

# MDTorah WEEKLY

	ירושלים	בית שמש	בני ברק
הדלקת נרות	4:24	4:23	4:38
צאת השבת	5:39	5:40	5:41

Parshas Beshalach - בשלח  
Jan 18, 2003 – ט"ו שבט תשס"ג – Vol. 4 No. 14

## Talking Business

Everyday Jewish Business Law



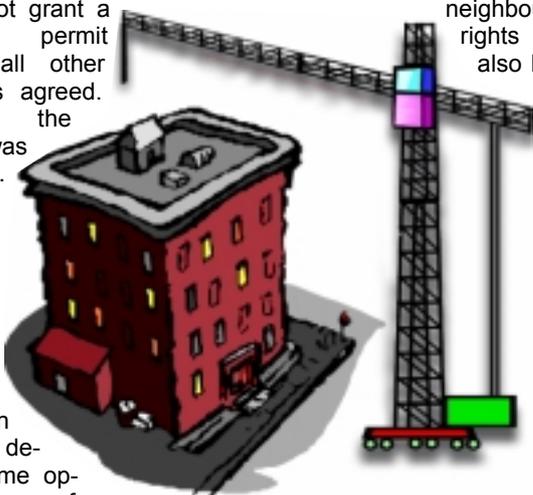
## Living Education

Principles of Education Gleaned from the Weekly Parsha

### Building On The Roof

#### Question

Nachman lives on the top floor of an apartment block. He wishes to extend his apartment by building on the roof above. Thirteen out of the other fifteen residents agree to allow him to build. There remain two objectors. Till recently, the rule was that the municipality would not grant a building permit unless all other residents agreed. Recently the law was changed. Now only 75% need to agree. If the civil law allows Nachman to build despite some opposition from neighbours, can he go ahead?



#### Answer

Who is obligated to take care of the roof in a multi-storey building? The Remo writes (*Choshen Mishpot* 164:1) that the owner of the top floor is solely responsible for the roof. This would seem to imply that he is also the owner of the roof, for if his downstairs neighbour also had ownership rights on the roof, he should also have to share the burden of upkeep. However, the Remo himself writes (*Responsa* No.77) that the reason for conferring ownership on the owner of the top floor is that this is the accepted custom. Furthermore, the Tur (*Choshen Mishpot* 164:2) writes that when partners move into a multi-storey building, they do so on the basis of local custom (as is the case with any partnership). One example of such custom is that the roof belongs to

(Continued on page 2)

### Punishment with Purpose

"It's a sight I'll never forget!

A tremendous earthquake exploded in front of our eyes. Wild fire, thick, black smoke and flying boulders replaced the blue skies and soft breezes this tropical island is renowned for," remarked the tour guide, as he recalled for us the eventful day of exactly one year ago. "The news reported that thousands of people were killed and tens of thousands were injured, as the volcano was surrounded by tens of villages, whose inhabitants took advantage of the area's fertile soil, without ever imagining that the volcano would suddenly revive itself and turn from a source of plenty into a deadly, merciless killer."

"No one within a 1000 meter radius of the volcano came out alive. All suffered the same fate: burned and buried alive under an avalanche of a million tons," summarized the tour guide.

Is it true that everyone suffered the exact same fate? Did Hashem mete out indiscriminate punishment? Any eyewitness who had seen the volcano explode, but did not see how the people died, would certainly think - yes! However, a closer look revealed some clear differences. It was discovered that some people died from tumbling rocks (סקילה), some were burned alive (שריפה), some were killed by sharp flying objects (הרג), while others choked to death from the burgeoning smoke and ashes (תנוק). In addition, some people died in seconds, while other's agony and suffering was prolonged for hours before they finally passed away.

The terrible effects of the volcano's eruption were certainly punishments meted out because of the people's transgressions, as we find in *Sodom* and *Amorah*. However, was there a reason why each person died in a different manner?

The answer to our question can be found in our Parsha, *Beshalach*, in the song Bnei Yisroel sung after seeing the Egyptians drown in the Red Sea.

We find three pesukim (verses) dealing with the punishments meted out to the Egyptians at sea, mentioning different ways in which they died.

(Continued on page 2)

## Rav Leff Speaks

### A Reason To Sing: The Three Miracles of Krias Yam Suf

**P**rior to *Krias Yam Suf*, HaShem admonishes Moshe: "Why are you crying out to me? Tell the people to go." There's no need for *tefilah*. Rashi explains that the sea would split in the merit of their forefathers and the merit that they believed in HaShem and followed Him into the wilderness. But then, when the Torah tells us that the waters were a wall on the right and left of them, the word for wall, *chomah*, is written without a *vav*, rendering it as *chaimah*, anger. Why anger? Because the entire night that they were encamped at the sea, there

was a judgment going on in *shamayim* over whether they should be drowned or not. The angel of Egypt said, *elu v'elu ovdei avodah zarah*—the Israelites were idolators like the Egyptians. They deserve to die in the sea as much as the Egyptians. The whole night there was a *din*, and only in the morning did HaShem decide to save us. It appears to be a contradiction: did we have a long-standing merit or not?

In answer to this question, I wish to say that there are really three aspects to *Krias Yam Suf*, each totally independent of the other. Normally, we think of it as one great event, the splitting of the sea to save us and destroy them. But the splitting of the sea is one thing; the Jews going through is a second thing; the drowning of the Egyptians is a

(Continued on page 3)

## Parsha Points to Ponder

### Always a New Reason

Speak to the Children of Israel and let them journey forth! (Shemos 14:16)

It would seem that G-d was assuring them in the above statement that they would be saved. But in Rashi's commentary on verse 19 ("The angel of G-d who had been going in front of the camp of Israel moved and went behind them..."), he tells us that at that moment the Jewish people were being judged to determine whether they would be saved or destroyed with the Egyptians. How can that be reconciled with G-d's assurance of safety?

It seems to me that the explanation for this is that it demonstrates the way G-d governs the world. New forces of good and evil arise at all times, which means that the process of judgment is never completed. There will

(Talking Business—Continued from page 1) the owner of the top floor. Nowadays, the custom is different. It is now standard for the roof to be considered jointly owned property. All apartment owners have equal rights in the roof. It is therefore clear that no single resident can build without the consent of all his neighbours, since such building would deprive them of their rights. Even if the actual building work would not cause any harm or disturbance, the right to object still exists. The grounds for objection are that you are taking away property which belongs to me. If the roof is free of building, the residents would be able to sell it to a construction company at some stage. However, if one neighbour has already built on part of the roof, no construction company would be interested in such a proposition. Thus, even if the neighbour were to argue that he is only taking his portion of the roof, he has still harmed his neighbours (see *Chazon Ish* to *Bovo Basro* 10:14).

We can therefore conclude that any

always be a new reason to accuse or to acquit. So even though G-d had assured the Children of Israel that they would be saved, the passage of time created a new occasion for judgment.

Based on sefer *Prineit Daas*

### Faith and Knowledge

And they had faith in G-d and in Moshe, His servant. (Shemos 14:31)

The crossing of the sea was an exhilarating spiritual experience for the children of Israel. As the *Mechilta* tells us (Beshalach 2), the young maid-servants saw things that were hidden from Yechezkel the prophet. That experience enabled them to appreciate Moshe Rabbeinu; to realize just how great he was. So only now could they really believe in him.

Based on sefer *Kiddushas Levi* MD

change in the civil law concerning building permits has no power to deprive the neighbours of their rights. At the end of the day, they bought their apartments on the understanding that the roof was to be jointly owned and that any changes would only be made on the basis of unanimous agreement. The fact that the municipality has now decided to grant building permits if three-quarters or two-thirds of the neighbours agree does not change that understanding. Thus, even if Nachman obtains building permission from the municipality, it is forbidden for him to go ahead with construction until he receives the consent of the objecting neighbours. Perhaps offering them a financial incentive will persuade them to withdraw their objection.

Would the same rule apply to residents moving into a new building after the change in the rules governing building permission? The basis of becoming a partner in a jointly owned apartment block is the local custom appertaining at the time of creation of the partnership (as per the *Tur* above). The *Emek Hamishpot* (3:57) therefore argues that partnerships created after the new regulations came into force could be different. Since it is known that the municipality grants building permits on the basis of the consent of three-quarters of the neighbours, all partners could be viewed as having entered the partnership accepting this condition. It might then become permissible to build despite a minority objection. MD

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(Living Education—Continued from page 1)

One posuk (*Shemos* 15:5) reads, תהמות יכסימו "ירדו במצולות כמו אבן" – "The depths will cover them, they sunk down to the deep waters as rocks".

A second posuk (*ibid.* 15:7) says, נברב גאוןך תהרוס "קמך תשלה חרוךך יאכלמו כקש" – "And in Your Greatness You will destroy those that rise up against You, You sent forth Your anger, which consumed them as straw".

Still a third posuk (*ibid.* 15:10) נשפת ברוחך "כסמו ים צללו כעופרת במים אדירים" – "You blew with Your Wind the sea covered them [the Egyptians]; they sank as lead in mighty waters".

Why the differing comparisons for apparently the same punishment? Rashi explains that each verse is referring to a different group of Egyptians. The "straw" refers to the extremely wicked Egyptians who were punished "as straw": as they were thrown violently back and forth in the water as weightless straw; the common wicked Egyptians fell to their death, slowly but surely, as "rocks fall to the bottom of the sea". The third group, the least wicked of the Egyptians, sank immediately to the bottom, as "(weighty) lead", suffering the least pain before death.

The Egyptians differing levels of wickedness are alluded to in the wording of each posuk. The first posuk above, describes the punishment of the average wicked Egyptian as follows:

1. תהמות יכסימו – Just as they covered their eyes from their deep mistreatment of the Jews, so too, they were covered and drowned by deep waters.
2. ירדו במצולות – Just as they fell to the depths of human behavior, so too, they were punished by falling to the water's depths.
3. ירדו במצולות – the word במצולות stems from הצלה – help. Just as they didn't help the Jews escape terrible slave labor, so too, they were thrown to a place where they couldn't be helped.
4. ירדו – Just as they רדו – persecuted the Jews, they ירדו – were persecuted and attacked by the waters (see Rashi on *Shemos* 15:8.)
5. כמו אבן – They enslaved the Jews to build their monuments and they were killed with stones.
6. כמו אבן – Their punishment was כמו – like – that of the Jews, but not the same. While the Jews built upward, they Egyptians drowned.

The next posuk "נברב גאוןך" referring to the most wicked of the Egyptians, alludes to their wickedness and their coinciding punishment.

1. תהרוס קמך – It should say תהרוס הקמים – destroy them who rose up against Bnei Yisroel. קמך means they rose up against Hashem. This alludes to the totally rebellious behavior of this group.
2. תשלה חרוךך – This was in response to their abominable act of throwing Jewish babies into the Nile, as the posuk (*ibid.* 1:22) says, "כל הבן הילוד... היאורה תשלי בנה" – "...every born son you shall throw into the Nile river..."
3. תשלה חרוךך – Pharaoh got upset (*ibid.* 5:2) when Moshe and Aharon asked him to "...שלה את עמי..." (*ibid.* 5:1) and was punished with "תשלה חרוךך" – Hashem sent His fury against Pharaoh.
4. יאכלמו כקש – Onkelos explains that they were burned as straw – in a flash. Their punishment showed that they were completely void of any good and had no hope of doing *teshuvah*. This alludes to their total rebellion against Hashem.
5. יאכלמו כקש – This is punishment for their demand for Bnei Yisroel to build without קש – straw. This wicked decree let to Moshe's classic statement in defense of the Jewish people, למה הרעותה לעם "למה הרעותה לעם" – "Why have You [Hashem] brought worsening conditions on this [the Jewish] people...?" This reveals the degree of this group's wickedness.
6. The *gematria* (numerical value) of קש = 400, represents an ultimate limit, alluding to this group's total wickedness.

The third posuk above reveals the punishment the least wicked of the Egyptians received:

1. נשפת ברוחך – The נר of Hashem is used in place of His wrath, alluding to limited anger.
2. כסמו ים – תהמות יכסימו – here the singular

(Continued on page 3)

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and passive tense is used alluding to limited punishment.

This is exactly what happened on the tropical island above. Contrary to the report of the tour guide, we can deduce from the drowning of the Egyptians, that each inhabitant died a slightly different death; each one suffered according to the magnitude of his sins.

Just as Hashem, the Teacher of teachers, metes out punishment measure for measure, as the Torah says (ibid. 18:10-11), "ברוך ה' אשר הוציל את העם מתחת יד מצרים... כי דבר אשר זדו עליהם." "Blessed is Hashem... Who saved the (Jewish) people from under the (ruling) hand of Egypt...for according to their (level of wicked - Rashi) intent (and action the Egyptians had and displayed against the Jewish people, Hashem punished) on them (the Egyptians)." (See Rashi), so should we, as parents and teachers, mete out punishment in proper measure, for we are instructed to follow in Hashem's Ways, as the posuk (Devorim 28:9) says, "והלכת בדרכיו" – "And you shall walk in His ways."

Hashem, in His exacting and directed method of punishment, pays the sinner back exactly according to the crime and its severity. At the Red Sea, says the *Yalkut Shimoni* (Parshas *Beshalach* 246) Hashem drowned the Egyptians because they had drowned Jewish babies; He turned the water into deep, dangerous mud, just as they had embittered the Jews with the work of mud; they said to the midwives, when you see a baby boy born on the birth bed (האבנים) – kill him, and Hashem killed them as rocks (אבנים); because they hardened their hearts like a stone, they were punished through stones. The Rabeinu Bechaye adds, Hashem brought about their destruction "תהרוס קמך" – because they forced the Jews to build for them.

If so, in the context of education, because no two children are alike, as each has his own unique personality, attitudes, upbringing and influences, even if two children commit the same wrongdoing, each child should be given his "own" punishment. However, whereas Hashem immediately sees the true level of each sinner, a parent or teacher needs to take all the relevant factors into consideration before he decides on the appropriate punishment.

Before meting out punishment, a parent or teacher should ask himself the following questions:

1. Am I sure about the child's wrongdoing?
2. Am I correctly evaluating the severity of the child's actions?
3. Does the punishment match the sin?
4. Will it help the child improve his behavior, learning, etc.?

Punishment is, in itself, usually an aggressive action. Therefore, we must exercise restraint before punishing. The truth is, that an educator should have two equal objections in mind when deciding on a punishment: (1) To uproot the negative action, and (2) To strengthen the child's good side. An approach which ignores or de-emphasizes one of these two objectives will lack in its effectiveness. This concept is summarized by Chazal as follows: "Let the left [hand] push off [the bad] and the right [hand] draw near [show care and give support]" (*Braiyasah* in Gemorah *Sota* 47a, *Sanhedrin* 107b).

We see this approach alluded to twice in our Parsha in the song of "Az Yashir". One of the praises Moshe and Bnei Yisroel sung to Hashem is, "ה' איש מלחמה" – "Hashem is a Man of war, Hashem is His Name" (*Shemos* 15:3).

Question: Why is it necessary to state, "Hashem is His Name", for His Name is already mentioned in the first part of the posuk?

Answer: To teach us, answers Rashi, that even at the moment Hashem is destroying His enemies, He retains His benevolence toward His creations, and feeds them and cares for them.

A few pesukim later, this idea is repeated, as it says, "Your right hand, Hashem, is crowned with strength, Your right hand crushes the enemy" (ibid. 15:6). Rashi, in explaining the apparent redundancy, says that the first מיניק refers to Hashem's saving of the Bnei Yisroel, while the second מיניק refers to His destroying of Egypt.

In both the above examples, the fact that Hashem is carrying out a punishment does not lessen His protective and supportative side. Rashi mentions that in his opinion, the repetition of the "right hand" tells us that Hashem did two opposite actions with one hand at the

## Thoughts on the Midrash

### The Power of Song

The midrash (Shemos Rabbah) tells us that when the children of Israel sang Shiras Hayam, all their sins were forgiven. Why? On Yom Kippur, sins are forgiven because it is a day of profound devekus (clinging to Hashem). The soul clings to its source and its ultimate foundation in the Divine. That connection to G-d is what

Based on sefer *Shem Mishmuel* MD

(Rav Leff—Continued from page 1)

third thing.

As we say in the Haggadah, "If He had split the sea and not brought us through on dry land, *dayeinu*...If He had brought us through on dry land and not drowned our enemies, *dayeinu*!" Each one was a separate thing."

It could have happened that the sea would have split, but the Jews wouldn't go through. What would that have accomplished? *Vyadatem ki ani HaShem*, and you shall know that I am G-d. It would be a re-enactment of the creation of dry land at the time of *maaseh bereishis*. *Dayeinu*.

If someone asks you, "Why did the Jews cross the sea?" The answer is not, "To get to the other side." Because actually they didn't get to the other side. They made a U-turn and came back to the same side. So it was actually unnecessary to go into the sea at all. Now, if the Egyptians were also punished at the same time, it made more of an impression. Measure for measure. But even without that, there still would have been reason for splitting the sea.

And that's what HaShem said to Moshe: You don't have to daven in order for the sea to split. The sea will split for Israel in the merit of their *emunah* and the *avos*. Whether they are going to be saved or not is another matter. Later on, when they're in the middle of the sea, they better daven well. Even if they are going to drown, they will have that merit forever, that the sea will split in their merit. Whether the Jews will make it to the other side, or whether the Egyptians will be drowned, are entirely separate considerations.

same time, something which is impossible for earthly man to do. However, it still appears that we can learn from here how to educate our students and children, for while Hashem had to deal with two opposite elements in two different entities at one time, both those elements are found in the one child.

Our lesson is, therefore, that whenever punishing a child, at the same time one is trying to crush the negative influences affecting the child, he should be cognizant of the second purpose of the punishment, which is to strengthen the child's good side.

purifies a person from sin. It's something like the way drawn water, which is unfit for a mikveh, acquires the power to purify by contact with the water of a mikveh. The children of Israel sang Shiras Hayam out of great devotion to G-d. Their intense connection to G-d at that moment is what purified them of sin.

That's the *peshat* in what Moshe Rabbeinu said: "*B'az chatasi; u'vaz ani mesaken*. I sinned with the word *az*, I'm going to correct it with the word *az*." From the time Moshe came to Pharaoh, things got worse, and he complained to HaShem, "Why have You made things worse?" Hashem said to Moshe, "Do you only gauge success in terms of how it affects the Jewish people positively? There's another success that you had in going to Pharaoh. For so many years My name wasn't mentioned in the royal court. When you and Aharon came in and said, 'Thus says the G-d of the Hebrews...*HaShem nikra aileinu*...' to which Pharaoh responds 'Who is HaShem,' though he mentions My name questioningly, he is still mentioning it. Isn't all this a success? G-d's name has been re-introduced into Pharaoh's court. True, things got harder for the Jews, but there was a tremendous success, too."

If someone asks you, "Why did the Jews cross the sea?" The answer is not, "To get to the other side."

So Moshe admitted, *az chatasi*, I didn't fully appreciate that you don't calculate success only in terms of how it affects us, but of how it affects the world. So he pledged to correct that mistake. *Az yashir Moshe*. When did he sing those words? When the Jews were safely on the other side of the sea? No. When he saw the sea split, that's when he said it's

time to sing. Even though there was no guarantee that the Jews weren't going to drown. But he understood and taught that even if they would not make it to the other side, it was reason to sing because the miracle of the splitting of the sea was a *kiddush haShem*. That was the *tikkun* on his *chet*. Even if they would drown, there would be a great benefit in that the world would recognize the presence of G-d once again, and that's reason to sing. MD

If a parent or teacher has this approach in mind when first contemplating the punishment, it will save him from punishing out of anger, revenge, dissatisfaction, a loss of hope, etc. This is punishment with purpose, where the interest to fortify the child's strengths serves as the motivating force behind the punishment. In all cases, the punishment should match the crime, taking the child's personal level into account. In this way, the child will: (1) feel the punishment is fair, and (2) feel the educator is looking out for his best interests. These two factors will make the punishment an effective one. MD

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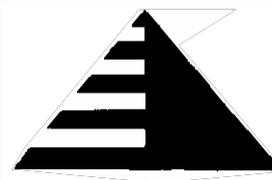
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## Halacha L'Maase

by HaGaon R' Shammai Kahas Gross

### Setting Fixed Times for Learning Torah

- A person should be even more careful to keep the fixed time for learning at night than during the day.
- The obligation to set a fixed time to learn Torah is in addition to the basic obligation to learn Torah.
- When fixing a time to learn Torah, a person should also determine the amount of Torah he would learn each time and he should not stop until he completes the tasks in learning that he has set for himself. Then, with G-d's help, he will see a sign of blessing in his learning. A person should "steal" time from his day to create an opportunity to learn Torah. **MD**