

Kol Rina
An Independent Minyan
Parshat Mishpatim
January 29, 2022 *** 27 Shevat, 5782

Kol Rina – An Independent Minyan, is a traditional egalitarian community. We are haimish (homey/folksy), friendly, participatory, warm and welcoming. We hold weekly services in South Orange as well as holiday services and celebrations which are completely lay led. We **welcome all** to our services and programs from non-Hebrew readers to Jewish communal and education professionals.

[Mishpatim in a Nutshell](https://www.chabad.org/parshah/article_cdo/aid/1298/jewish/Mishpatim-in-a-Nutshell.htm)

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Following the revelation at Sinai, G-d legislates a series of laws for the people of Israel. These include the laws of the indentured servant; the penalties for murder, kidnapping, assault and theft; civil laws pertaining to redress of damages, the granting of loans and the responsibilities of the “Four Guardians”; and the rules governing the conduct of justice by courts of law.

Also included are laws warning against mistreatment of foreigners; the observance of the seasonal festivals, and the agricultural gifts that are to be brought to the Holy Temple in Jerusalem; the prohibition against cooking meat with milk; and the mitzvah of prayer. Altogether, the Parshah of Mishpatim contains 53 mitzvot—23 imperative commandments and 30 prohibitions.

G-d promises to bring the people of Israel to the Holy Land, and warns them against assuming the pagan ways of its current inhabitants.

The people of Israel proclaim, “We will do and we will hear all that G-d commands us.” Leaving Aaron and Hur in charge in the Israelite camp, Moses ascends Mount Sinai and remains there for forty days and forty nights to receive the Torah from G-d.

Haftarah in a Nutshell: *Jeremiah 34:8-22; 33:25-26.*

https://www.chabad.org/parshah/article_cdo/aid/819841/jewish/Haftarah-in-a-Nutshell.htm

In this week's *haftarah*, Jeremiah describes the punishment that would befall the Jews because they continued enslaving their Hebrew slaves after six years of service—transgressing the commandment discussed in the beginning of this week's Torah reading.

King Zedekiah made a pact with the people according to which they would all release their Jewish slaves after six years of service—as commanded in the Torah. Shortly thereafter, the Jews reneged on this pact and forced their freed slaves to re-enter into service. G-d then dispatched Jeremiah with a message of rebuke:

"Therefore, so says the Lord: You have not hearkened to Me to proclaim freedom, every one to his brother and every one to his neighbor; behold I proclaim freedom to you, says the Lord, to the sword, to the pestilence, and to the famine, and I will make you an object of horror to all the kingdoms of the earth." The *haftorah* then vividly depicts the destruction and devastation that the Jews would experience. The *haftorah* concludes with words of reassurance: "Just as I would not cancel My covenant with the day and night and I would not cancel the laws of heaven and earth, so too I will not cast away the descendents of Jacob . . . for I will return their captivity [to their land] and have mercy on them."

FOOD FOR THOUGHT

Mishpatim: Healing the Heart of Darkness

<https://www.rabbisacks.org/covenant-conversation/mishpatim/healing-heart-darkness/>

Read this week's featured piece, chosen from the Ethics series of Rabbi Sacks' commentary essays on the Torah.

Jobbik, otherwise known as the Movement for a Better Hungary, is an ultra-nationalist Hungarian political party that has been described as fascist, neo-Nazi, racist, and antisemitic. It has accused Jews of being part of a "cabal of western economic interests" attempting to control the world: the libel otherwise known as the Protocols of the Elders of Zion, a fiction created by members of the Czarist secret service in Paris in the late 1890s and revealed as a forgery by The Times in 1921. [1] On one occasion the Jobbik party asked for a list of all the Jews in the Hungarian government. Disturbingly, in the Hungarian parliamentary elections in April 2014 it secured over 20 per cent of the votes, making it the third largest party. Until 2012, one of its leading members was a politician in his late 20s, Csanad Szegedi. Szegedi was a rising star in the movement, widely regarded as its future leader. Until one day in 2012. That was the day Szegedi discovered he was a Jew. Some of Jobbik's members had wanted to stop his progress and spent time investigating his background to see whether they could find anything that would do him damage. What they found was that his maternal grandmother was a Jewish survivor of Auschwitz. So was his maternal grandfather. Half of Szegedi's family were killed during the Holocaust. Szegedi's opponents started sharing information about Jewish ancestry online. Soon Szegedi himself discovered what was being said and decided to check whether the claims were true. They were. After Auschwitz, his grandparents, once Orthodox Jews, had decided to hide their identity completely. When his mother was 14, her father had told her the secret but ordered her not to reveal it to anyone. Szegedi now knew the truth about himself. Szegedi decided to resign from the party and find out more about Judaism. He went to a local Chabad Rabbi, Slomó Köves, who at first thought he was joking.

Nonetheless he arranged for Szegedi to attend classes on Judaism and to come to the synagogue. At first, Szegedi says, people were shocked. He was treated by some as “a leper.” But he persisted. Today he attends synagogue, keeps Shabbat, has learned Hebrew, calls himself Dovid, and in 2013 underwent circumcision (with an ultra-Orthodox mohel).

When he first admitted the truth about his Jewish ancestry, one of his friends in the Jobbik party said, “The best thing would be if we shoot you, so you can be buried as a pure Hungarian.” Another urged him to make a public apology. It was this comment, he says, that made him leave the party. “I thought, wait a minute, I am supposed to apologise for the fact that my family was killed at Auschwitz?”[2] As the realisation that he was a Jew began to change his life, it also transformed his understanding of the world. Today, he says, his focus as a politician is to defend human rights for everyone. “I am aware of my responsibility, and I know I will have to make it right in the future.”[3]

Szegedi’s story is not just a curiosity. It takes us to the very heart of the strange, fraught nature of our existence as moral beings. What makes us human is the fact that we are rational, reflective, capable of thinking things through. We feel empathy and sympathy, and this begins early. Even newborn babies cry when they hear another child cry. We have mirror neurons in the brain that make us wince when we see someone else in pain. Homo sapiens is the moral animal.

Yet much of human history has been a story of violence, oppression, injustice, corruption, aggression and war. Nor, historically, has it made a significant difference whether the actors in this story have been barbarians or citizens of a high civilisation.

The Greeks of antiquity, masters of art, architecture, drama, poetry, philosophy and science, wasted themselves on the internecine Peloponnesian War between Athens and Sparta in the last quarter of the fifth century BCE. They never fully recovered. It was the end of the golden age of Greece. Fin de siècle Paris and Vienna in the 1890s were the leading centres of European civilisation. Yet they were also the world’s leaders in antisemitism, Paris with the Dreyfus Affair, Vienna with its antisemitic mayor, Karl Lueger, whom Hitler later cited as his inspiration.

When we are good we are little lower than the angels. When we are bad we are lower than the beasts. What makes us moral? And what, despite it all, makes humanity capable of being so inhumane?

Plato thought that virtue was knowledge. If we know something is wrong, we will not do it. All vice is the result of ignorance. Teach people the true, the good, and the beautiful and they will behave well. Aristotle held that virtue was habit, learned in childhood till it becomes part of our character.

David Hume and Adam Smith, two intellectual giants of the Scottish Enlightenment, thought that morality came from emotion, fellow feeling. Hume said the most remarkable feature of human nature is the “propensity we have to sympathise with

others.”[4] Adam Smith began his Theory of Moral Sentiments with the words, “How selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortune of others, and render their happiness necessary to him, though he derives nothing from it except the pleasure of seeing it.”[5] Immanuel Kant, the supreme rationalist, believed that rationality itself was the source of morality. A moral principle is one you are willing to prescribe for everyone. Therefore, for example, lying cannot be moral because you do not wish others to lie to you.

All five views have some truth to them, and we can find similar sentiments in the rabbinic literature. In the spirit of Plato, the Sages spoke of the tinok shenishba, someone who does wrong because he or she was not educated to know what is right.[6] Maimonides, like Aristotle, thought virtue came from repeated practice. Halachah creates habits of the heart. The Rabbis said that the angels of kindness and charity argued for the creation of man because we naturally feel for others, as Hume and Smith argued. Kant’s principle is similar to what the Sages called sevarah, “reason.”

But these insights only serve to deepen the question. If knowledge, emotion, and reason lead us to be moral, why is it that humans hate, harm and kill? A full answer would take longer than a lifetime, but the short answer is simple. We are tribal animals. We form ourselves into groups. Morality is both cause and consequence of this fact. Toward people with whom we are or feel ourselves to be related we are capable of altruism. But toward strangers we feel fear, and that fear is capable of turning us into monsters.

Morality, in Jonathan Haidt’s phrase, binds and blinds.[7] It binds us to others in a bond of reciprocal altruism. But it also blinds us to the humanity of those who stand outside that bond. It unites and divides. It divides because it unites. Morality turns the “I” of self interest into the “We” of the common good. But the very act of creating an “Us” simultaneously creates a “Them,” the people not like us. Even the most universalistic of religions, founded on principles of love and compassion, have often viewed those outside the faith as Satan, the infidel, the antichrist, the child of darkness, the unredeemed. Large groups of their followers have committed unspeakable acts of brutality in the name of God.

Neither Platonic knowledge nor Adam Smith’s moral sense nor Kantian reason has cured the heart of darkness in the human condition. That is why two sentences blaze through today’s parsha like the sun emerging from behind thick clouds:

You must not mistreat or oppress the stranger in any way. Remember, you yourselves were once strangers in the land of Egypt.

Ex. 22:21

You must not oppress strangers. You know what it feels like to be a stranger, for you yourselves were once strangers in the land of Egypt.

Ex. 23:9

The great crimes of humanity have been committed against the stranger, the outsider, the one-not-like-us. Recognising the humanity of the stranger has been the historic weak point in most cultures. The Greeks saw non-Greeks as barbarians. Germans called Jews vermin, lice, a cancer in the body of the nation. In Rwanda, Hutus called Tutsis inyenzi, cockroaches. Dehumanise the other and all the moral forces in the world will not save us from evil. Knowledge is silenced, emotion anaesthetised and reason perverted. The Nazis convinced themselves (and others) that in exterminating the Jews they were performing a moral service for the Aryan race.[8] Suicide bombers are convinced that they are acting for the greater glory of God.[9] There is such a thing as altruistic evil.

That is what makes these two commands so significant. The Torah emphasises the point time and again: the Rabbis said that the command to love the stranger appears thirty-six times in the Torah. Jewish law is here confronting directly the fact that care for the stranger is not something for which we can rely on our normal moral resources of knowledge, empathy and rationality. Usually we can, but under situations of high stress, when we feel our group threatened, we cannot. The very inclinations that bring out the best in us – our genetic inclination to make sacrifices for the sake of kith and kin – can also bring out the worst in us when we fear the stranger. We are tribal animals and we are easily threatened by the members of another tribe.

Note that these commands are given shortly after the Exodus. Implicit in them is a very radical idea indeed. Care for the stranger is why the Israelites had to experience exile and slavery before they could enter the Promised Land and build their own society and state. You will not succeed in caring for the stranger, implies God, until you yourselves know in your very bones and sinews what it feels like to be a stranger. And lest you forget, I have already commanded you to remind yourselves and your children of the taste of affliction and bitterness every year on Pesach. Those who forget what it feels like to be a stranger, eventually come to oppress strangers, and if the children of Abraham oppress strangers, why did I make them My covenantal partners?

Empathy, sympathy, knowledge, and rationality are usually enough to let us live at peace with others. But not in hard times. Serbs, Croats and Muslims lived peaceably together in Bosnia for years. So did Hutus and Tutsis in Rwanda. The problem arises at times of change and disruption when people are anxious and afraid. That is why exceptional defences are necessary, which is why the Torah speaks of memory and history – things that go to the very heart of our identity. We have to remember that we were once on the other side of the equation. We were once strangers: the oppressed, the victims. Remembering the Jewish past forces us to undergo role reversal. In the midst of freedom we have to remind ourselves of what it feels like to be a slave.

What happened to Csanad, now Dovid, Szegedi, was exactly that: role reversal. He

was a hater who discovered that he belonged among the hated. What cured him of antisemitism was his role-reversing discovery that he was a Jew. That, for him, was a life-changing discovery. The Torah tells us that the experience of our ancestors in Egypt was meant to be life-changing as well. Having lived and suffered as strangers, we became the people commanded to care for strangers.

The best way of curing antisemitism is to get people to experience what it feels like to be a Jew. The best way of curing hostility to strangers is to remember that we too – from someone else’s perspective – are strangers. Memory and role-reversal are the most powerful resources we have to cure the darkness that can sometimes occlude the human soul.[1] Marcin Goettig and Christian Lowe, “Special Report: From Hungary, far-right party spreads ideology, tactics,” Reuters, <http://www.reuters.com/article/us-europe-farright-special-report-idUSBREA380IU20140409#PUagU6ZvCiQtZgD8.99> (accessed 22 December 2015). [2] Ofer Aderet, “Former Anti-Semitic Hungarian Leader Now Keeps Shabbat,” Haaretz, October 21, 2013. [3] Dale Hurd, “Crisis of Conscience: Anti-Semite Learns He’s a Jew,” Christian Broadcasting Network, December 6, 2013, <http://www.cbn.com/cbnnews/world/2013/August/Crisis-of-Conscience-Anti-Semite-Learns-Hes-a-Jew/>. [4] Of Pride and Humility, part I., section XI, T 2.1.11.2. 112 [5] Theory of Moral Sentiments (CreateSpace, 2013), 9. [6] See Shabbat 68b; Maimonides, Mishneh Torah, Hilchot Mamrim 3:3. This certainly applies to ritual laws; whether it applies to moral ones also may be a moot point. [7] Jonathan Haidt, The Righteous Mind: Why Good People Are Divided by Politics and Religion (New York: Pantheon, 2012). [8] See Claudia Koonz, The Nazi Conscience. Cambridge, MA: Belknap, 2003. [9] See Scott Atran, Talking to the Enemy: Faith, Brotherhood, and the (Un)Making of Terrorists (New York: Ecco, 2010). The classic text is Eric Hoffer, The True Believer: Thoughts on the Nature of Mass Movements (New York: Harper and Row, 1951).

Undoing Slavery and Acquiring Ourselves: Parashat Mishpatim 5782 by Aviva Richman <https://www.hadar.org/torah-collection/aviva-richmans-divrei-torah>

The very first law of the extended laws of Parashat Mishpatim starts with a horrifying phrase: “כי תקנה עבד עברי - When you acquire a Hebrew slave.” We were just, two weeks ago, freed from being Hebrew slaves. How could the Torah possibly articulate the words “Hebrew slave”? Indeed, midrash posits that the Torah wrote these words “against its will,” wary of the possibility that one Hebrew would derisively deem another Hebrew a “slave,” but compelled to discuss this ugly matter nonetheless.¹

Beyond the issue of individual derision, there is a larger problem. After the incredible power of the exodus from slavery, through the workings of so many divine miracles, it is totally devastating to imagine the Hebrews recreating a structure that includes slaves. How could we recreate the very structure we escaped? And how could we acquire Hebrew slaves, essentially becoming like Pharaoh? This first law in Parashat Mishpatim forces us to confront the fact that oppressive structures become entrenched, and won’t disappear overnight. The

dramatic liberation story is over. Now starts the much harder work of finding redemption within unideal and often harsh realities.

The Torah's first intervention is a rude awakening to confront the fear of what we could become. Midrash relates that this first law is a warning, meant to ensure that we don't follow in the path of the Egyptians. The Egyptians abused their power, afflicting Israel with harsh labor, and refusing to let them go when the time came; therefore God punished them. The horror at hearing the phrase, "When you acquire a Hebrew slave," motivates us to abide by Parashat Mishpatim's restrictions on slavery so as to avoid divine punishment. The same midrash goes on to link the word "mishpatim" in this parashah to the word "mishpat" in a verse in Zechariah (8:16), which offers the clear directive not to use power to oppress the vulnerable in our society—the widow, orphan, stranger and poor.² Speaking to the Hebrew slave who may become slaveowner, this first law aims to ensure we will not be like Pharaoh.

Instead, we have to radically reunderstand the meaning of "When you acquire a Hebrew slave" as an invitation to "acquire" like God, not Pharaoh. God too "acquired" Hebrew slaves, not in order to enslave them, but to free them. Indeed, one midrash specifically refers to the exodus as God's "acquisition" of Israel, with the same verb as in the phrase "when you acquire a Hebrew slave:"

Shemot Rabbah 30:5

... "when you acquire a Hebrew slave..." The Holy Blessed One said to Israel: I acquired you in Egypt with the ten plagues I showed you, as it is said, "Your deeds are wonderful and my soul knows it well" (Psalm 139:14).

In biblical Hebrew, the root ה.נ.ק. can mean to acquire, but it can also mean to "create,"³ signaling a creation that comes through acquisition. God's acquisition of the Hebrew slaves demonstrates how to "acquire" someone in a position of subjugation so that they become free and can create themselves anew. The language of redemption as "acquiring" Israel rings with the overtones of the Song at the Sea, where we describe ourselves as "עַם זֶה קָנִיתָ - the people You acquired." Like a rebirth, coming through the waters of the sea into God's acquisition was a moment of creating ourselves as a new people.

In this vein of "acquiring a Hebrew slave" in the way God acquires, we find a midrash where the time limits on owning the Hebrew slave—six years as a slave and going free in the seventh year—mimics God's ownership. God had the world "work" for six days, and be free of work on the seventh.⁴ God didn't expect the world to "work for God" forever. In another midrash that compares the cycle of the Hebrew slave to Israel's eschatology, we see the broad arc of Jewish (meta)history described as Israel serving six nations and then ultimately becoming free in the end of days.⁵ Acquiring like God involves a vision of identity that is not embedded in being subjugated to others, but comes from the freedom of self-definition.

This radical rereading of acquisition is not only meaningful for one who comes to

hold structural power, but can also resonate for the just freed Hebrew slave who hears that the future still holds slavery. The question becomes how to find pathways towards self-creation even as oppressive power structures stubbornly linger. On this, there is much to learn from Black Feminist scholarship. Claudia Tate writes about transcending limitations of oppression, and describes the power of self-definition in Black women's literature. Significant change occurs "...because the heroine recognizes, and more importantly respects her inability to alter a situation... she learns to exceed former boundaries but only as a direct result of knowing where they lie."⁶ Even as Parashat Mishpatim teaches that oppressive structures might linger, this Black feminist perspective insists that transformation is still possible. But how?

Our midrash that refers to God acquiring the Hebrew slaves goes on to quote a rich verse in Psalms, painting a picture where "acquisition" coincides with deep knowledge and creation:

Psalm 139:13-14

¹³It was You who created/acquired my kidneys, You covered me in my mother's womb. ¹⁴I praise You, because amazing things make me wondrous; Your deeds are wonderful and my soul knows it well.

"Acquiring" here does not have any pretense of owning another person. Instead, it refers to God's acquisition as being deeply seated in our kidneys, the seat of consciousness in ancient times. Acquisition is about catalyzing a transformation towards deep self-knowledge, wonder, and creation. Claudia Tate discusses how this kind of journey towards self-definition and self-creation can occur even within stubborn power structures. Coming out of her keen awareness of unalterable constraints, Tate goes on to describe how a protagonist in Black women's literature nonetheless "... teaches her readers a great deal about constructing a meaningful life in the midst of chaos and contingencies, armed with nothing more than her intellect and emotions."⁷ Giving voice to our intellect and emotions (our "kidneys" in the Psalms text), we can find a power of divine acquisition that lets us create ourselves, in contrast to oppressive structures of human acquisition. Even without the dramatic miracles that totally alter oppressive structures, this power of self-definition does its transformative work from within the confines of existing constraints.

The words "when you acquire a Hebrew slave" ask us to pursue this kind of acquisition, to hold power in the way God holds power—and not in the way Pharaoh held power. This means a constant sense of how we can swerve any power we might hold (whether through structural means, or not) towards the possibility of self-creation, rather than subjugation.

The law of "when you acquire a Hebrew slave" signals to the recently redeemed Hebrew slaves that one day some of them will inhabit power over their own, and some of them will be subject to each other. While imaging this in the recent wake of

Egyptian slavery should be horrifying (as we saw, the Torah writes this “against its will”), it would be wrong to pretend that the reality of power imbalance won’t reemerge. There is only one way to wield power to create a world without oppression. Power must be a means of empowerment, with a clear timeline and clear parameters along the way. When we acquire, we must acquire like God, not like Pharaoh. This law comes as the climax of the extended narrative of God acquiring Hebrew slaves so as to free them, and God’s acquisition offers a radically different way to inhabit and experience power. Whether as the one who holds structural power, or one who feels bound by the structural power of others, there must be a shared vision of power that leads to greater freedom, and paves the way for the creative expression of a full self. We live this pattern weekly on Shabbat, experiencing how God lets go, allowing us to create ourselves anew. This mindset must inform every day of our lives.

Shabbat Shalom.

¹ Mekhilta Massekhta de-Nezikin 1: התורה, יכול תקראנו עבד לשום בזיון? ת"ל כי תקנה עבד עברי, התורה / קראתו עבד בעל כרחו. / Could it be that you can call this person a slave in a derisive way? The verse teaches us “When you acquire a slave, a Hebrew”—the Torah called him a slave against its will.

² Shemot Rabbah 30:15: אתה מוצא משפטים הרבה יש בענין הזה, לפי שאמר הקדוש ברוך הוא (שמות כ) אנכי ה' אלהיך אשר הוצאתיך מארץ מצרים מבית עבדים, מהו אומר על עבד עברי כי תקנה עבד עברי, אמר הקדוש ברוך הוא כשם שבראתי את העולם לו' ימים ונחתי בשביעי, כך יעשה עמך ו' שנים ויצא בן חורין... גזר הקדוש ברוך הוא שיהו ישראל משועבדים במצרים עד שירצה ויחזירם, עמדו עליהם ושעבדו אותם בחוזק לא שמרדו בהן אלא אמר להם האלהים הנהג בהם כעבדים ויעשו צרכיהם עד שתשלם הגזירה, אלא אני קצפתי מעט והם עזרו לרעה, כך אחר הדברות הזהיר הקדוש ברוך הוא על המשפטים שלא יעברו עליהם ישראל ויעשה להם כשם שעשה למצרים, לכך אמר הנביא להם לישראל (שם /זכריה/ ח) אמת ומשפט שפטו ואלמנה ויתום וגר ועני אל תעשוקו.

³ As in the words of Malkitzedek in Genesis 14:19: בָּרוּךְ אַבְרָם לְקַל עֲלֵיוֹן קִנְיָהּ שְׁמַיִם וָאָרֶץ / Blessed is Avram to the Most High God, creator of heaven and earth.

⁴ See the continuation of Shemot Rabbah 30:5: כשם שאתם מצווים לא תעבוד באחיק יותר מו' שנים, שלא בראתי את העולם אלא לו' ימים, לפיכך נתתי לך ו' שנים שתהא רשאי לעבוד בעבד עברי.

⁵ Midrash Aggadah (Buber), Shemot 21:2: כי תקנה עבד עברי. פתח במשפט [עבד] עברי, לפי שהיו עבדים במצרים, ופדאם הקדוש ברוך הוא ונתן להם חירות, לפיכך צוה לישראל בראשונה שלא לשעבד באחיהו בפרך ולא לשעבדו [לדורות], כי אם עד השנה השביעית, שנאמר כי עבדי הם אשר הוצאתי וגו' (ויקרא כה מב), לפיכך פתח במשפט עבד עברי, ואמר כי תקנה, לכשיבוא בידך כי אם יגנוב ונמצא בידו שור או חמור או שה, צריך ליתן תשלומי שנים או ארבעה או חמשה ואין לו מיתה, ואם אין לו לשלם, בית דין ימכרוהו בגניבתו אז מותר לקנותו, שנאמר ואם אין לו ונמכר בגניבתו (שמות כב ב): עבד עברי. על שם אביהם, שנאמר ויגד לאברם העברי (בראשית יד יג): שש שנים יעבוד. רמז על ישראל שישראל עבדו בשש גליות, גלות מצרים, גלות סנחריב, וגלות ארבעה מלכיות, הרי שש: ובשביעית יצא. זה מלכות גוג ומגוג.

⁶ Quoted in Patricia Hill Collins, *Black Feminist Thought* (Routledge, 2008), p. 118. Emphasis mine. ⁷ Collins, p. 118.

Parshat Mishpatim: Ownership and Social Responsibility: Humans as Co-Creators and Co-owners

Original author – Rabbi Dr. Norman Lamm z”l, edited by Grow Torah

<https://www.growtorah.org/shemot/2022/01/25-parshat-mishpatim-ownership-and-social-responsibility-humans-as-co-creators-and-co-owners-2t3jc>

In this week’s Torah portion of Mishpatim, Hashem commands the Jewish people concerning the laws of borrowing and guarding property.[1] The relations between Hashem, people, and nature may be clarified by referring to the halakhah (Jewish law) concerning the relationships between owner, material, and artisan. The Mishnah discusses the case of a man (owner) who gave some material to an artisan to fashion it. The artisan, instead of repairing, spoiled the object. The law is that the artisan must pay the amount of the damages to the owner.

The question then arises in the Babylonian Talmud: What is this object, which the owner gave over to the artisan, and the damages for which the latter must compensate the owner?[2] Clearly, if it was a finished vessel, and the artisan broke it, the latter must pay the difference in value. But if the owner gave raw material to the worker, asking that he fashion it into a complete vessel, and the artisan did so, but then broke the very vessel he made, is the artisan obligated, in such a case, to compensate the owner for the difference in value between a perfect vessel and a broken one, or is he free of obligation since the broken vessel is no less in value than the raw material with which he began?

Who Owns “Improved” Material? The Debate Raged On

The question was in controversy amongst both Tannaim (early rabbinic sages) and Amora'im (later rabbinic sages) [i.e., for more than half a millennium, from the first century before the Common Era through the composition of the Babylonian and Jerusalem Talmuds]. Some held that *uman koneh b'shevah kelim*, that the artisan has a monetary right in the vessel by virtue of the improvement he effected in transforming it from, for instance, mere planks into a table. If the table belongs, then, to the artisan, he cannot be held responsible to pay the owner of the planks for damages to that table if he should later break it.

Others disagree: the improvement in the material is the property of the original owner, and if the artisan later destroyed the completed object, he injured the owner and must compensate him for the cost of the completed object. Most authorities decide the law in favor of the latter opinion: it is the original owner of the raw material who has proprietary rights in the completed artifact, not the artisan who invested his fabricative talents. The explanation for the artisan’s legal responsibility for the finished product is contained in a Tannaitic [i.e. early, from the time of the teachers cited in the Mishnah] source: The artisan is to be considered a *shomer sakhar*, or paid trustee, for the article he fashioned and which belongs to the original owner, and as such he must pay for the object if he damaged it.[3]

What we learn from this, then, is that the artisan is paid by the owner for two functions: for improving the material by fashioning a vessel out of it and for watching over and protecting that vessel once it is completed. This artifact which he created with his own hands, over which he labored with the sweat of his brow, into which he put his remarkable talents, this vessel must now be guarded by him for the owner from any damage it sustains in the course of his trusteeship over it. This is so, the halakhah decides, because the artisan has no proprietary right in the article he created. It simply does not belong to him.

Vis-à-vis Nature, Humans Are Trustees

That people's role as co-creator with Hashem must not be exaggerated; we learn from the following Talmudic passage, "The Rabbis taught: man was created on the eve of the Sabbath. Why? So that the Sadducees (i.e., heretics) should not say that Hashem had a partner in the act of creation of the world."^[4] This statement does not contradict that of Rabbi Akiva, who declared people's actions more beautiful, or suitable, than those of Hashem, hence emphasizing the religious sanction of people's creative office. Humanity remains a partner of Hashem in the ongoing creative process.

However, here we must distinguish between two Hebrew synonyms for creation: *beri'ah* and *yetzirah*. The former refers to *creatio ex nihilo* (creation out of nothing) and hence can only be said of Hashem. The latter describes creation out of some preexistent substance, and hence may be said both of Hashem (after the initial act of *Bereishit*) and of people. Hashem has no "partners" in the one-time act of *beri'ah* with which He called the universe into being, and the world is, in an ultimate sense, exclusively His. He does invite people to join Him, as a co-creator, in the ongoing process of *yetzirah*. Hence, humanity receives from Hashem the commission to "subdue" nature by means of the human *yetzirah*-functions; but, because people are incapable of *beri'ah*, they remain responsible to the Creator for how they have disposed of the world.

Let us now project the above case of owners and guardians onto the cosmic scene. Hashem is the Owner, people the artisan, and the raw material is all the wealth of this world: nature, life, culture, society, intellect, family. Humanity was charged with applying to them the human *yetzirah*-creative talents. People were commissioned to improve the world, build it up, transform it, "subdue" it. If they do so, they are "paid" for their labors. But people never have title over their own creations; they have no mastery over the world. Despite their investment of labor and talent, the world, even as perfected by them, belongs to the original Owner.

Thus the widespread degradation of the natural world represents a problem theologically as well as ecologically. Widespread deforestation, air and water pollution, global climate change—all of these place in jeopardy not only the quality of life, but the very survival of many or all species.

People, the yetzirah-creator, according to the teaching of halakhic Judaism, are responsible to Hashem, the beri'ah-Creator, not only for the raw material of the natural world into which they were placed, but also for protecting and enhancing the civilization which they themselves created.

No matter how extensive and ingenious humanity's scientific and technological achievements in the transformation, conquest, and improvement of nature, people cannot displace the rightful Owner who provided the material in the first place. And not only do people not have proprietorship over raw nature, they are not even the absolute master of their own creations, the results of their magnificent yetzirah. They may not undo what they themselves did, for once having done it, it belongs to the Owner and not to the artisan. People must never entertain the notion that because they labored over their own creations, they have the right to destroy them, to repeal their creativity. They remain a paid trustee over their very own products and must guard them and watch over them with the greatest care.

[1] Shemot 22:6-14 [2] Bava Kama 98b [3] Tosefta Bava Kama, ch. 2 [4] Babylonian Talmud Sanhedrin 38a

[Favoring the Many, Not the Mighty: Mishpatim by Rabbi Ari Witkin](https://truah.org/resources/parshat-mishpatim-ari-witkin-moraltorah/)
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Over the course of a long period that has felt more isolated than any I can remember, it's easy to empathize with a desire to be a part of the crowd. After all, most of us have spent much of the past two years moving in and out of phases of quarantine and isolation.

At the same time, amidst this great period of social distancing, a new chapter of group think has arisen. Whether it manifests in a mob's assault on our nation's Capitol or the deafening echo chambers of social media, our society seems to have reached new depths in its embrace of polarizing proclamations of the "truth" about any and every issue regardless of the source of information.

Ironically, this trend is steeped in the very American ideal of rugged individualism. I say ironically because it seems that, in our embrace of individual rights and freedoms, too many Americans have slipped into a sheep-like pattern of following the loudest voices. As best-selling author and Harvard University lecturer Tom Nichols put it in his book *The Death of Expertise*, "to reject the advice of experts is to assert autonomy... It is a new Declaration of Independence: No longer do we hold *these* truths to be self-evident, we hold *all* truths to be self-evident, even the ones that aren't true."

This type of populist phenomenon is nothing new. In warning against such a trend, this week's parshah proclaims, "You shall not side with the mighty/multitude to do wrong – you shall not give perverse testimony in a dispute so as to pervert it in favor of the mighty..." (Exodus 23:2) Reading Parshat Mishpatim, which outlines 53 different mitzvot focused on the laws of a fair and just society, I can't help but

imagine the disappointment God must feel about the institutions of our society and how far they are from those the Torah describes.

Our political and judicial systems are not simply overrun with perversions that favor the mighty, they are constructed upon the very assumption that the mighty be favored. These assumptions are the underpinnings that manifest systemic oppression.

Among the many aspects of jurisprudence outlined in the mitzvot of Mishpatim are those related to punishment, or sentencing. Though the Torah often prescribes capital punishments that neither I, nor the ancient rabbis for that matter, support, its rulings are consistent regardless of the identity of the perpetrator.

In our own court system, however, judges and juries routinely convict and sentence BIPOC [Black, Indigenous and People of Color] individuals at distinctly higher rates and with significantly higher penalties than white defendants. This “perversion in favor of the mighty” is not simply enacted through unconscious bias but quite literally written into law. For example, the Anti-Drug Abuse Act, introduced under President Ronald Reagan, created mandatory minimum sentences with a 100:1 disparity between crack cocaine, more commonly used in communities of color, and powder cocaine, more often found amongst white drug users. Even when attempting to rectify this in 2010, Congress still retained a disparity of nearly 20:1. This is but one example in a web of inequity that favors an ever-shrinking group of American elites. As an individual, it can feel overwhelming, even paralyzing, to think about how I can make a difference in shifting these structures. And yet, one word — *Ish*, a man (but let’s be egalitarian and say, generally, a person) — repeated over and over again in the dictation of these mitzvot is a reminder that the work is indeed mine to do as an individual.

The first step in this process is almost always listening for the voices beyond the echo chamber, coming back to those truths which are in fact self-evident, not simply proclaimed as such. Amidst the cacophony our Torah serves as a guide post, reminding us that *eleh hamishpatim*, these are the rules, the building blocks of a just society, and it is our job to enact and defend them.

(Rabbi Ari Witkin is the Director of Leadership Development at the Jewish Federation of Metropolitan Detroit. He holds an MS in Nonprofit Leadership from the University of Pennsylvania and Rabbinic Ordination from the Reconstructionist Rabbinical College, where he was a Wexner Graduate Fellow. In 2016-17, he was a T’ruah Israel Fellow. Ari lives in Huntington Woods, MI, with his wife Liz Traison and their kids Hadar and Raviv.)

Yahrtzeits

Neal Fox and all of Kol Rina remember Susan Marx on January 30th (Shevat 28)
Rabbi Lenny Levin remembers his mother Hadassah Ruth Routtenberg Levin on Monday January 31st (Shevat 29)

Coming up at Kol Rina

Kol Rina Presents: Finding Love and Jewish Community in Nigeria

A free, educational event presented on Zoom. 2/6 at 10:30 a.m.

Join Eliana Saks as she narrates her recent life's odyssey: How she met her fiancé Moshe from Abuja, Nigeria at the beginning of the pandemic and how she began to know, assist, and advocate for his community. She will give an overview of how Igbo Jews came to be. She will describe their current lives, practices, and struggles as a Jewish community on the fringes, with their challenges to gain access to Jewish materials, education, and kosher food.

Eliana will also discuss the large conversion to Judaism that took place in Abuja just this past August.

Eliana Saks is a production editor in Philadelphia. She is engaged to Moshe Nwafor, a Nigerian Jew and leader of a small but thriving Jewish community in Abuja, Nigeria. Their story was recently featured in a front page article in Hadassah Magazine: "Finding Love and Jewish Community in Nigeria."

*This program is sponsored by the **Susan Marx Fund for Adult Education at Kol Rina.***

Our late member Susan Marx, of blessed memory, left a generous bequest to Kol Rina with the request that it be used to provide quality Jewish adult educational programming to the entire community. In accordance with Susan's wishes, an empty chair will be set aside (virtually) for her as we study.

Sunday, February 6, 2022 10:30 AM

Register

**Eliana Saks: Finding Love and Jewish
Community in Nigeria. 2/6 @ 10:30 am**