

# THIS IS ALSO TORAH

*by Shlomo Katz*

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**Mishpatim: This Is Also Torah**

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Today's Learning:

Sanhedrin 11:6-Makkot 1:1

Orach Chaim 583:1-584:1

Daf Yomi (Bavli): Bava Metzia 79

Daf Yomi (Yerushalmi): Terumot 16

Our parashah opens: "And these are the civil laws that you shall place before them." The Midrash Rabbah states: "What is written previously? 'They shall judge the people at all times' (18:22). This may be compared to a noblewoman who has a guard on this side and a guard on this side. The Torah [i.e., the Ten Commandments] too has civil laws on one side and civil laws on the other side."

R' Shlomo Algazi z"l (see page 4) explains: The gemara (Berachot 6a) states that whenever two or three (or more) people study Torah together, the Shechinah is present. The gemara asks: "If this is true when two people study, need I be told that it is true when three people study?" The gemara answers: "One might have thought that the Shechinah is not present when three people meet as a bet din / court. Therefore the gemara teaches that such a thought is incorrect. Judging a case also qualifies as studying Torah."

This is the lesson that our midrash is teaching as well. The Ten Commandments, which most people

view as the core of the Torah, are surrounded by references to judges and civil laws. Do not think that the Torah's civil laws are merely a convenience, a way of organizing society. Rather, those laws are an integral part of the Torah, no less than the Ten Commandments.

R' Algazi adds that this is alluded to in the first word of our parashah: "ve'aileh" / "And these." Rashi comments that the initial "vav" / "and" indicates that this section is a continuation of what came before. "Just as what came before [the Ten Commandments] is from Sinai, those what is presented here [the civil laws] is from Sinai." (Shaima Shlomo)

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*"If a man shall act intentionally against his fellow to kill him with guile -- from My Altar shall you take him to die." (21:14)*

Rashi explains: Even if the murderer is a kohen and we find him offering a sacrifice on the altar, we do not wait for him to finish before we execute his punishment.

R' Chaim Yosef David Azulai z"l (1727-1806; Eretz Yisrael and Italy) offers another explanation for this verse in the name of the "German Rabbis." He writes: According to halachah, one does not incur the death penalty for killing a treifah / a person who had a condition which would have killed him soon in any case. (Killing such a person is, of course, forbidden, but it is not a capital offense.) Thus, in theory, every murderer could avoid the death penalty by arguing, "Perhaps the person I killed was a treifah. Because of this doubt, you cannot execute me."

Our verse responds to this argument. An animal which is known to be a treifah may not be brought as a sacrifice. Yet, we do not check whether animals that are brought are or are not treifot (plural of treifah). In fact, some sacrifices must be burnt in their entirety and there isn't even an opportunity to examine them. Halachah permits us to assume that since most animals are not treifot, the animals brought as sacrifices also are not.

"From My Altar shall you take him to die" - from the altar, where we are permitted to bring sacrifices without examining them, we learn that we assume that most living things are not treifot. Accordingly, "You shall take [the murderer] to die." (Nachal Kedumim)

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*"When you lend money to My people, the poor person with you, do not act toward him as a creditor; do not lay interest upon him" (22:24)*

R' Shlomo Algazi z"l (see page 4) observes: This verse is teaching that when you lend money or give charity to a poor person, you are not doing only him a favor. "When you lend money to My people, the poor person with you" - you are doing a kindness for yourself as well. (Shaima Shlomo)

Rambam writes: There are eight levels of charity. The highest level is achieved by one who puts the poor person back on his own feet either through a gift, a loan, taking him as a partner, or finding him

a job. The other levels, in descending order, are as follows:

1. Giving charity in such a way that the giver and the recipient do not know each other (for example, by putting money in a pushka);
2. Giving in such a way that the giver knows the recipient, but the recipient does not know the giver;
3. When the recipient knows the giver, but the giver does not know the recipient;
4. Putting money directly into the pauper's hand without being asked;
5. Giving a respectable donation after being asked;
6. Giving less than a respectable donation, but with a smile; and
7. Giving any amount with a frown. (Hil. Matnot Aniyim 10:7-14)

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*"Moshe, Aharon, Nadav and Avihu and seventy of the elders of Yisrael ascended. They saw the G-d of Yisrael . . . Against the great men of Bnei Yisrael, He did not stretch out His hand - they gazed at G-d, and they ate and drank." (24:9- 11)*

Rashi explains that the elders "looked" at the Shechinah without the proper reverence - indeed, while they ate and drank.

R' Akiva Sofer z"l (rabbi of Pressburg, Czechoslovakia; died 1960 in Yerushalayim) offers another explanation. He writes: Moshe was on the mountain for 40 days and nights, and he ate nothing the entire time. How was this possible? He became so attached to G-d that he was oblivious to any physical needs. Instead, the spiritual sustenance that his soul drew from his closeness to G-d was sufficient to sustain him.

In contrast, the elders achieved great closeness to G-d, yet they did not allow the experience to change them. They remained attached to their physical beings, and that was a sin. (The fact that they sinned is implied in the words, "Against the great men of Bnei Yisrael, He did not stretch out His hand" - apparently, they were deserving of having His hand outstretched against them.) When a person has an opportunity to attain a higher spiritual level, and he lets the opportunity pass him by, he has sinned. (Da'at Sofer)

R' Ben Zion Rabinowitz shlita (the "Biala Rebbe") offers yet another explanation: Hashem commanded that no one but Moshe ascend to the top of Har Sinai. Most people were not permitted to even touch the mountain. Aharon was allowed to ascend part way, as were Nadav and Avihu and the elders, but each one only to his own level.

The very reason that Hashem established such boundaries was to teach that a person should not try to reach a higher spiritual level than he is prepared to attain at that moment. This is alluded to by Rashi in his comment on the verse (19:6), "You shall be to Me a kingdom of priests

and a holy nation; these are the words that you shall speak to Bnei Yisrael." Rashi comments: "These are the words - no more and no less." The "no more" part of this statement means that a Jew should not attempt to attain more spiritually than he is ready for, writes R' Rabinowitz.

The elders did not understand this. "They gazed at G-d, and they ate and drank." Instead of "gazing" with proper reverence, they did so lightly, as if they were eating and drinking. This improper attitude resulted from their not preparing themselves for the experience.

In contrast, when Moshe first gazed at the Shechinah, it says (Shmot 3:6), "Moshe hid his face, for he was afraid to gaze towards G-d." (Mevaser Tov: Sha'arei Avodat Hashem pp. 10 & 60)

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## **R' Shlomo Algazi z"l**

The Algazi family is one of the most distinguished families in the Sephardic Torah world. R' Shlomo was born in Bursa, Turkey in approximately 1610. His first teachers were his father, R' Avraham, and the poet and scholar, R' Yosef Gansu. Later, he studied in Gallipoli, Turkey. For many years, R' Shlomo lived in Smyrna (Izmir), Turkey, where he was the rabbi and headed a yeshiva. Many distinguished sages were among his students in Smyrna, including R' Aharon Lapapa (later R' Shlomo's son-in-law), R' Chaim Algazi (later rabbi of Rhodes), and R' David Conforte.

When the false messiah Shabbtai Zvi, a native of Smyrna, began his ill-fated adventure in the spring of 1665, R' Shlomo and his son-in-law were among the first to oppose him. However, the false messiah's following was so strong in Smyrna that R' Shlomo was forced to flee for his life. After Shabbtai Zvi converted to Islam a year-and-a-half later, the community called on R' Shlomo to return, but he refused, leaving the rabbinate to his son-in-law. In about 1670, R' Shlomo settled in Yerushalayim. (Sometime during this period, he began to use the name "Nissim Shlomo," perhaps because of an illness.)

R' Shomo was a prolific author. In his younger years, he was known as "Harav Ha'mifulpal" / "the sharp-witted rabbi," but he later realized that using sharpness was not the best way to serve his students and congregants. This led him to write the work Yavin Shemuah, a commentary on Halichot Olam by R' Yeshuah Halevi, a handbook of Talmudic and halachic methodology. (These two works were recently republished together with another commentary, Klalei Ha'gemara by R' Yosef Karo.) Other works by R' Shlomo include Talmud commentaries, works on the aggadic portions of the Talmud, an index to Midrash Rabbah, collections of sermons, and a Torah commentary, Shaima Shlomo. (Two excerpts from that work appear in this issue.)

R' Shlomo's many distinguished descendants included his grandson, R' Shlomo Algazi, Chief Rabbi of Cairo for 45 years; R' Yisrael Yaakov Algazi, rabbi in Yerushalayim; and R' Yom Tov

Algazi, Chief Rabbi of Yerushalayim, whose work on Tractate Bechorot is printed in the standard Vilna edition of the Talmud.

*Sponsored by Bobbi and Jules Meisler in memory of mother Anne Meisler a"h*

Elaine and Jerry Taragin on the yahrzeits of Mrs. Shirley Taragin a"h and Mr. Irving Rivkin a"h

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The editors hope these brief 'snippets' will engender further study and discussion of Torah topics ("lehagdil Torah u'leha'adirah"), and your letters are appreciated. Web archives at [Project Genesis](#) start with 5758 (1997) and may be retrieved from the [Hamaayan](#) page. Text archives from 1990 through the present may be retrieved from <http://www.acoast.com/~sehc/hamaayan/>. Donations to HaMaayan are tax-deductible.

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