

A PARASHA THOUGHT

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GUEST CONTRIBUTOR
RABBI ELI POLSKY

Many newspapers write articles around this time of year analyzing the tax returns of the rich and famous. It is always so fascinating to read of such wealthy and powerful people - including (until recently) the president himself - and how they utilized their wealth. One item that sticks out is how much they gave to charity. Very often, the amounts - and certainly the percentages - are laughable to any Jew that knows that "to tithe" literally means giving 10%! Not the 1.2%, the 3.7%, or even the 8.9% of Federal Taxable Income that many of these people reported. Even some of those uber "1%ers," while giving away many dollars, still barely managed to make a dent in their vast net worth. (As an aside, the Chofetz Chaim writes in the Sefer Ahavas Chesed, that the restriction of not giving more than 1/5 is assuming that the giver will not have enough funds left for his own needs and will end up on the receiving end of tzedakah, himself. However, if someone has more money than he knows what to do with, he is certainly permitted - even encouraged! - to give away as much as he can to tzedakah.)

Why does the Torah place such emphasis on helping those who are in need? What about the good old American maxim that, as self-made men, people have a right to their wealth? They had pulled themselves up by their bootstraps! Why should they give any of their hard-earned cash to people looking for handouts?

Our parasha says, *Speak to Bnei Yisroel; they shall take a gift for Me—from each man whose heart wishes to give, take a gift for Me. (25:2)*

Chazal tell us that all of the Jews were so forthcoming, so generous, with their gifts, that when it came time for the Nesim—the wealthiest people—to fill in the gap, they couldn't even find a gap to fill! From where did this generous spirit arise? Of course, they were aware that they were donating towards building Hashem's house; but still—such generosity?

Perhaps the key to unlocking the source of these Jewish middos of openheartedness and openhandedness may be found in an Ohr HaChaim in Mishpatim, last week's parasha:

"Eem" [literally, "if"] you lend money to My people, to the poor man among you, do not be like his creditor; do not impose interest on him. (22:24)

So far, so good. The Torah is simply telling us that if a circumstance should arise where you lend money to someone—the poor, for example—you should not charge interest. Presumably, one is not obligated to lend money, but if one were to put himself in such a circumstance, it comes along with a set of laws.

Rabbi Yishmael says: The [Hebrew] word "eem" always means "if," with three exceptions... [one of which is] here: "Eem you lend money" means "when," not "if." (Mechilta)

This, of course, begs the question: If the Torah means "when," then let the Torah say "when!" Why does the Torah use the word "eem," which usually indicates that something is optional, and then rely on the Mechilta (a Midrash) to tell us that the Torah actually means that we are obligated to lend?

In order to understand the syntax of this verse, we must first attempt to understand a more basic question: Why does Hashem bless some people with an abundance of wealth?

We might be able to understand why some people are paupers - for whatever reason, Hashem has decided that their lot in life is to be harder than most. Through poverty they may be rectifying some sins, for which they deserve punishment. Or this might be an opportunity to come closer to Hashem than they would have otherwise.

But whatever could be the purpose of foisting more wealth upon a person than he could possibly ever need? Even Yaakov, who was considered to be the "Pinnacle of the Forefathers," merely asked (Bereishis 28:20) for "bread to eat and clothes to wear." Do we even dare to assume that this wealthy individual is more worthy than Yaakov, to the point that Hashem has decided to shower abundant wealth upon him?

This is obviously not the case.

What is actually happening here is that Hashem sends down sufficient abundance in the world

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LEARNING WITH THE KOLLEL
(CHOSHEN MISHPAT)

WITH
RABBI MEIR MINSTER

In Parshas Mishpatim (Shemos 22:21) we are warned not to cause any pain to a widow or orphan and in Yeshaya (1:17) we are told to judge [the case of] the orphan and take up the grievance of the widow, indicating that their cases should be heard first in court. (The order of this last verse would put the orphan before the widow, as well). The Shulchan Aruch (Choshen Mishpat 16:1) cites the Rambam that the case of the orphan precedes the case of the widow and the widow's case would precede the case of a Talmud Chachom, seemingly overriding the positive command to honor him. (He also mentions that a Talmud Chachom would come before an unlearned man, and an [ordinary] woman before an [ordinary] man).

By logical extension, the case of the orphan would certainly seem to precede the case of the Talmud Chachom. This presents a difficulty. First, what is the source for this ruling of the Rambam and, second, it seems to conflict with an incident in the Talmud (Kesubos 105b) where Rav Nachman even took the case of someone he [mistakenly] assumed to be the relative of Rav Anan, a great Talmud Chachom, ahead of a case involving an orphan. How can this be resolved?

It is interesting to note that Rav Nachman's decision led to a series of unintended consequences, including the orphan ultimately bungling his claim in court and the resulting censure of Rav Anan by Eliyahu Hanavi for referring the case to Rav Nachman in the first place. According to the Perisha, the Rambam understands that Rav Nachman erred in taking that case first, before the case of the orphan,

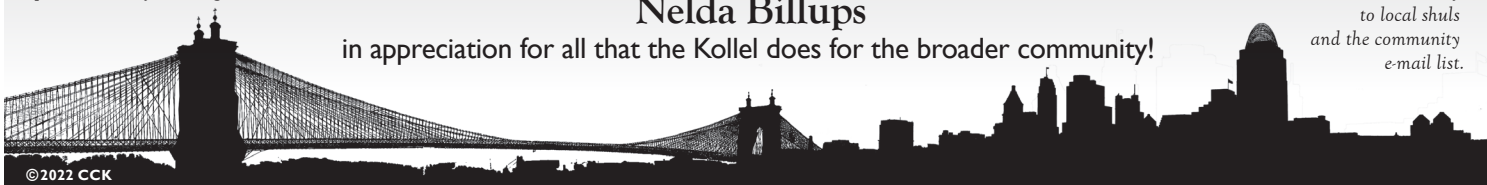
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LEARNING WITH THE KOLLEL (CHOSHEN MISHPHAT)

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and that is why the Talmud tells us that it led to disaster, thus serving as a source to take the case of the orphan ahead of the *Talmud Chachom*.

The *Ta"z* answers this conflict differently. The honor of the *Talmud Chachom* should rightfully demand that his case be heard first. However, it is within the purview of the *Talmud Chachom* to waive his honor. The assumption is always that he will waive his honor when cases of orphans and widows are involved. Rav Anan, by not communicating more clearly, unintentionally gave Rav Nachman the impression that he was insisting on exercising his rights of precedence on behalf of the case of his relative. (Which was, in fact, not the case at all – the man was not even a relative.)

The *Hafla*, taking the idea of the *Ta"z* even further, suggests that our original logical extension was flawed. He differentiates between the right of precedence of the orphan and that of the widow. The orphan is called the ward of the court and his case is heard first, because the "court is the father of orphans." The widow's right to precedence comes from the fact that we must be on guard to protect her from all indignities. Since the orphan's precedence is based in the court, it is their responsibility and not the *Talmud Chachom's*. There is no expectation that he should waive his rights and take the time away from his learning. The responsibility for the protection of the dignity of the widow, however, falls on everyone, including the *Talmud Chachom*, and he should waive his rights for her benefit. The proper order of precedence then should be the orphan before the widow, the widow before the *Talmud Chachom*, but the *Talmud Chachom* before the orphan. Accordingly, there would be a conundrum if all three were involved in different cases that were presented to the court at the same time, and it is unclear who would go first. However, the *Hafla* concludes, the language of the *Shulchan Aruch* suggests that the case of the orphan would be heard first.

Finally, the *Chachmas Shlomo* draws a distinction whether the orphan is the plaintiff or the defendant. As the plaintiff, it is to his advantage to have his case heard first, and he will feel slighted and unsettled when his case is pushed back in order. When he is the defendant,

A SHINING EXAMPLE

RABBI EPHRAIM SKOLNIK

Rabbi Green was the rabbi of a shul in Toronto which was located in a neighborhood in which the Jews were slowly moving out. Little by little his *minyan* was dwindling. Realizing it was only a matter of time before everyone left, Rabbi Green decided to move the shul to the new Jewish neighborhood. The only obstacle was that he needed a large sum of money, which he didn't have, in order to build a beautiful and inviting new building. Having no other choice, Rabbi Green approached the Royal Bank of Canada for a loan. He entered the vice president's office and sat down. "How can I help you," asked Mr. Saunders the vice president. "I would like a loan in order to build a synagogue," responded Rabbi Green. "What type of synagogue," questioned Mr. Saunders. "A place for Jews to gather and pray," replied Rabbi Green. "I understand," said Mr. Saunders, "but for what type of Jews?" Unsure where this was headed, Rabbi Green replied, "it's for orthodox Jews." A faraway look came to Mr. Saunders eyes. "I will grant you the loan," he said softly, "but let me tell you a story. I was raised by my single mother and we were extremely poor. Some days I would go to bed hungry. One day when things were particularly hard for us we were paid a visit from Mr. Hershkowitz, an orthodox Jew who owned the general store in town. He said 'Mrs. Saunders, as long as I am the

TEFILLA TIDBITS

RABBI YAAKOV MARCHUK

The next two words in every *bracha* are two names of G-d, *Adonai* and *Eloheinu*. We know that Hashem has a number of different names, each referring to a unique ability of Hashem. The *Shulchan Aruch* (*Orach Chaim*, siman 5) explains that the meaning of *Adonai* is *Master of all, Was Is and Will be*, and the meaning of *Eloheinu* is *All powerful and Has direct control over the whole universe*. It is important to keep these meanings in mind every time we say the names of Hashem, however during the first *passuk* of *Shema* and first *bracha* of the *Amidah*, without concentrating on the meaning of both names of Hashem one has not fulfilled the *mitzvah*. 🕯

owner of the general store you will have clothes for your family and food to eat. You may come and take whatever you need and I will never ask you for money. If one day you are financially stable you can repay me.' This is how I survived my childhood and became who I am today. I always wanted to repay this great kindness of Mr. Hershkowitz but I never knew how. Once you told me you were an orthodox Jew trying to build a synagogue, I felt this is the way I can repay the kindness. It would be an honor for the Royal Bank of Canada to grant you a loan." 🕯

A PARASHA THOUGHT

for everyone to have what they need and to be sated. When Hashem decides that, for whatever reason, a given person needs to be poor, He does not take that person's portion out of this world. He merely redistributes it to someone else.

The purpose of this system is twofold.

First, it accomplishes what it needs to accomplish in regards to the pauper. Second, it gives the wealthy man an opportunity to return that which is rightfully the pauper's portion back to the pauper! And once the wealthy man recognizes that all of his wealth, beyond his needs, is not really his – rather, he is being entrusted with someone else's portion – it will

however, a delay can only benefit his cause. This distinction can be used to resolve our conflict. The *Rambam* is speaking of a case where the orphan is the plaintiff, so by right, his case precedes the *Talmud Chachom's* case. Rav Nachman, however, was dealing with a case where the orphan was the defendant, so there should not have been a detrimental impact on him by pushing back his case, thus allowing Rav Nachman to honor the *Talmud Chachom*, by hearing the case of his [presumed] relative first. 🕯

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be a lot easier for him to give charity (give it back, really), and he will make sure to do it with much magnanimity.

And so the Torah says: "If you find yourself in a circumstance where you have extra **money**, more than you require for your own needs, and therefore **you** are able to **lend to my people** [or give—see *Sefer Ahavas Chessed* which proves that this verse is also referring to charity], know that this extra money is not really yours, anyway – **the poor man's** portion has been mixed in, and is **among your** portion. Now that you recognize this, **do not act like a creditor**, as someone who lords over those who ask him for money, for you are, in reality, giving him what would have belonged to him in the first place!"

Perhaps this attitude is behind the generosity that is found disproportionately among Jews, even those who dwell in the most capitalistic of societies. 🕯

