) and Rav Ovadia Yosef (Teshuvot Yechave Da'at 5:64).

TABC Talmid Tzvi Meister adds: In conclusion: The overall consensus of Halachic opinions would say that Dina DeMalchuta Dina, when enacted or set up for the betterment of public health and society, should be followed at all costs. Thus, from a Halachic standpoint, we should absolutely follow the vaccine distribution approach of the United States government.

10. Decrying the Reported Shameful Waste of Covid-19 Vaccines

While we wholeheartedly endorse following government regulations regarding the roll out of the Covid-19 vaccine, we must vehemently decry the reported shameful waste of Covid-19 vaccines.

The situation brings to mind the comments of Tosafos (Kiddushin 20a d”h Kol HaKoneh Eved). The Gemara teaches that if there is one pillow in a slave holder’s household, the slave receives the pillow and not the master. Tosafos ask, though, we understand that the slave should be treated no worse than his master but why should he be entitled to better accommodations than his master?

Tosafos answer, following the Talmud Yerushalmi, that equal treatment in this case would mean that neither the master nor the slave enjoys the pillow.

The result of neither benefitting from the pillow is a horrid result. Tosafos goes as far as to refer to this result as “Midas Sedom”, Sedom like behavior.

The Mishnah (Avos 5:10) condemns individuals who act in the manner of Sedom and claim, “What is mine is mine and what’s yours is yours.” Thus, one should not demand payment for gas and tolls from someone who has asked you to ride home in your automobile if he did not take you out of your way. Despite the fact that the rider has saved money from having to pay transportation costs, it is nonetheless Sodomite behavior to demand payment when the driver has lost nothing. Indeed, the Ri (presented in Tosafos Bava Basra 12b d”h Kegan) implies that the rule of Kofin Al Middas Sedom is a Torah-level law and not merely a rabbinic enactment.

A classic case of Kofin Al Middas Sedom is the Gemara (Bava Batra 12b), which discusses a case in which brothers divide fields they inherited, and one of them owns a field adjacent to an inheritance field. Rabbah rules that we apply the rule of Kofin Al Middas Sedom, and we accommodate the brother in a case in which the objectors have no good reason not to.

In a modern application of this principle, an Israeli Beis Din (Shuras

HaDin, volume two, pages 323-333) adjudicated a case during which Reuven awaited a refrigerator delivery, which could be done only through Shimon's balcony. Shimon objected, without providing a good reason, and demanded that Reuven pay. The Beit Din ruled that Shimon should be forced to do the favor for free.

We understand the need for orderly distribution of the Covid-19 vaccine. However, the senseless destruction of unused vaccines smacks of Middas Sedom. Wasting scarce life-saving medicine is downright evil Sedom like behavior. The protocols and systems must be improved to rectify these most deplorable occurrences. We suggest that opportunities be given to enroll for vaccines in tiers, so that if the top tiers fill, then the next tier can enroll. This should avoid issues of waste.

In our option, the firing and prosecution of the Houston doctor who shared the soon to expire vaccine with his vulnerable wife, is an example of Sedom like behavior. The Gemara (Sanhedrin 109b) tells of the judiciary in Sedom which reeked of corruption. We think the same opprobrium applies to the horrifying prosecution of this Houston doctor, whose case is described in the article referred to below.

<https://www.nytimes.com/2021/02/10/us/houston-doctor-fired-covid-vaccine.html>.

TABC Talmid Boaz Kapitanker points out that based on Rav Moshe, in order to avoid wasted vaccines one should distribute the vaccine on a first come first serve basis, exactly as done by the Houston doctor. Alternatively, TABC Talmid Yossi Sherman advocates distributing on the basis of greatest need, following the Pri Megadim. According to both the Pri Megadim and Rav Moshe, the Houston doctor acted properly.

11. Mad Dashes to the Computer to Enroll

Similarly, we must decry the systems in many areas where in order to receive the vaccine one must pounce on the computer to enroll just in time to get the scarce vaccine. It is reminiscent of the mad dashes in which in the Beit HaMikdash, referred to earlier, where the Kohanim engaged in a furious rush to perform the early morning Avoda of Terumat HaDeshen. Chazal eliminated this system in favor of an ordered system due to a horrid incident where one Koehn shoved another off the Mizbei'ach's ramp, to receive the honor of performing the

Terumas HaDeshen. While physical injuries are unlikely to occur when trying to enroll for the vaccine, many of the most vulnerable do not receive the vaccine since they do not have the ability to “outrun” younger counterparts to the computer to enroll when the opportunity to vaccinate arises. A better system must be put in place. We suggest implementing many more tiers than currently in place. This ensures the most needy receive their vaccine in accordance with their level of priority without having to beat out those in a lower category of risk.

12. Giving Up One’s Spot for Rabbinic Leaders

Protocols in the United States do not grant special preference for rabbis. However, as TABC Talmid Yakov Abraham notes, the Mishnah (Bava Metzia 33a) grants priority to Torah scholars.

TABC Talmid Nachi Scheiner suggests, based on Yoma (84b) and Rambam (Hilchos Shabbos 2:3) that just as threat Rav is the one chosen to violate Shabbos should the need arise to save a life (to model the need to violate Shabbos for Piku’ach Nefesh), so too rabbis should be offered to be among the first take the vaccine to set an example of the

importance of taking the Covid-19 vaccine.

This is debatable since it is not clear that the Gemara and Rambam refer to a leading rabbi. Rather the term “Gadol” in this interest may simply refer to an adult[20]. In addition, younger rabbis should model patience and compliance with government regulations and wait until their proper time to receive the vaccine.

TABC Talmid Elan Agus observes that Chazal accord priority to Talmidei Chachamim out of respect to Torah. However, in the current situation, granting priority to Talmidei Chachamim might generate the opposite result, creating resentment and enmity.

Hillel Jachter notes that if in Israel rabbis would be granted priority there would have to be a hierarchy within the group of rabbis of who is at greater risk and benefit most from the vaccine.

On the other hand, TABC Talmid Nachi Scheiner notes that since many people, especially within certain portions of the Orthodox community, are refusing to vaccinate, there is a need for Talmidei Chachamim to vaccinate first, so as to set an example for those who refuse to vaccinate.

May one who is at risk and eligible for an early vaccination sacrifice his vaccine for a rabbinic leader? Perhaps there is a basis in the Sefer Chassidim (798) who writes that if enemies demanded to kill one of two Jews, and one is a Talmid Chacham and the other is an ordinary Jew, it is a Mitzvah for the ordinary Jew to sacrifice his life to save the Talmid Chacham. The Sefer Chassidim compares this to Rav Reuven ben Itztarobli who offered his life to spare Rabi Akiva from death.

Rav Waldenburg (Teshuvos Tzitz Eliezer 18:1) clarifies that there is no obligation for the ordinary Jew to do so and he does not violate the Torah if he does not make this offer. Moreover, the ordinary Jew may not be pressured or cajoled into making this sacrifice. At most we may inform him that it is a Mitzvah to offer himself.

Rav Moshe Feinstein (Teshuvos Igros Moshe Yoreh De'ah 2:174:4) limits the permission to sacrifice oneself to save others only when by doing so one is saving many Jewish lives by doing so. Dr. Abraham S. Abraham (Nishmat Avraham 2:Yoreh De'ah 252:2) suggests that sacrificing oneself to save Rabi Akiva is acceptable due to Rabi Akiva being equivalent to masses of Jews.

TABC Talmid Sarel Rotblat adds that based on Rav Moshe, perhaps one may or even should sacrifice his vaccine for even a young person who lives with immunocompromised or elderly (or otherwise vulnerable) family members. In this way, the person who is sacrificing his vaccine to save many others.

While one is not sacrificing his life by offering his vaccine opportunity to a great rabbi, he nonetheless is taking a risk by doing so especially if he is in a risky category. Thus, it does not seem appropriate to sacrifice one's spot even so a great rabbi should receive his vaccine. Moreover, the option to provide one's spot to another is not an option granted by governmental authorities. This is a very reasonable policy likely intended to avoid abuse. An example of abuse is an impoverished individual unwisely relinquishing his opportunity to take the vaccine in exchange for much needed cash. Thus, one should not offer his vaccine spot even to a great rabbi.

Conclusion

In light of this discussion we suggest the following eighteen (K'Minyan Chai!) order of priorities for distributing the Covid-19 vaccine:

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| 1. Residents of nursing homes or senior citizens residencies. | 12. Front line workers as defined by the CDC ages fifty five and above. |
| 2. Health care workers aged 65 or above. | 13. Smokers |
| 3. Health care workers age 50 and above | 14. Front line workers ages forty five and above. |
| 4. The rest of health care workers. | 15. Those fifty five and above. |
| 5. Those 95 and above. | 16. Those forty five and above. |
| 6. Those 85 and above. | 17. Everyone else not infected within the past 90 days. |
| 7. Those 75 and above as well as immunocompromised individuals. | 18. Everyone else |
| 8. Those sixty five and above. | |
| 9. Prisoners in jail. | |
| 10. Those who are at high risk as defined by the CDC. | |
| 11. Those who are certified as suffering from depression due to isolation. | |

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