

MDTorah WEEKLY

	ירושלים	בית שמש	בני ברק
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Parshas Noach - נח
Oct 12, 2002 – ו' מרחשון תשס"ג – Vol. 4 No. 2

Talking Business

Everyday Jewish Business Law



Destroying (Un)Abandoned Property

Question

Itzik had his eye on the ancient car parked at the end of the street that was covered by layers of dust. He told his friends that the owner had abandoned the car and there was therefore nothing wrong in "having fun". He forced open the lock, allowing him and his pals to - turn the car into a wreck! A week later, the owner showed up. He had just spent five months in South America, caring for his elderly, sick mother. Who has to pay for the damage? Is Itzik solely responsible, since it was on the strength of his declaration that the other boys damaged what they assumed to be ownerless property, or is each one liable for the damage he personally caused?



Answer

Firstly, one should be aware that if Itzik and his friends are below *bar mitzvah* age, they cannot be held financially liable for the damage. Our Sages teach us (*Bovo Kamo* 82a) that even though an adult does have to pay compensation if he harms a minor or his property, the minor would be exempt from payment for such damage inflicted on an adult. However, *Beis Din* would take steps to suitably admonish and chastise the offending child (see *Choshen Mishpot* 349:5 and *Pischei Teshuva*, Note 2 *ad loco*). Assuming he has reached the age of majority, we are now confronted with the question of whether he is responsible for the results of his giving

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Rav Leff Speaks

The Yetzer Hora, Part 2

Why is it that most people find snakes repellent? As in everything else in the world that HaShem created, there is a reason for this. It is because the snake is the embodiment of materialism for its own sake, which is its misuse. Our loathing for these creatures serves to provide us with an inkling as to how we should feel about materialism divorced from spirituality.

HaShem cut off the legs of the snake so that it crawls on its belly. This represents the fact that *sheker*---the illusion of a life devoid of godliness---has no leg to stand on. It's fantasy, an illusion.

The snake eats dust. But not literally. Rather, the Torah means to say that whatever it eats tastes like dust. (The opposite of *mana*, which had the taste of whatever was in the mind of the one eating it. That which is real in

this world, which is from HaShem, is all one thing, but has various tastes.) Taste is what connects the thing to the person, and affords pleasure. The yetzer hora, which consists of illusion, in the end comes down to the same bland, tasteless form. It is the flavor of emptiness.

What was Chava's chet? She didn't appreciate what was real and beneficial in the long run. She allowed herself to be enticed by what seemed pleasurable in the here and now. Therefore, her punishment---her rectification---was that in bringing the long-range benefit of life into the world, she would have to suffer. In the Torah, it is told in reverse chronology: First the pain of raising children is mentioned, then the pain of giving birth, and then the pain of pregnancy. It could be the reason is that if it were just the nine months of preg-

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Living Education

Principles of Education Gleaned from the Weekly Parsha

Creating The World: Creating Bnei Torah (Part II)

The Value of Good Middos:

A teacher of Torah has one goal in mind: that the Torah's message should have an overriding influence in the class. However, this is only possible if the teacher has succeeded in developing a class atmosphere which emphasizes good Middos and fulfillment of Mitzvos.

This we learn from Chazal's explanation of the posuk (*Bereishis* 27:22) "הקול קול יעקב והידיים ידי עשוי." ("...the voice is the voice of Yaakov, but the hands are the hands of Esav."), that one comes at the expense of the other. In Midrash Rabba (*Bereishis* 6:3) Esav is compared to the sun and Yaakov to the moon. Rav Nachman explains that just as when the sun is shining, the light of the moon has no effect, so too when Esav is dominant, Yaakov's strengths are hidden and when Esav's light dissipates, Yaakov's light (Torah) spreads.

Esav represents deceitfulness, dishonesty, light-headedness and cruelty. These, and other negative traits, have the power to uproot the Torah of Yaakov. Therefore, in order for a Rebbe to successfully transmit Torah, he must make sure that the above traits and their like are eradicated from his classroom, even before he actually begins to teach.

Benefiting the Few

When a teacher decides on a new policy aimed at improving his students' learning or behavior, he naturally wants **all** his students to benefit from it. However, from the Midrash (*Bereishis Rabba* 6:1) we learn that even if only a handful of students benefit, the course of action is deemed worthwhile.

In the Midrash we are told, according to Rebbe Azaryah, that Hashem's original intention was to create only the sun to enlighten the world. However, when He saw that in the future people were to worship the sun, He created the moon, as well, as a

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The Merit of the Tzaddik

When Moshe addressed G-d in defence of the Children of Israel, he said, "And now if You would but forgive their sin!—but if not, erase me now from Your book that You have written." (Shemos 32:32). The Hebrew for the word erase is *mechayni* מְחַיֵּן. The Zohar sees in the word *mechayni* a suggestion of the difference between Moshe and Noah. *Mechani*, the Zohar points out, includes the letters of the words נַחַשׁ, *the waters of Noah*. We don't see that Noah expressed such self-sacrificing concern for his generation, and the Zohar holds him accountable. Moshe, whose spirit was so great that it included all spirits, including Noah's, corrected Noah's sin of omission (Zohar) when he voiced his self-sacrificing concern for the Jewish People and said *mechayni* (erase me).

Nevertheless, G-d Himself tells Noah that He is a tzaddik: "for it is you that I have seen to be righteous before Me in this generation" (Bereishis 7:2). The *Kedushas Levi* asks the question, how could Noah be a tzaddik if he is not dedicated in a self-sacrificing way to the spiritual welfare of his generation? He answers by interpreting the limiting phrase, "in this generation."

The Hebrew for "in this generation" is *bador hazeh*. We could also translate it: in the generation of *zeh* (this). Chazal tell us that while all the proph-

ets prophesied using the word *koh* (so), Moshe prophesied using the word *zeh* (this). When, is Noah a tzaddik? In the generation of Moshe, the generation which was instructed by the only prophet who used the word *zeh*. For when Moshe voiced his self-sacrificing dedication to the welfare of the Jewish People, he corrected Noah's sin of omission, his insufficient concern for the spiritual welfare of his generation.

But why should his being a tzaddik be dependent on Noah's participation in some spiritual sense in Moshe's self-sacrificing effort to justify the Children of Israel before G-d? Isn't a tzaddik a person who keeps mitzvos? The answer, the *Kedushas Levi* explains, is that a tzaddik is called a tzaddik because his is *matzduk*, he justifies, everything before G-d, pointing out people's merits.

When I read this, I thought, "How strange that the tzaddik, the person who knows better than anyone else the difference between good and bad, right and wrong, mitzvos and averos, should be the person who is devoted to diminishing the difference before G-d between the good the bad, the righteous and the wicked, by declaring the merits of all and petitioning G-d for the forgiveness of the wicked."

There must be many answers to this question. What's yours? **MD**

(Talking Business—Continued from page 1) misleading information. We do find that a professional money-changer who mistakenly approved a worthless coin is liable for the resultant loss sustained by his client (*Bovo Kamo* 99b). By the same principle, since Itzik's misleading information turned his friends into a wrecking crew, he should be liable for all the resultant damage to the car.

However, there is a distinction between the two cases, says Rav Spitz (*Mishptei HaTorah*, *Bovo Kamo*, No.63). There is a very good reason why a professional moneychanger is liable for his mistaken appraisal of a coin. Since he is known to be an expert in coins, people rely on his advice. If he asserts that this coin is good, then I will accept this information and act accordingly. By the same token, when such a moneychanger gives his appraisal of a coin, he does so knowing that any error on his part will cost him dearly. The same cannot be said in our case. Did Itzik's friends join him in dis-

mantling the car since they were confident in his expertise in the owner's financial affairs? It would be more likely to assume that they agreed with his logic, based on the age of the car and its heavy dusty coating. Furthermore, he never told them that they could rely on his declaration to wreck the car (as opposed to the money-changer, who knew that this coin would be accepted on the strength of his word). We can therefore conclude that each boy is liable for the damage he personally caused. This could be difficult to assess. Does each boy remember what he actually did? Does he know in what state the dashboard was before he ripped out all the fittings? The boys may argue that the burden of proof is on the claimant (*hamotzi mechaveiro ollov hora'ayoh*).

Accordingly, as long as the owner is unable to prove what damage each individual caused, they are all exempt from payment. We would answer them as follows. True, the car owner will not be able to extract money from you in *Beis Din*, since he lacks the necessary proof. But you have transgressed the Torah prohibition of, "Do not steal," which includes causing a loss through inflicting damage. As long as you are not sure that you have fully compensated your victim, this prohibition hangs over your head (*sofek d'Oraiso l'chumro*). The preferred option is therefore that the bill for the total damage be divided equally amongst the boys (see *Choshen Mishpot* 365:2). Additionally, each one should say to the others that if he has paid more than his fair share, he does not mind. **MD**

MDbusiness illustrates general Halachic guidelines, only. If you have a question, please consult a Rabbi who is well versed in these laws. You are welcome to direct your specific questions to Rav Moore at 02-651-9258 or write to RavMoore@machondaniel.org

(Living Education—Continued from page 1)

source of light. This additional source of light would diminish the godlike nature of the sun, He hoped, and people would realize that neither was a true god. Even though G-d saw that this would not keep them from idol worship, He still created the moon, for He saw that if there was only the sun, idol worship was certain to increase.

The commentary "Yefe To'ar" (on this Midrash) explains that the creation of a second source of light could help, at least, the more intelligent observers. From here we learn that a course of action which will reduce negative behavior, even if only for the more astute students, has great value. It would seem that if we would be correct to make a *kal vachomer* (a logical extension) and say that it would be worthwhile to develop a plan which could help even a few of the students improve either their learning, Mid-dos or Yiras Shamayim.

Taking Advice:

The importance of a teacher's seeking advice from others in order to improve his effectiveness in the classroom, cannot be underestimated. Rashi explains that the Torah used the plural form "We will make man", even though Hashem made man alone, in order to teach us that Hashem, in His Supreme Humility, asked for the input of heavenly beings before He actually made man.

Lesson: Before implementing a plan in the classroom, one should be open to the input and insight of others; especially those more experienced or more capable than himself.

Where should a teacher look for advice? The Midrash (*Bereishis* 8:2,3,7) mentions a number of possibilities:

1. From the Creation of the World - As we mentioned last week, a master plan is required for a year of successful teaching. A teacher should constantly refer back to his original plan to see if he is on track.
2. From each and every day's Creation - Each day's lessons, relationships to students, staff and administration should be reviewed to look for areas which call for improvement.
3. Asking those who came beforehand - Each teacher likes to feel that he has a full understanding of each student. However, it takes time to build up this understanding. Meanwhile, the teacher, not fully aware of a child's personality, needs or situation at home, may have a somewhat faulty appreciation of his student. It would be advisable to talk to the child's previous teachers and take advantage of their insight and experience, so that he can more quickly gain a fuller understanding of the child.
4. The Torah - The Torah is not a book of laws, but a guide to life! It abounds with lessons on how to relate to others, how people think and feel and what generates these thoughts and feelings. It's wisdom and revelation is a constant source of direction and inspiration.
5. Tzaddikim - The adage "sagely advice" has its roots in the Torah. "Ask you prophets and they will tell you; your elders and they will say to you...", advises the Torah (*Devorim* 32:7). The advice of the righteous is not only logical and wise, but it stems from true Yiras Shamayim and Ahavas Hashem. This not only gives the teacher clarity, but imbues him with a deeper sense of purpose and an

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MDTorahWeekly Vol. 4 No. 2

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Layout & Design: Lev Seltzer



Printed by Elmar Printers, Jerusalem

enthusiasm to succeed in the classroom.

6. **Ask staff members / experienced teachers** – A teacher should take full benefit of the fact that he works in the vicinity of other teachers and staff members who see his work at close range, and be open to hear their positive criticism. In addition, a teacher should choose a mentor from whom he can seek advice on a continual basis.
7. **מלך בלבו** (He asked his heart) – What is commonly called "man's intuition", is actually his innate level of sensitivity and resultant sense of logic in analyzing a situation. Each Rebbe or teacher feels inside which approach works well with one child and which with another. Sometimes the teacher is unable to express his feeling in words, but he knows that what he's doing is right. Alternatively, we can suggest that 'turning to one's heart' means setting aside time for introspection to see if one's approach to a student is based on honest and constructive motives or perhaps it partially stems from personal needs, wants or personality imperfections. This introspection will help return the teacher to the path of a sincere and honest relationship with his class and each student.

Relating to Students' Requests

"וירא... האור כי טוב ויבדל..." (בראשית א:ד) רש"י – הבדילו לצדיקים לעתיד לבוא

Question: If a student requests something from his teacher, is the teacher obligated to oblige?

1. Not necessarily. He should take the time to consider the request and see if it is actually for the student's benefit or not.
2. Even if the student's request is for something which appears to be objectively good, the teacher should still consider whether the correct time has arrived to have this good reach his student. It may be, for example, that this particular student has not prepared himself to appreciate this good and thereby will lose its effect, or it may be that good given to one child, might lead to harm to another.

Regarding the first point, a student who is quick to understand may be quick to forget, explains the Tana in Avos (5:15). Therefore, a teacher's job is to help his student build up the ability to maintain what he learns through those means he feels are necessary for the particular child. The child may either be slow in learning, have a weak background, have other interests which occupy his mind and memory, or may be having social, emotional or psychological problems which prevent him from concentrating on his learning and retaining it.

Only a teacher who is truly concerned with his student's progress, will be able to help him improve his understanding and retention. Thus, a teacher should agree to a student's request only if he feels it will not interfere with his development.

Regarding the second point, we find Hashem concluding, after reviewing His creation of light, that "Although the light (clarity, awareness) that I have created is Good, I must remove its essence from this world, lest wicked people get a hold of it and cause harm to My World (Rashi)." So too, a benefit to one child, may cause harm to another. A caring and sensitive teacher will take each and every child's interests into account before acquiescing to an individual student's request.

To be continued...

Parsha Points to Ponder

A Place of Sanctuary

The Hebrew for Noah's ark is *tayvas Noach*. The word *tayva* also means letter. The *Sefas Emes* points out that just as Noah was saved by a *tayva* from the disaster that befell the world, we can find spiritual sanctuary in the letters, the *tayvos* of Torah and tefillah. Sometimes a person feels that he cannot enter those *tayvos*—that he cannot find his way into the sanctuary they offer. When that happens, he will find his way in if he contemplates the depth of his Jewish identity and his bond to the Jewish People.

The Depth Dimension

Noah's ark had three levels. The top was for Noah and his family, the second was for the animals and the lowest level was for refuse. It seems that Noah might just as well have built a large, low ship that had enough room for three separate compartments: one for people, one for animals and one for refuse. According to the *Kli Yakar*, G-d instructed Noah to build three stories because they suggest the hierarchical structure

of the world. Since, during the flood, the stars did not shine and the worlds were in disarray, such a reminder was timely.

When we think of the structure of the world, we think in terms of scientific concepts, concepts that relate the fundamental forms of physical existence. But the world also has another structure, a vertical structure—a depth dimension—that is only revealed when we contemplate the world as it stretches from the creative will of G-d to the physical world that we know through our senses. The awareness of that vertical structure is the foundation our spiritual life, and one of the lessons of the Flood is that spiritual life is the foundation of life itself. So we can well appreciate the *Kli Yakar's* idea that when G-d saved Noah to re-establish the life of mankind in a post-deluvian world, He placed him in an ark that symbolized that vertical structure. For the world was created for the sake of man. But when his thought is so debased that he no longer recognizes the depth-dimension, when his eye is so shortsighted that he no longer sees the vertical structure that ascends from earth to Heaven, all the worlds fall into disarray as they topple from their foundation in the service of G-d. MD

(Rav Leff—Continued from page 1)

nancy, it might not seem so bad; but if you know that the pregnancy is followed by birth and child raising, which is never-ending, it has the effect of making the pregnancy and birth even more forbidding. But it's all worth it for the goal. All of this is the corrective to the *chet* of seeking immediate gratification.

Adam's *chet*, on the other hand, was *b'shogeg*; it wasn't a deliberate, outright transgression of HaShem's command. In fact, it is not immediately apparent what he did wrong, that he deserved to be punished. She brought him something to

eat, and he ate it. She didn't even tell him it was from the *Eitz HaDa'as*. But Adam wasn't innocent, either. For if a person really wants to do the right thing, he's careful, and he first finds out what it is he's going to eat before he eats it. He investigates. Adam didn't do that; he

was content to listen *l'kol ishtecha*, to his wife's seductive voice. He didn't ask questions, because he didn't want to hear the answers. It's like someone who eats something, and then asks afterwards, "By the way, does this have a good *hechsher*?" Why didn't he ask before he ate? Because he really wanted to eat it, even if it would be *ossur* (prohibited).

So that was Adam's *chet*. He was too weak to stand up to the *nisayon*

(test), and consider prior to acting, before partaking of the forbidden fruit. He could have seen that it wasn't like the fruit of the other trees. So he was taught a lesson, *midah keneged midah*: Since he was not careful about what he accepted as food, the earth was not going to be careful about the food it would put forth for him. It would produce thorns and thistles. Furthermore, he acted like an animal, unthinkingly obeying his appetite. So, like an animal, he was condemned to a diet of grass and herbs.

The sin of the first couple brought death into the world. Death is that juncture when an individual can see what a life bereft of all spirituality is all about. When the *guf* (body) and *neshama* (soul) separate, it becomes possible to look at the *guf*, emptied of the *neshama*, and realize that the only thing that makes the *guf* worthwhile

It's like someone who eats something, and then asks afterwards, "By the way, does this have a good *hechsher*?"

is the *neshama*. Without it, it's nothing; it dies and decays.

After the *chet*, HaShem clothed their bodies. After they used their bodies in a way that didn't follow the *neshama*, it became something to be ashamed of, to a certain degree. That is because through the *chet*, the body became an instrument of pure physicality without the redemptive value of the spirit. MD

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Halacha L'Maase

by HaGaon R' Shammai Kahas Gross

The Interval Between Meat and Milk for Children and for the Sick (Part 1)

1. Even though the Torah forbids feeding a child something that is forbidden (and this prohibition also applies to food that is forbidden by the rabbis) even if he is too young to realize it, the Acharonim have written that a young child need not wait six hours between meat and milk because he needs milk to grow and to be healthy. Accordingly, there is an opinion that for children who can understand, this leniency applies only to milk, cheese, etc.—not to candies that may have milk in them because they don't need them to grow and be healthy. Nevertheless, if the child has already eaten cheese or drunk some milk, there is no point in withholding a milky treat.
2. Of course, this principle does not apply equally to children of different ages. There is no clear consensus among the poskim on when and how long children should wait between eating meat and milk. Those who have a custom to guide them in this matter should adhere to it. For those who don't, here are some guidelines. The main issue is the maturity of the child. The ages listed are not intended to be precise, but rather an indication of the level of the child's maturity.
3. A child who is less than three years old can have milk immediately after eating meat, so long as his mouth has been wiped clean of any pieces of meat. There is no need to wait at all with such a young child because milk is considered a vital food for him, a food that cannot be withheld without endangering his health. And even those who distinguish between milk and milky candies agree that the distinction does not apply to such a young child. Of course, a nursing child can nurse at any time, without wiping his mouth, for the prohibition of eating meat and milk together does not apply to mothers' milk.
4. Between the ages of three and five or six, a child should be educated to wait one hour after eating meat before drinking milk. But if he makes a fuss or starts crying, he should be permitted to have his milk immediately after wiping his mouth.
5. Between the ages of six to nine, the child should be educated to wait three or four hours, but a weak child who needs milk need not wait more than an hour. **MD**