

# Toronto Torah

## Beit Midrash Zichron Dov

Parshat Mishpatim/Shekalim

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on the yahrtzeit of Rabbi Dr. Yeres' father, Rabbi Yitzchak Yeres zt"l

לעילוי נשמת הרב יצחק חיים בן משה יוסף הלוי ירם זצ"ל

This issue of Toronto Torah is dedicated by Mark Mietkiewicz  
in loving memory of his late mother Helen Mietkiewicz, Chaya bas Chayim Shmuel z"l,  
whose yahrtzeit is on 2 Adar

### Naaseh v'Nishma & Religious Maximalism

Rabbi Jonathan Ziring

Rabban Yochanan ben Zakkai would expound this verse as a type of decorative wreath [chomer], i.e., as an allegory: Why is the ear different from all the other limbs in the body, as the ear alone is pierced? The Holy One, Blessed be He, said: This ear heard My voice on Mount Sinai when I said: "For to Me the children of Israel are slaves" (Vayikra 25:55), which indicates: And they should not be slaves to slaves. And yet this man went and willingly acquired a master for himself. Therefore, let this ear be pierced. (Kiddushin 22b, Koren ed.)

Opening the myriad of laws in Parshat Mishpatim is that of the *eved ivri*, the Jewish slave. While his normal service lasts six years, the Torah gives him the option to extend until the *yovel* year if he chooses to remain, as he "loves his master" and the family he has built in servitude. Part of the process to extend his slavery entails his master piercing his ear by the doorpost. Rabban Yochanan ben Zakkai contends that his ear is pierced as he failed to hear the message of Har Sinai – that we are slaves to G-d, and not man.

However, Rabbi Yehudah Leib Alter (Sefat Emet, Shemot 657) notes that at first glance, the slave's sin is more about action, namely that he is now limited in his freedom to pursue a free religious life as he has committed himself to his human master. Why then do we focus on his ears and not, for example, his hands?

To answer, the Sefat Emet turns to the end of the parshah, where the Jews accept the Torah with the celebrated "*naaseh v'nishma* – we shall do and we shall hear." (Shemot 24:7) While many interpretations are offered for the exact meaning of these two commitments, the Sefat Emet suggests that "we shall do" refers to an acceptance of what is expected or demanded, no more, no less. "We shall hear" is more expansive, a dedication to constantly want more, to be so excited to live a life devoted to G-d that one goes out of his or her way to learn about new ways to serve G-d.

By accepting an extension of servitude, the slave purposely puts himself in a bind. As a Jew, he will still have to keep the laws of the Torah. However, he has bought himself a technical exemption from striving for a maximal religious life. Namely, as he is bound to his master, his ability to strive for excellence, and not just a minimalist service of G-d, will be hampered, and he will be forgiven, as G-d cannot expect more of him. Thus, from the vantage point of action, the slave will be doing nothing wrong. However, his real sin is his attitude, that he failed to hear that serving G-d is an opportunity to be pursued, not an obligation to be fulfilled.

The Talmud Yerushalmi (Berachot 3:3) writes that, "From where do we derive that slaves [are exempt from Shema]? As the Torah says, 'Listen Israel, Hashem our G-d, Hashem is One.'" [This

refers to] one who has no master except for G-d, which excludes a slave who has another master." According to this passage, our daily acceptance of "the yoke of G-d" is the recognition that our commitment to G-d must be complete, and cannot be shared with devotion to another. Based on the Sefat Emet, the point is sharpened. One can "get away" with performing mitzvot and pursuing other commitments. However, the true demand of *naaseh v'nishma* and Shema is to embrace an all-encompassing vision, where we want our lives to be defined, both in what we are commanded to do and what we choose to do, by G-d. That kind of commitment cannot be directed in more than one direction.

Thus, Parshat Mishpatim begins and ends with a reminder that service of G-d is a privilege we cherish, and we thus commit to fulfilling maximally, not finding shortcuts to get away with less.

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**Summary**

Our chapter begins with “These are the last words of David;” according to Rashi and Targum Yonatan, this is the final prophecy David receives from G-d. David tells of how G-d has chosen him and his descendants to rule over Bnei Yisrael for perpetuity. Unlike in nature, where many different types of vegetation grow under the sun, only David’s house will rule and vanquish its enemies. (23:1-7)

The remainder of the chapter contains a list of David’s warriors. The section begins by mentioning six heroes, who are given special treatment with a song about their accomplishments.

The greater three are listed first. Adino the Eznite leads the lineup, having slain 800 men in one battle. (8) Next is Elazar ben Dodo, who with two others – Adino and Shammah, per Radak – managed to defeat an entire Philistine army. (9-10) Shammah ben Agay fended off a Philistine raiding party single-handedly in a lentil field. (11-12)

We are then introduced to a second triumvirate, of whom only two will be named. We are told that at the Cave of Adullam, facing the Philistines, David

made a request for water to be brought from Bethlehem. Three men broke through the Philistine line on their own, bringing the water to David. However, David refused to drink because they had risked their lives to retrieve it, and he chose instead to pour it out as a libation to G-d. Avishai, brother of Yoav ben Tzeruyah, headed up this group of three, having slain 300 men by himself. However, he did not compare to the first three. (13-19)

Benayahu ben Yehoyada was part of the second triumvirate with many spectacular achievements. He struck two Moabite commanders, and slayed a lion in a well during a snowfall. He even soundly beat an elite Egyptian spear-man with but a stick, eventually killing him with his own spear. (20-23)

The list of warriors closes with a list of thirty more, beginning with Asahel, Yoav’s brother, and ending with Uriah. We are then told that there were a grand total of 37 warriors. (24-39)

**Insight**

How do we get to a total of 37 warriors, when the text itself only lists 36?

- Rashi posits that “of the sons of

Yashen, Yonatan” in 23:32 refers to multiple warriors.

- Rabbi Yosef Kara suggests that the 37 actually refers to the number of men slain by Benayahu.
- Malbim suggests that Elifelet ben Achsabi ben Maachati in 23:34 is actually two people; this is the way those names appear in Divrei HaYamim.
- Radak says the 37<sup>th</sup> warrior is Yoav, David’s military commander, and he is left off because of his complex relationship with David. One might then ask why Uriah is on the list; indeed, Rabbi Amnon Bazak suggests that the text deliberately stops the list after Uriah for dramatic effect, to highlight David’s shame in arranging Uriah’s death.

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**The Israeli Farmer: Disposing of Orlah Fruit**

**Ezer Diena**

Shulchan Aruch Yoreh Deah 294:1 writes: “One who plants a [fruit] tree should count three years from the time that he plants it. One may never benefit from any of the fruits that [grow] on it within three years, whether the main fruit, or the seeds or the peels...” Thus, it is prohibited not only to eat the fruits of an *orlah* tree, but even to benefit from them in any way.

However, what should be done with *orlah* fruit? Is there any specific mitzvah regarding disposing of it? Mishnah Temurah 7:5 (as interpreted by the Talmud in Temurah 34a) answers our question by writing that in regard to *orlah* and *kilei hakerem* (plants which grew among other species in a vineyard), dry materials should be burnt, and liquids should be buried. Yet, one would be hard-pressed to find any contemporary farmers who actually fulfill this ruling – why is that so?

The authors of Tosafot (Temurah 33b, s.v. *elu*) are troubled altogether by this mishnah’s ruling. They were aware of a source requiring burning for *kilei hakerem*: Devarim 22:9 wrote “*pen tikdash*” about them, and the Talmud (Kiddushin 56b) interprets that as a requirement to burn them. However, they were not aware of any source to require burning *orlah*. Nevertheless, Tosafot cite Rashi (see Temurah 33b, s.v. *kilei*) as explaining that there is a textual link (*hekesh*) between *orlah* and *kilei hakerem*.

As noted by Rabbi Yehudah Leib Alter (Sefat Emet ad loc., s.v. *vehaorlah*), this is difficult, since we do not find any such link between *orlah* and *kilei hakerem* in the Talmud. [Furthermore, the Talmud in Kiddushin 56b does **not** derive the prohibition to benefit from *orlah* from a *kilei hakerem*,

despite this alleged link.] Nevertheless, the ruling of this mishnah stands, so that there should be an absolute obligation to burn all *orlah* fruits. The authors of Tosafot (Succah 35a, s.v. *lefi*) even argue that this obligation is biblical!

Rabbi Shemuel Strasson (Rashash ad loc., s.v. *et shedarkan*) argues, based on another detail in this mishnah, that even Rashi and Tosafot would agree that there is no absolute obligation to burn *orlah* fruit, since the obligation was not detailed explicitly in the Torah, and is only derived from the Torah’s language. Interestingly, many later authorities point to an early source for this view in Rabbi Yom Tov el-Asvili, who explicitly wrote (Ritva to Sukkah 35a, s.v. *venachon*) that there is no requirement to burn *orlah*, just that it “stands to be burnt”. One could add that Ritva (Chullin 115a, s.v. *ve'im tomar basar*) also makes an argument similar to that of Rashash, that the Torah should have recorded an explicit obligation to burn *kilei hakerem*.

Although many authorities disagree with Rashash’s interpretation of Rashi and Tosafot, Rabbi Moshe Sofer (Chatam Sofer, Yoreh Deah 286) argued that Rambam omitted the burning requirement in his discussions of *orlah*, and Shulchan Aruch omitted this ruling altogether, since it is not a requirement, in line with the views discussed above. This lenient view dominates the halachic literature (see, e.g. Aruch HaShulchan Yoreh Deah 294:3, Peninei Halakha Kashrut 1:2, footnote 3), and seems to be practically accepted today.

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## Biography

### Rabbi Shemuel Wosner

Rabbi Alex Hecht

Adapted from a column

by Rabbi Mordechai Torczyner

Shemuel Wosner was born to Yosef Zvi and Rachel Wosner in Vienna in September 1913. In 1931, he travelled to Lublin, Poland to seek entry into Rabbi Meir Shapiro's Yeshivat Chachmei Lublin. Initially, he was [declined](#) due to his relatively young age. While he waited for the train back to Vienna, he remained in the Beit Midrash to learn. Rabbi Shapiro approached him to confirm that he knew that he had not been accepted. Shemuel said that he was aware, but since his train would not leave for a few hours, he wanted to learn Torah in the meantime. Rabbi Shapiro was so impressed with Shemuel's diligence that he admitted him then.

Rabbi Wosner learned in Chachmei Lublin until he married and moved to Jerusalem ahead of World War II. In Jerusalem, he studied under Rabbi Yosef Zvi Dushinsky and apprenticed to Rabbi Shimshon Aharon Polansky before becoming Rabbi of Givat Shaul. He also joined Jerusalem's "Edah haChareidis", with which he remained affiliated until his passing in 2015.

With the support of the Chazon Ish, Rabbi Wosner moved to Bnei Brak at the end of the 1940's, and he established a yeshiva named "Yeshivat Chachmei Lublin". He also became the Rabbi of the Zichron Meir community, a position he held until he passed away.

Rabbi Wosner was considered one of the leading halachic authorities of Israel's *haredi* community, and his books of responsa, *Shevet haLevi*, include rulings related to every major technological advance of our day, including the standing of DNA forensics in halachah, the use of motion sensors on Shabbat, the permissibility of copying digital intellectual property, and the kashrut of fish infested with the anisakis parasite. Rabbi Wosner tended toward conservative positions, but his views are cited with respect across the spectrum, including by organizations like the Orthodox Union's Kashrut division and by the halachic authorities affiliated with Shaare Zedek Medical Center in Israel.

Dozens of Rabbi Wosner's students, as well as his many children and grandchildren, now lead communities across Israel.

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## Torah and Translation

### Motion Detectors on Shabbat

Rabbi Shemuel Wosner, *Shevet haLevi* 9:69

Translated by Rabbi Alex Hecht

...אין חשש איסור בזה...

...דיסוד מלאכת שבת פעולת מלאכה, וגם שיהי' מלאכת מחשבת, אבל מחשבת בלי מלאכה המצטרפת לזה לא אסרה תורה. והיינו נמי טעמא פלוגתת ר"ש ור"י בדבר שא"מ דגורר מטה כסא וכו' דר"ש מתיר כל זמן שאינו פס"ר בודאי, הגם שע"פ רוב יעשה גם חריץ דכ"ז שאינו הכרח גמור שיעשה גם חריץ, אין מעשה פעולת הגרירה מתיחסת עוד לעשיית חריץ רק מעשה גרירה לשם גרירה, ונמצא שנעשה חריץ בלי פעולה מתיחסת אלי'...

פלוגתא ביסוד זה בין השב"א והר"ן... לענין נעילת דלת בעוד הצבי בתוכו, אלא דהרשב"א דעתו דנעילת דלת היותה פעולת היתר רגילה אינה מתיחסת לצידה כל זמן שעדין לא חישב עליה, ונמצא שיש תוצאה של צידה בלי פעולת המלאכה והר"ן חולק בזה, כיון דסו"ס עושה מעשה צידה מובהקת אנו מצרפים מעשה הנעילה ע"י הדלת... ובוה יש לדון אם דברי הרשב"א הלכה הם או לא.

אבל...כשאדם אינו עושה כלום ממש והולך לדרכו לפי תומו ואינו מוסיף אף תנועה אחת למען מלאכה אף שבגרמתו נדלק אור או דבר כיו"ב בזה פשיטא שכל זמן שאינו חושב ממש ללכת למען הדליק וכיו"ב שאין אנו מצרפים הליכתו הרגילה להתוצאה הנ"ל, ואין כאן פעולה של מלאכה...

ומובן דאין זה דומה לדון השכיח היום שדלתות בית נפתחות ע"י עין אלקטרי ע"י הנכנס לתוכו דבזה ודאי איכפת לי' בתוצאה של כניסתו ואסור...

...There is no concern of violation [in walking past a motion detector which activates a light on Shabbat]...

...The foundational principle of labour (*melachah*) on Shabbat is the **action** of *melachah*, and that it is *melechet machshevet* [intended to produce this result]. However, the Torah did not prohibit thought without *melachah* connected to it. This is also the basis of the disagreement between Rabbi Shimon and Rabbi Yehudah regarding an unintentional result, [in the case of] dragging a bed or a chair [over dirt]. (Beitzah 23b) Rabbi Shimon permits this, as long as it is not a *psik reishai* ["cutting the head," i.e., causing an inevitable violation of law] with certainty. Even though this will create a furrow in the majority of cases, as long as it will not definitely create a furrow, the action [of dragging] is no longer [considered] connected to the creation of the furrow; it is [merely considered] dragging for the sake of dragging, and the furrow is [considered] to have been created without a corresponding action...

This is subject to a disagreement between Rashba and Ran... regarding one who closes a door while a deer is inside: Rashba (Shabbat 107a) maintains that closing a door is a permitted action that is done regularly, and is not connected to trapping as long as one does not intend to [trap]. [It is as if] there is a result of trapping without an action of *melachah*. Ran (38a *b'dapei haRif*) disagrees with this. Since, ultimately, [a person] performed a bona fide act of trapping, we connect it to his act of closing the door... It remains to be determined whether the words of Rashba are the halachah or not.

However...when a person does not do anything at all, and walks along his way innocently and does not add even one movement for the sake of the *melachah*, and nevertheless, the light is activated or something similar happens, it is obvious that as long as he does not actually intend to walk in order to activate the light, we do not connect his walking normally to the result. There is no **action** of *melachah* here...

Of course, this is not comparable to the common case today in which the doors of a house are opened through an electronic sensor by the one who enters. Since, in this case, one certainly cares about the result of his entry, it is forbidden...

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**9:30-11:00 AM Sunday Feb. 14: Medical Ethics**

**Rabbi Mordechai Torczyner, Alternative Medicine**

CME accredited; Laypeople welcome; Free, but please register at <https://torontotorah.com/cme>

**8:00-10:00 PM Sun. Feb. 14: Pre-Purim Learnathon!**

**Rabbi Sammy Bergman, Liturgy: Shoshanat Yaakov: The Song that Never Ends**

**Rabbi Mordechai Torczyner, Zachor: When Shemuel Executed Eichmann ש"מ**

**Rabbi Alex Hecht, Halachah: Megillah Via Zoom?**

**Rabbi Chaim Metzger, Megillat Esther: Advisors Make or Break a King**

**10:00 AM Wed. Feb. 17: The Strongest Jew: Samson, a 3-part series**

**Rabbi Mordechai Torczyner, Week 3: Betrayal and Emunah**

Register at <https://torontotorah.com/samson>

**8:15 PM Wed. Feb. 17: Supernatural Beings, a 5-part mini-series**

**With Rabbi Chaim Metzger, Week 4: Constellations**

**DAILY**

**Mon-Thu 10 AM to Noon, with Rabbi Moshe Yeres, via ZOOM (men)**

**Monday/Wednesday: Gemara Succah, Orot haTeshuvah**

**Tuesday/Thursday: Parshah, Tanach: Shemuel**

**WEEKLY**

**Shabbat Feb. 13**

After minchah at Shaarei Shomayim, R' Sammy Bergman, Purim: Holiday of Mischief

**Sunday Feb. 14**

**9:20 AM Contemporary Halachah with Netanel Klein (not this week)**

**10:00 AM Gemara Shabbat with Rabbi Aaron Greenberg (University)**

**7:30 PM Gemara Ketuvot with Rabbi Mordechai Torczyner (men) (not this week)**

**8:15 PM Midrash on the Parshah with Rabbi Chaim Metzger (not this week)**

**Tuesday Feb. 16**

**1:30 PM Megilat Esther, with Rabbi Mordechai Torczyner**

**7:30 PM Shoftim, with Rabbi Mordechai Torczyner (men)**

**Wednesday, Feb. 17**

**6:15 AM Talmud Eruvin, with Rabbi Sammy Bergman**

**7:30 PM Genesis Journeys, with Rabbi Sammy Bergman**

**7:30 PM Greatest (Halachic) Hits of COVID, with Rabbi Alex Hecht**

**Thursday Feb. 18**

**8:30 AM Daniel, Rabbi Chaim Metzger (University)**

**1:30 PM Shemuel, with Rabbi Mordechai Torczyner (women)**

**8:00 PM Gemara Beitzah, with Rabbi Eitan Aviner (men, advanced)**

**8:15 PM Gemara Bava Metzia, with Rabbi Sammy Bergman (University women)**

**Friday Feb. 19**

**8:30 AM Parshah, Rabbi Sammy Bergman (University)**

**10:30 AM Shemitah! with Rabbi Sammy Bergman and Rabbi Mordechai Torczyner**