

# SHABBAT SHALOM FROM CYBERSPACE

## SHOFTIM

KI TESSE

Haftarah: Yeshayahu 54:1-1

SEPTEMBER 16-17, 2016 14 ELUL 5776

DEDICATIONS: In Memory of Joseph A Bibi – Elul 19

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### Editors Notes

**I will be traveling this week, so I decided to get this out early with an article from the archives ... B'H, I will email my own article later in the week from 30,000 feet ....**

**This week will be my great grandfather Joseph A Bibi's Yahrzeit. With the publication and distribution of the book Nouri, I am often asked questions about my great grandfather who had travelled the world before settling in San Francisco and then New York. When I travel I often imagine how he would have felt. When my children and grandchildren FaceTime me, I ponder the blessing of communication and compare it to the years he was separated from his wife in children and lucky to get a letter every few months.**

**The following is reprinted from my notes of September 2003. Let me know what you think.**

Choose life in order that you may live ... you and your descendants.

Obviously, the decisions of our parents, grandparents and great grandparents and the paths they chose as they came to the many forks along the road of their lives, become part and parcel of who and what we are today. There is this thread that binds the generations. Often the thread though present, is invisible to the naked eye. Sometimes though the thread becomes intensely seeable and we can swear that we perceive the messages from our ancestors in the world beyond. Its at these times when we start to realize that just as that thread tugs from them to us, it also tugs from us to them. Their souls are effected by our actions too and sometimes those in heaven remind us of this fact loud and clear.

Last Sunday I returned home with the kids from an outing to the Bronx and our visit to the house that Ruth built - Yankee Stadium. Taking a three year old and a five year old to a crowded baseball game might be considered a lesson in self-torture, but we all had a nice time thanks to Aryana's help. Even my wife enjoyed her first game in 10 years. But after fighting traffic back to the island and then running some errands, I was in need of some quiet time.

But quiet time was not to be found in a house filled with my sons friends enjoying the Sunday ritual of simultaneously watching as many football games as possible while playing John Madden X Box at the same time. Football in addition to the rest of the kids going through their sundry activities led me to flee. I went through the bookshelf and took sefer Ben Ish Chai and went out to the car. My chevrutah Michael and I were discussing possibly doing a weekly internet Ben Ish Chai class. The car with the top down in the pre autumn evening would be a great place to catch up on my learning in quiet solitude.

As I opened the car door, the phone was ringing, but I missed it. Caller ID said it was my brother Victor. I tried calling back, but could not get through. So I went through the Ben Ish Chai's comments on this week's portion. When I finished, I tried Victor again and he told me that he had to tell me an incredible story. And he had no idea that I had been reading in the car for the better part of the last hour.

He told me that he had given a class earlier that day. For 20 years Victor had been learning and teaching from the Ben Ish Chai, but he had not done taught a Ben Ish Chai class in the past few years. The yahrzeit of the Ben Ish Chai fell out during the preceding week (13 Elul), so Victor decided to begin a new series of classes on the Ben Ish Chai. And although Victor is usually very low key, he said that he gave a class that explained the depth and width of Hacham Yosef Chaim's greatness. He went on even beyond his usual hour and spoke for 80 minutes realizing he did not even begin to touch upon what he intended to speak about. He discussed with passion, the prominence of this eminent scholar and sadik in kabalistic and halachic matters.

As one point one of the Rabbis stepped into the class and mentioned to Victor out of the blue that Hacham Ovadiah Yosef was writing a book similar to Halichot Olam on Rav Pealim - a sort of critique on and showing his opinions in difference to those of the Ben Ish Chai. With his usual humility and wit, Victor sidestepped the comments with charm and humor.

After the class, although he intended to pray in one Synagogue on East 8th, for some reason he went to the Ahi Ezer. There was an areyat - a memorial service. And there was a young man, one of Nouri Dayan's grandchildren, walking around showing a 150 year old sefer that was a gift (perhaps half a century ago) to Rabbi Yaakov Maslaton z'l, the brother of Rabbi Murad Maslaton z'l. He then mentioned to Victor, "Come with me, I have another book to show."

He brought him into the library and handed him an original printing of Ben Ish Chair from 1898. What an incredible coincidence to be handed this sefer shortly after giving a class on the Ben Ish Chai. And imagine that this was an original printing from when the Ben ish Chai was alive. Then he turned to the cover page and beheld the name of the original owner. Written there was, Yosef Ovadiah Bibi! The book belonged to our great grandfather who passed away seventy five years ago. And more than that there were passages underlined, there were stars as well as notes in the margins. It is fairly certain that our great grandfather and his father were at least acquainted with the Ben Ish Chai. But now there was proof that our great grandfather was also a student of the Ben Ish Chai's writings as well.

Victor had to feel as if the Ben Ish Chai was saying to him, "You gave a class and defended and spoke up for me and my opinions with pure and intense passion, now let me give you a gift in return."

And there's more to it. Victor had been studying that morning in the Ben Ish Chai, the laws of returning a lost object - the physical and spiritual aspects of the subject - and here was Heaven returning this sefer (the physical) and more so, (the spiritual) the enlightenment that the book had been studied by his great grandfather.

But that's not all. The next morning when Victor told my father the story, my father as usual was able to provide the punch line. That final fact that puts it all together. Perhaps not only was Hacham Yosef Chaim speaking to my brother, perhaps our great grandfather was speaking to all of us too. We learn that the actions of the children can have a beneficial effect on our ancestors in heaven; our actions can be

the interest payments that they continually collect. And through those actions the souls of the departed are elevated in heaven each year on their yearzeit. And then my father told him that that night, the 19th of Elul, was the yearzeit of Yosef Ovadiah Bibi.

PS .... A few months back I was traveling on business and coincidentally met a well known Rabbi from the community. For the couple of days I was there I was able to learn with the Rabbi each morning and evening. At one point we were discussing the laws of hadlakat neyrot - lighting candles - on Friday night from Yalkut Yosef of Chacham Ovadiah Yosef. I noted that the opinion here was in contrast to the opinion of the Ben Ish Chai. In fact there was often disagreement between them. So I asked the Rabbi a question. For our community where there is such a strong connection between Halacha and Sod, who do we follow when there is a machloket (difference of opinion) between Yalkut Yosef and The Ben Ish Chai? His answer was very simple. Chacham Ovadiah is the Posek of our generation and when it comes to practical Halacha it is very dangerous to pick and choose. So unless there is a specific tradition from your father, grandfather or great grandfather that the customs of the Ben Ish Chai were practiced by them, one would be best off these days simply following the guidance of Chacham Ovadiah.

It's interesting that often traditions are handed down as an oral masoret from generation to generation and traditions handed down orally often come with a bit of confusion and debate hence the thousands of pages of the Talmud where the Rabbis spent generations discussing and debating over the oral traditions of their predecessors.

At times in order to help set aside questions and debates for future generations, oral traditions need to be put in writing. Again let us refer back to the Talmud written for just such a purpose. The Rabbi I spent those two days with mentioned, "unless there is a specific tradition from your father, grandfather or great grandfather".... well I guess there was another message in this story, our great grandfather was sending a message to his descendants who might have questions and his message was in writing and as unambiguous as you can get.

**So I didn't exert much effort on the newsletter this week thanks to the archives, but it did give me more time to study and I am deeply grateful for that.**

**Shabbat Shalom,  
David Bibi**

## The Ben Ish Chai

Our revered teacher, Rabbi Yossef Chaim, better known as the Ben Ish Hai, was born in Baghdad on Av 27, 1834. After the disappearance of his illustrious father, which occurred on Elul 13, 1859, he succeeded him as head of the prestigious community, the inheritor of the Jewish Babylonian tradition.

It was in 1860, the morning of Shabbat Teshuvah, that he rose to the podium of the large synagogue to give his first course. It should be noted that he gave his lesson not in the capacity of Chief Rabbi, for all his life he refused the slightest official position. Everyone understood that G-d had bestowed upon Rabbi Yossef both immense wisdom and a marvelous gift for teaching, as well as incredible speaking abilities. From then on the Ben Ish Hai, in same way as King Solomon, didn't stop instructing the people in all the mysteries of the Torah, even the most secret ones. He did this as much by his courses as by his books. To familiarize his audience with divine truths, he employed a vocabulary understood by all. He didn't hesitate to turn to everyday examples, or to anecdotes, to draw everyone's attention, retain it, and in this way transmit to everyone sacred knowledge. It must be underlined that in regards to this, besides his veritable encyclopedic knowledge of Torah, nothing of the human realm was unknown to the Ben Ish Hai. Hence to spiritually uplift people to the highest levels, he first spoke to them in language they understood.

Every Shabbat, during speeches that could sometimes last three hours, he explained the Parsha of the week to the community. In addition, each morning at the end of Shacharit, while still enwrapped in his Tallit and crowned with his Tefillin, he delighted the faithful with mountains of Halachot adorned with Talmudic and Midrashic narratives. Then for a half-hour he alternated between teaching the volumes of Orah Chaim and Yoreh Deah from the Shulchan Aruch. To conclude a study cycle that ended every four years, the Ben Ish Hai organized a great feast for the learned of the city, the costs of which he assumed himself. At this occasion, he would delight his audience by means of a discourse teeming with marvelous Chiddushim (novel interpretations) of Torah and Kabbalah.

Happy were all the tens of thousands of men and women who had the privilege to see and hear him during four great Shabbats of the year: Shabbat Teshuvah, Shabbat Hagadol, Shabbat Zachor, and Shabbat Parah. His lessons then lasted four hours, but because his audience was held captive by his

teachings, his charm, his pleasantness, and his well-known humility, these four hours always seemed too brief. "The sound of his voice," said his biographers, "evoked the sound of the sea." A great love for Eretz Israel, and in particular for Jerusalem, emanated from each of his words.

Having never accepted the least of positions, the Ben Ish Hai enclosed himself (sometimes for entire days) in his office to study and write. He would interrupt himself only for guests, and would receive with his regal bearing all those who came to consult him, greeting them with incomparably great joy and humility. By appearing at the entrance to his study, the least of his students could see the Ben Ish Hai rise, rush to meet him, make him sit beside him, and listen attentively. In the same way, the Ben Ish Hai would rise to see each of his guests off, accompanying them until the entrance of his home.

He carefully watched over the absolute purity of his food in the minutest of details, even to the choice of those who served him. In regards to this, we must make it clear that for six years out of seven, the Ben Ish Hai imposed on himself a daily fast. He thus applied the Sages' interpretation to the Torah verse concerning the Hebrew slave, a verse that states, "Six years he shall serve, and in the seventh he shall go out free" (in other words, he shall be free from his Yetzer Hara, his evil inclination). That was but one of the mortifications and personal strictures that he demanded of himself. Thus, in the full heat of summer, when a blistering heat embraced Baghdad, he did not permit himself to eat watermelon solely for the purpose of not getting carried away by his desire. For this he waited until Rosh Hashanah, at which time he recited the blessing of Shecheyanu ("Blessed are You ... Who has granted us life ... and enabled us to reach this occasion").

Rabbi Yossef Chaim, the legendary Ben Ish Hai, left this world on Elul 13, 1909. He left us with works on Torah and Kabbalah that cannot be overlooked, veritable wellsprings of knowledge from which each of us can drink.

May his merit protect us, as well as all the Jewish people. Amen

The following was written by my dear friend Rabbi Elie Abadie last year. I thought as we begin UN week, it is even more applicable today.

Friday, August 28, 2015 Author: Rabbi Elie Abadie  
It has been centuries and millennia that the respect of private property has been a concept accepted by all, legislated and protected. Of course, economic and

social philosophies of the last century have eroded such respect and protection; where private property has become the property of the government or the masses.

In Perashat Ki Tesse, we read a passage that exhorts the Israelites not only to respect private property but also to protect someone else from financial loss of his property. The verse says: "You shall not see the ox of your brother or his sheep or goat wandering, and hide yourself from them; you shall surely return them to your brother...and so you shall do for any lost article of your brother that may become lost from him and you find it; you shall not hide yourself."

This commandment extends the prohibition of keeping something that does not belong to us, and imposes on us the additional responsibility to return that object if it was lost, to our fellow.

Our Sages explain that this principle applies to many things that are the property of a person; namely, his safety, his life, his health, his dignity and many other things. We have the responsibility to help someone recover his dignity, his health, his life etc.

How far has the civilization of today come in achieving and fulfilling this dictum? The Jewish People for two millennia have been stripped of their dignity, their safety, their health, their life, their land and their rights as members of the human civilization. The nations of the world have violated again and again, their responsibility to help the Jewish people recover all that they have lost.

This started over 3300 years ago, as the end of Perashat Ki Tesse recounts, when Amalek, ambushed the Israelites as they were wandering in the dessert. Instead of helping them, assisting them and directing them to return to their homeland, Amalek was the first who rose against the Israelites as a nation and, thus paved the way for the rest of nations to assault us.

The word used in the Torah when telling of the encounter with Amalek, is "רָרַק", meaning, "that he happened upon you". Our Sages explain the word as "cold", to mean, "he cooled you off". They use the example of a hot tub where no one dares to jump in; however, once one person jumps in, he cools it off and the rest of the people see that it is not that hot, so they also jump in.

Amalek did just that; they cooled off the Israelites. Where no nation dared to attack them and to oppose them, Amalek was the first one to come, thereby

paving the way for the rest of the nations to do so. It is for that reason that the Torah commands us to obliterate the memory of Amalek.

A similar thing is happening in our time. The Jews and the State of Israel are being "cooled off" by the leaders of the nations of the world. They are being maligned, attacked, ambushed and denigrated by these same leaders. I don't recall in recent times, where Israel did not enjoy total support here in America and in the rest of the Western World. However, in the last few years, the leaders of the Western World have had the audacity to humiliate Israel and its leaders, to ambush them politically, to compromise their security, and indeed, as Amalek, to "cool them off" in the eyes of the rest of the world, so they would be the target of many other nations and people.

Indeed, Israel and the Jews have become an easy target. Now, it is fashionable to attack the Jews and Israel; people and politicians have no more shame in coming out against Israel and the Jews. Outright, anti-Israel and anti-Semitism has become the trend of our time and the main dish of the menu. Only 70 years after the Holocaust, Europe is on its way back to those dark days, and the U.S. leadership is abetting that trend, if not leading it.

As the commandment tells us, "Remember...you shall not forget". Remember, we shall, as we remember everything that the previous Nations, Empires and Kingdoms did to our People in the past. They have all disappeared and have been part of the dustbin of history for a long time; we are still alive, well and growing strong. So too, our present enemies- the Amalekites of today, shall face the same destiny as the previous ones, and we shall prevail, for G-d is on our side!

### **Summary of the Perasha Chabad.org**

General Overview: This week's reading, Ki Teitzei, contains 74 commandments, more mitzvot than any other Torah portion. Some of the commandments discussed: the law of the rebellious son, the obligation to bury the dead without undue delay, the requirement to return a found object, the prohibition against causing pain to any living creature, the prohibition against prostitution, the laws of marriage and divorce, the procedure of the Levirate marriage, and the obligation to eradicate the memory of Amalek.

First Aliyah: This section begins with a discussion regarding female captives of war, and lays down the conditions under which a soldier may marry a captive. The right of a firstborn son to a double portion of his father's inheritance is then detailed. The section concludes with the procedure for dealing with an aberrantly rebellious child.

Second Aliyah: Commandments discussed in this section: Speedy burial of the deceased, returning a lost object to its owner, aiding a neighbor when his animal has fallen because of its burden, the prohibition against cross-dressing, and the obligation to send away a mother bird before taking its chicks or eggs.

Third Aliyah: Some commandments discussed in this section: Building a safety fence around a flat roof; the prohibitions against sowing mixtures of seeds, plowing with a mixed pair of animals, or wearing a garment which contains a mixture of wool and linen (shatnez); wearing tzitzit; the penalty for a husband who defames his wife; the punishment for adultery; the penalty for rape; and certain prohibited marriages.

Fourth Aliyah: Some commandments discussed in this section: maintaining pure and hygienic army encampments, impurity resulting from seminal emissions, prohibition against prostitution, prohibition against lending with interest, and the obligation to honor vows.

Fifth Aliyah: This section details the right of field workers to eat from the produce they are harvesting. The Torah then briefly discusses marriage and the bill of divorce. A divorced couple cannot remarry if the woman has been remarried to another man (and divorced again or widowed) in the interim.

Sixth Aliyah: More mitzvot: A newlywed man is exempt from military service for a full year. It is forbidden to accept utensils used to prepare food as loan security or to forcibly take a debtor's possessions as collateral, and a poor man's security must be temporarily returned to him on a daily basis. Kidnapping is a capital offense. We are commanded to always remember that Miriam was afflicted with tzara'at for speaking badly about Moses.

Seventh Aliyah: We are forbidden to withhold or delay a worker's wages. Relatives' testimony is inadmissible in a court of law. Various mandatory gifts for the poor are discussed. The procedure for corporal punishment is outlined. The mitzvah of Levirate marriage (yibum) is introduced: if a married childless man dies, his brother is obligated to marry

the widow. If the brother refuses to marry the widow, he and she go through a chalitzah ceremony, which frees her to marry whomever she wishes. We are instructed to maintain accurate weights and measures. The reading ends with the mitzvah to remember Amalek's evil deed, ambushing the Israelites on their way from Egypt.

## FROM THE JERSEY SHORE NEWSLETTER

### **"When you will go out to war against your enemy." (Debarim 21:10)**

The words "against your enemy" seem to be superfluous. What war does one fight that is not "against your enemy"? Our Sages teach us that the Torah is referring to a perpetual war one wages against his personal enemy, his yeser hara.

It says in Pirkei Abot (4:1), "Who is strong? One who conquers his inclination." Rabbi D. Staum quotes the Sefer Avodat Yisrael who says that it refers to one's personal inclination. Every person has unique character traits, life experiences, and natural tendencies. Therefore, every person must assess what protective measures he must take to protect himself from sin.

Rabbi Avraham Schorr adds that because every person has his own challenges and weaknesses, what is considered a "great yeser hara" for one person may be hardly a challenge for another. Not only is it not hard for one person to overcome the tests and challenges of another, but a person can never judge someone else for his failings. No one can truly understand how difficult and challenging something is for another. Our task is to maintain our focus in fighting our personal enemy – the enemy tailor-made for us and placed within us – in order to bring us to our best. Shabbat Shalom. Rabbi Reuven Semah

### **"Hashem shouldn't see your nakedness so that He should turn away from you." (Debarim 23:15)**

If we wonder why the Divine Presence is so hidden in our times, this verse provides the answer. When G-d sees that the Jewish People are not conducting themselves in a modest way, He turns away from us, leaving us in the dark. Although it says in another place in the Torah that G-d dwells amongst us even if we are impure, this refers to other kinds of improper behavior. When it comes to dressing immodestly, Hashem chooses not to be revealed amongst us. In these days, when the whole society is overwhelmingly encouraging this kind of dress code, everyone who makes an attempt to dress properly will be truly bringing blessings on themselves and on their families. Indeed, we have

seen some people accept upon themselves to be more modestly attired, with the merit going to bring a speedy recovery for those who are stricken with difficult illnesses. This is a remarkable zechut. It is written that if a person has a temptation to see someone immodestly dressed and overcomes it, he should, at that very moment, pray to Hashem for whatever he wishes, because he has created such a magnificent zechut by overcoming his temptations. Therefore, it becomes an opportune moment to pray. We see how much Hashem rewards those who make modest dress part of their lives because they are bringing Hashem back to the Jewish People. Let us merit to be those fortunate ones. Shabbat Shalom. Rabbi Shmuel Choueka

**RABBI ELI MANSOUR**  
**Visit DailyHalacha.com, DailyGemara.com,**  
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**Tough Love**

One of the subjects discussed in Parashat Ki-Teseh is the “Ben Sorer U’more”, the “wayward son”. The case involves a child who refuses to obey his parents’ authority, eats and drinks with unrestrained gluttony, and commits criminal acts. The parents bring the child to local Rabbinical court and report about his unruly behavior. After hearing the parents’ report, the court must – if certain conditions are met – execute the child.

The Talmud teaches that this case never actually happened; the Halacha of “Ben Sorer U’more” has always remained a strictly hypothetical concept. One of the reasons for why this situation never arose is because Halacha imposes numerous conditions for this law to apply, making it all but impossible for such a thing to ever happen. The Halacha is introduced by the Torah, but practically speaking, it cannot ever apply.

The Talmud raises the obvious question of why the Torah instituted a Halacha that would never apply. What purpose is served by establishing a law which is never implemented? The Gemara explains, “Derosh Ve’kabel Sachar” – the Torah provided us with additional material to study and thereby earn reward. The law of “Ben Sorer U’more” will never be practically applicable, but we are able to study the numerous laws and details relevant to this subject and thereby earn reward.

Clearly, we do not need the Halacha of “Ben Sorer U’more” to ensure that we have enough study material. Even without this topic, we have far more Torah to learn than we could ever master in a lifetime. Therefore, when the Talmud speaks of

“Derosh Ve’kabel Sachar,” the reward available to us through studying this subject, it likely refers to the valuable lessons that can be gained. Studying the topic of “Ben Sorer U’more” is rewarding in the sense that it is enlightening, specifically regarding our most crucial responsibility in life – raising children.

The most obvious lesson that emerges from this Halacha is a parent’s obligation not to ignore or overlook a child’s misbehavior. In the extreme case of the “Ben Sorer U’more,” the parents report their child to the Bet Din knowing that the child might be put to death. As mentioned, this will never happen, but it presents us with an important model of parental responsibility. Too often, parents dismiss their child’s misbehavior as a passing phase, or excuse it as normal, acceptable conduct for a child. Rather than take the difficult but necessary steps required to discipline and restrain their children, they just let it go. The extreme model of “Ben Sorer U’more” demonstrates the concept that psychologists call “tough love” – showing love and concern for children specifically by not giving them everything they ask for and not allowing them to do everything they want to do. It demonstrates that parents must, at times, take action to rein in on their children’s misconduct.

There was once a group of parents in the community whose children would frequently get together for parties at which they would drink to intoxication. The teenagers were already driving age, and the parents were thus understandably concerned about the children’s safety getting home from these parties. They decided to solve the problem by... hiring drivers to bring their children home. Rather than putting their foot down and forbidding their children from attending such events, they went along with it and ensured that the children could attend as many as they like without any repercussions or concern.

As parents, we have a responsibility to intervene, when necessary, to direct our children. If we truly love our children, we will not be afraid of “tough love,” of taking prudent disciplinary measures when the situation calls for them. Taking such measures is a far greater demonstration of love than irresponsibly allowing our children to act as they see fit without restraint.

**VICTOR BIBI**  
**SOD HAPARASHA**

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### Rabbi Wein

The brutality of war, which of course is unavoidable since the immediate purpose of war is to kill as many of one's adversaries as possible, transforms the moral compass and the logical judgment of soldiers. The Torah posits a case of a Jewish soldier taking and assaulting a non-Jewish woman captive. It then forces that soldier into a marriage with the woman that will undoubtedly have generational consequences.

The Torah also recognizes the psychological damage that such a relationship will suffer because of the original act engendered by war. Divorce, family dysfunction and domestic discord are most likely to follow this couple in the near and far future. Yet, the Torah makes allowances for such an occurrence in the first place. Why should the Torah countenance such seemingly immoral behavior? Does this not legitimize immoral and violent behavior?

The Torah not only opposes sin but it is very careful to emphasize that even the appearance of possible sin is to be avoided at all costs. Yet, here we see an entire section of the Torah that is devoted to somehow allowing and condoning what in all other circumstances would be considered a sinful and fairly negative pattern of behavior. So, why does not the Torah simply forbid the act initially, as it forbids many other acts of human desire and violent behavior? Why here is allowance made for human weakness and error when in so many of other cases of this type, the moral code of the Torah remains steady and inflexible?

This moral dilemma has vexed the scholars of Israel throughout the ages. Rashi here, quoting Talmud and Midrash, states that the Torah here recognizes and "speaks" to the base nature and animalistic desires of humans. It therefore accommodates itself to the situation and attempts to channel it into a more positive relationship with all of the laws that it then formulates for observance. But this really only begs the original question of why is this case allowed to be so exceptional and other instances of the same type of base human nature are explicitly forbidden under almost all circumstances.

There is an instance of insight that does appear in the comments of the later rabbis to this matter. In essence, it states that war by its very nature changes the human nature of the soldiers who participate in its battles. The soldier is no longer a human being in the sense that he once was but rather he becomes a legitimate killer who is to become devoid of all ordinary human feelings, restrictions and inhibitions.

As such, the soldier requires a special code of law that is not relevant to ordinary people and usual situations. It is to this state of being that the Torah addresses itself.

Unfortunately, war has been a steady occurrence throughout human history. Peace is the rarity, not war. The Torah in recognizing this sad fact of human existence thus makes necessary adjustments, unpleasant and dangerous as they may be, to this ugly fact of life.

### Chief Rabbi Sir Jonathan Sacks The Limits of Love

In a parsha laden with laws, one in particular is full of fascination. Here it is:

If a man has two wives, one loved, the other unloved [שנואה, literally "hated"], and both the loved and the unloved bear him sons but the firstborn is the son of the unloved wife, then when he wills his property to his sons, he must not give the rights of the firstborn to the son of the beloved wife in preference to his actual firstborn, the son of the unloved wife. He must recognise [the legal rights of] the firstborn of his unloved wife so as to give him a double share of all he has, for he is the first of his father's strength. The birthright is legally his. (Deut. 21:15-17).

The law makes eminent sense. In biblical Israel the firstborn was entitled to a double share in his father's inheritance.[1] What the law tells us is that this is not at the father's discretion. He cannot choose to transfer this privilege from one son to another, in particular he cannot do this by favouring the son of the wife he loves most if in fact the firstborn came from another wife.

The opening three laws – a captive woman taken in the course of war, the above law about the rights of the firstborn, and the "stubborn and rebellious son" – are all about dysfunctions within the family. The sages said that they were given in this order to hint that someone who takes a captive woman will suffer from strife at home, and the result will be a delinquent son.[2] In Judaism marriage is seen as the foundation of society. Disorder there leads to disorder elsewhere. So far, so clear.

What is extraordinary about it is that it seems to be in the sharpest possible conflict with a major narrative in the Torah, namely Jacob and his two wives, Leah and Rachel. Indeed the Torah, by its use of language, makes unmistakable verbal linkages between the two passages. One is the pair of

opposites, ahuvah/senuah, “loved” and “unloved/hated”. This is precisely the way the Torah describes Rachel and Leah.

Recall the context. Fleeing from his home to his uncle Laban, Jacob fell in love at first sight with Rachel and worked seven years for her hand in marriage. On the night of the wedding, however, Laban substituted his elder daughter Leah. When Jacob complained, “Why have you deceived me?” Laban replied, with intentional irony, “It is not done in our place to give the younger before the elder.”[3] Jacob then agreed to work another seven years for Rachel. The second wedding took place a mere week after the first. We then read:

And [Jacob] went in also to Rachel, and he loved also Rachel more than Leah ... God saw that Leah was unloved [senuah] and He opened her womb, but Rachel remained barren. (Gen. 29:30-31).

Leah called her firstborn Reuben, but her hurt at being less loved remained, and we read this about the birth of her second son:

She became pregnant again and had a son. ‘God has heard that I was unloved [senuah],’ she said, ‘and He also gave me this son.’ She named the child Simeon. (Gen. 29:33).

The word senuah appears only six times in the Torah, twice in the passage above about Leah, four times in our parsha in connection with the law of the rights of the firstborn.

There is an even stronger connection. The unusual phrase “first of [his father’s] strength” appears only twice in the Torah, here (“for he is the first of his father’s strength”) and in relation to Reuben, Leah’s firstborn: “Reuben, you are my firstborn, my might and the first of my strength, first in rank and first in power” (Gen. 49:3).

Because of these substantive and linguistic parallels, the attentive reader cannot but hear in the law in our parsha a retrospective commentary on Jacob’s conduct vis-a-vis his own sons. Yet that conduct seems to have been precisely the opposite of what is legislated here. Jacob did transfer the right of the firstborn from Reuben, his actual firstborn, son of the less-loved Leah, to Joseph, the firstborn of his beloved Rachel. This is what he told Joseph:

“Now, the two sons who were born to you in Egypt before I came here shall be considered as mine. Ephraim and Manasseh shall be just like Reuben and Simeon to me.” (Gen. 48:5)

Reuben should have received a double portion, but instead this went to Joseph. Jacob recognised each of Joseph’s two sons as entitled to a full portion in the inheritance. So Ephraim and Menasseh each became a tribe in its own right. In other words, we seem to have a clear contradiction between Deuteronomy and Genesis.

How are we to resolve this? It may be that, despite the rabbinic principle that the patriarchs observed the whole Torah before it was given, this is only an approximation. Not every law was precisely the same before and after the covenant at Sinai. For instance Ramban notes that the story of Judah and Tamar seems to describe a slightly different form of levirate marriage from the one set out in Deuteronomy.[4]

In any case, this is not the only apparent contradiction between Genesis and later law. There are others, not least the very fact that Jacob married two sisters, something categorically forbidden in Leviticus 18:18. Ramban’s solution – an elegant one, flowing from his radical view about the connection between Jewish law and the land of Israel – is that the patriarchs observed the Torah only while they were living in Israel itself.[5] Jacob married Leah and Rachel outside Israel, in the house of Lavan in Haran (situated in today’s Turkey).

Abarbanel gives a quite different explanation. The reason Jacob transferred the double portion from Reuben to Joseph was that God told him to do so. The law in Devarim is therefore stated to make clear that the case of Joseph was an exception, not a precedent.

Ovadia Sforno suggests that the Deuteronomy prohibition applies only when the transfer of the firstborn’s rights happens because of the father favours one wife over another. It does not apply when the firstborn has been guilty of a sin that would warrant forfeiting his legal privilege. That is what Jacob meant when, on his deathbed, he said to Reuben: “Unstable as water, you will no longer be first, for you went up onto your father’s bed, onto my couch and defiled it.” (Gen. 49:4). This is stated explicitly in the book of Chronicles which says that “Reuben ... was the firstborn, but when he defiled his father’s marriage bed, his rights as firstborn were given to the sons of Joseph son of Israel.” (1 Chron.5:1).

It is not impossible, though, that there is a different kind of explanation altogether. What makes the Torah unique is that it is a book about both law (the primary meaning of “Torah”) and history. Elsewhere these are



quite different genres. There is law, an answer to the question, "What may we or may not do?" And there is history, an answer to the question, "What happened?" There is no obvious relationship between these two at all.

Not so in Judaism. In many cases, especially in mishpat, civil law, there is a connection between law and history, between what happened and what we should or should not do.[6] Much of biblical law, for example, emerges directly from the Israelites' experience of slavery in Egypt, as if to say: This is what our ancestors suffered in Egypt, therefore do not do likewise. Don't oppress your workers. Don't turn an Israelite into a lifelong slave. Don't leave your servants or employees without a weekly day of rest. And so on.

Not all biblical law is like this, but some is. It represents truth learned through experience, justice as it takes shape through the lessons of history. The Torah takes the past as a guide to the future: often positive but sometimes also negative. Genesis tells us, among other things, that Jacob's favoritism toward Rachel over Leah, and Rachel's firstborn Joseph over Leah's firstborn, Reuben, was a cause of lingering strife within the family. It almost led the brothers to kill Joseph, and it did lead to their selling him as a slave. According to Ibn Ezra, the resentment felt by the descendants of Reuben endured for several generations, and was the reason why Datan and Aviram, both Reubenites, became key figures in the Korach rebellion.[7]

Jacob did what he did as an expression of love. His feeling for Rachel was overwhelming, as it was for Joseph, her elder son. Love is central to Judaism: not just love between husband and wife, parent and child, but also love for God, for neighbour and stranger. But love is not enough. There must also be justice and the impartial application of the law. People must feel that law is on the side of fairness. You cannot build a society on love alone. Love unites but it also divides. It leaves the less-loved feeling abandoned, neglected, disregarded, "hated." It can leave in its wake strife, envy and a vortex of violence and revenge.

That is what the Torah is telling us when it uses verbal association to link the law in our parsha with the story of Jacob and his sons in Genesis. It is teaching us that law is not arbitrary. It is rooted in the experience of history. Law is itself a tikkun, a way of putting right what went wrong in the past. We must learn to love; but we must also know the limits of love, and the importance of justice-as-fairness in families as in society.

[1] This is already implicit in the story of Jacob, Reuben and Joseph: on this, see below. The sages also inferred it from the episode of the daughters of Tzelophehad. See Num. 27:7, Baba Batra 118b.

[2] Sanhedrin 107a.

[3] Gen. 29:25-26. A reference to Jacob buying Esau's birthright and taking his blessing.

[4] See Ramban to Gen. 38:8.

[5] Ramban to Gen. 26:5.

[6] This is the subject of a famous essay by Robert Cover, 'Nomos and Narrative',

[7] Ibn Ezra to Num. 16:1.

## AS HEARD FROM RABBI AVIGDOR MILLER Z'TL

"And you shall not see your brother's ox or his sheep gone astray, and hide yourself from them; you should surely bring them back to your brother." (22:1)

If you do not know who is the owner, "it shall be with you until your brother seeks it" (22:2). Thus there is a negative commandment ("you shall not...hide yourself") and a positive commandment ("you should surely bring them back") and a commandment to guard the lost object indefinitely ("until your brother seeks it"). This single law is an example of the supreme excellence of Hashem's chosen nation. No such religious obligation (as part of our service to Hashem) is even slightly emulated by any of the false religions, where-as among us, the Jewish boys throughout our history have spent many days studying this law in minute detail (Bava Metzia, Perek 2). Similarly, many such laws are studied diligently by young and old of the children of Hashem (14:1) whom He loves more than anything in the Universe (10:14-15).

Just as we are commanded to restore lost animals or objects to our fellowmen, we are thereby similarly commanded to prevent loss or damage to our fellowman's property, even though we did nothing that might cause that loss. Thus when one sees that flood-waters are about to enter the field of his fellowman, he is obliged to close off the waters from flooding the field. When a fellowman has wandered and lost his way in the fields, we are obliged to help him find his way out. These, and similar obligations, are derived from the model supplied by this commandment of Restoring the Lost Object (22:1-3).

And we may add that also included in the duty towards a fellowman that is in peril of going lost spiritually. All these obligations are included also in the Mitzvah "You shall do that which is right and good in the eyes of Hashem."