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Crime and Punishment

Rabbi Paul Seiger, former chaplain at a Missouri prison, tells the tragic but true story of a homicide that might have been prevented. It seems the victim had received a **phone call from a tormentor** who said that a "contract had been put out on his life." Having no doubt about the seriousness of the threat, the man went to the police. They said they were unable to offer him protection. Exactly one week later he was murdered.

Up until the recent passage of **laws against "stalking,"** there was relatively little a person could do to protect himself against such threats. Even today, there are still great limitations to the law. Civil law does not allow for "**pre-emptive punishments.**" In fact, in making stalking a crime, legislators upheld the principle that you cannot punish someone before he has

committed a crime; they simply defined stalking as a "crime."

But let's imagine that it were **possible to know in advance** that someone was going to commit a crime. Would it be right to lock such a person up?

This question stands at the heart of the "**rebellious son,**" a topic featured prominently in this week's Torah portion. The rebellious son is a child who - despite discipline from his parents - chooses to follow an evil path. He abandons all semblance of moral rectitude and even **steals money from his parents** to spend on gluttonous behavior. Past actions have brought him to punishment by the court ... yet he refuses to change his ways.

Despairing of all hope of rehabilitation, the parents come before the court to declare their child to be a "ben sorer u'morre" - a rebellious son. If, after investigation, the court finds that he is indeed a rebellious son, the child is **put to death.**

The seemingly incredible **harshness of this punishment** is discussed by the Torah commentaries. To begin with, it should be made clear that the entire issue of the rebellious son is a **theoretical** one. The Talmud makes this point by saying that "there never was nor will there ever be" a child put to death based on this law. There are, in fact, such detailed specifications for implementing this law that it is **virtually impossible** for there to ever be a rebellious son.

If so, why does the Torah dedicate an entire section to this topic? The commentaries explain it is to teach us a number of **important lessons.**

On a basic level, the Torah is emphasizing the deep responsibility parents have in raising their

children. The Torah is warning that if a child is not disciplined properly, he can eventually fall into criminal activities. Though there are obviously a multitude of factors, the truth is that a child who goes astray was most probably **lacking some key element** in his early childhood education.

Rashi, quoting the Talmud, explains this topic in a deeper way: The harsh punishment is **not for crimes already committed** - but to prevent future more serious criminal acts. Continuing in his evil ways, the rebellious son will eventually become a highwayman, stealing and assaulting people. Rather than allowing him to die as an older man with the blood of his victims on his hands, the Torah says that he should die now before he victimizes others and **casts terrible evil on his own soul**.

On a practical level, human beings do not have the foreordained knowledge to know with certainty that a person is going to commit a crime. Thus for us, preemptory punishments are inappropriate. But, the Zohar says, it is different with God Who has ultimate knowledge. Oftentimes God brings hardships upon a person, not as punishment for a past crime, but as a **preventive measure against future wrongdoing**. Both our past and potential future is revealed before God.

As the High Holidays approach, this is an important lesson to keep in mind.



Long Life and Honoring Parents

In 1964, Arno Penzias and Robert Woodrow Wilson, two young astronomers, stumbled on the origins of the universe completely by accident. Sitting at their desks at Bell Labs, New Jersey, they suddenly picked up a strange buzzing sound from their telescope. The noise was emanating from all parts of the sky at all times. Puzzled by the odd signal, Penzias and Wilson did their best to eliminate all possible sources of interference, even removing some pigeons that were nesting in the antenna.

A year later, it was confirmed - this inexplicable hum was in fact Cosmic Microwave Background (CMB), the radiation left over from the birth of the universe, providing the strongest possible evidence that the universe expanded from an initial violent explosion, known as The Big Bang. The CMB remains one of the most important scientific discoveries in history. In one fell swoop, the Big Bang theory - the theory that the universe had a beginning - displaced the dominant Steady State Model - that the universe had no beginning, that it simply always was.

Of course, this idea that the universe had a beginning, that it was created anew, is what Jews have maintained for thousands of years.

The subject of the origins of life comes up in this week's parsha, Ki Tetzei, via a surprising

route. In the parsha, we read about the mitzvah of *Shiluach HaKen* - sending away the mother bird before taking the eggs or fledglings from the nest. The reward the Torah promises for this seemingly minor action is startling "...so that it will be good for you and your days will be lengthened" (Deuteronomy 22:7).

There is in fact only one other mitzvah in the Torah for which the reward is long life: the commandment to honour one's parents (Deuteronomy 5:16). The Talmud says this refers to life in the next world, which is truly eternal. Why is long life associated with these two commandments?

The Kli Yakar draws the connection between sending away the mother bird and honouring one's parents - they are both mitzvot which involve honouring parents, whether human or avian.

But the Kli Yakar takes it one step further. He says the great reward promised for the fulfilment of these two mitzvot is because they touch on one of the foundational Jewish beliefs - that God is the Creator of all existence.

Both mitzvot encourage a person to think about origins. When we show respect to our parents, we acknowledge them as the source of our very existence. When we send away the mother bird, we are likewise showing sensitivity to the plight of the mother, the source of life for these eggs or fledglings. Reflecting deeply on this should eventually lead us to reflect on the source of all life - the Creator Himself.

The Talmud says there are three partners in the creation of a child - a father, mother and God. By respecting our parents, we are acknowledging those who gave birth to us. But

our parents were also the product of their own parents. And that set of parents, our grandparents, were in turn the product of their parents, our great-grandparents, and so on, going all the way back to the beginning of time, to the first set of parents, Adam and Eve, who were brought into existence by God Himself. So by implication, by honouring our parents, we are also acknowledging our Father in Heaven, the Creator of the universe, the One who brought everything into being.

And that's why, explains the Kli Yakar, Shabbos and the mitzvah of honouring our parents are juxtaposed in various places in the Torah, including the Ten Commandments. Shabbos is an even more explicit acknowledgement of God as the Creator of the universe. When we keep Shabbos, we are testifying to the fact that God created the world in six days and rested on the seventh. When we say Kiddush on Friday night, we refer to Shabbos as "a remembrance of the acts of Creation". This is why Shabbos is not just something we do or observe, it's something we believe.

The Kli Yakar calls this foundational idea - that God created the universe anew, from nothing - *Chidush HaOlam*, literally "the newness of the world". Of course, this "newness of the world" stands in direct contrast to what was, as we have said, the accepted scientific wisdom from the time of Aristotle until deep into the twentieth century: that the physical universe had always simply existed. Only with the acceptance of the Big Bang theory has science taken the tentative first steps towards Jewish belief. Today, science endorses the newness of the world - but obviously what lies at the heart of Jewish belief is that God created everything in the universe, and it is this article of faith that animates these

three mitzvot of honouring parents, sending away the mother bird and Shabbos.

The very first mitzvah in the list of the 613 commandments compiled by the Rambam is belief in God. What's interesting is how the Rambam frames it at the beginning of his magnum opus, the *Yad HaChazaka*: "The foundation of foundations and the pillar of wisdom is to know there exists an original source, and that He brought into being everything that exists, and that everything which is found in heaven and earth, and between them only came into being through the truth of His Creation." Notice how the Rambam intertwines the idea of God's existence with the idea that He created the universe. In Jewish thought, these two ideas are inseparable. Notice also that the Rambam writes here that we should "know" that God created the world, and yet when he compiles his list of the 613 mitzvot in another of his major works, the *Sefer HaMitzvot* - he stresses the importance "to believe" in God as the Creator of the universe.

What is the difference between these two ways of phrasing the mitzvah "to believe" or "to know"? To explain the distinction, Rav Yosef Dov Soloveitchik says when the Rambam refers to believing in God, he means the intellectual understanding and acceptance of this foundational article of faith, whereas to know that God exists refers to more of an experiential reality - knowing God is about living God, and feeling His presence and seeing His hand in everything. "To know" there is a God means taking belief beyond the realm of the intellectual and philosophical, and applying it in practical terms. Belief lies in the realm of philosophy and ideology; knowledge is more real; it is about living with an idea every single day.

Rav Soloveitchik cites a passage in the Talmud (*Chagigah 16a*): "He who looks at three things - a rainbow, a Nasi (the head of the Sanhedrin), and the Kohanim (while they are delivering their priestly blessing) - his eyes become dim." He interprets the Talmud to mean that someone who sees a natural phenomenon and does not recognise the Hand of God in that phenomenon is not seeing the world for its true reality. Rav Soloveitchik explains that all three refer to situations wherein one should see and feel the presence of God, and that if someone looks at these things and does not see God, they lack sensitivity and discernment, and their eyes "become dim" as a result.

In a rainbow, one can see the magnificence of God in the physical world. We have to be able to look at God's awesome Creations and see their beauty and perfection. Similarly, when one sees a Nasi, the head of the Sanhedrin and a great Torah scholar, one is confronted by the awesome intellectual and spiritual power that God has created and bestowed on man. We should be inspired by the greatness of the human mind. And when the Kohanim bless the people, we feel the presence of God in another way. We read that the Kohanim are commanded "to bless the nation of Israel with love". Rav Soloveitchik explains this is why, when the Kohanim recite the blessing prior to *Birkat Kohanim*, their hands are clenched, and, as they turn around to face the people and bless them, they open up their hands. A clenched fist symbolises selfishness and self-absorption, while an open hand symbolises love and concern for the well-being of others. When we see this love and appreciation for others on the faces and through the gestures of the Kohanim, we should feel the presence of God, Himself.

Rav Soloveitchik cites Rabbeinu Bechayei, who says when one witnesses the love between a mother and her child, one sees the presence of God.

To know God is to live with an acute awareness of all the miracles around us. It is to view the world with fresh eyes, with a sense of wonder and appreciation. It is to see God's presence in everything; to feel close to God in good times and difficult times. To know God is not an intellectual pursuit, it is an experiential reality that colours the way we live, that animates life itself.

What's remarkable is that these big ideas, these foundational truths that lie at the very heart of Judaism, are opened up for us by something as seemingly small as the mitzvah of *Shiluach HaKen* - sending away the mother bird.



Treating Animals Properly

One of the greatest moral developments in the last century is reflected in the way we treat animals. From time immemorial, societies subjected animals to sadistic cruelty and savage abuse simply for the convenience or entertainment of humans. Today, however, most developed societies have a comprehensive system of laws in place to protect animals from unnecessary harm. In celebrating and honouring

the value inherent in all of creation the Torah was one of the first codes to ever legislate against animal cruelty, several examples of which appear in *Parashat Ki Tetzei*.

One of the more famous and enigmatic examples of the protection of animals is the legislation concerning a mother bird and her nest eggs:

If you happen upon a bird's nest... and the mother bird is roosting over the young birds or eggs, you shall not take the mother with the young. Rather, you shall surely send the mother bird away, and take the young for yourself, in order that it will be good for you (*Deut. 22:6-7*).

Maimonides understands the underlying purpose of this law as being to discourage people from taking the eggs or chicks from the nest at all (*Guide for the Perplexed* 3:48). Since such young birds and eggs are most likely unfit for consumption, in the face of this requirement to shoo away the mother bird from her children, many people will not bother with approaching the nest at all and spare it in its entirety. Such behaviour can inculcate compassion forcing confrontation with the emotions of a potentially bereaved mother. Through bringing us to consider the emotional state of a parent, of any species, the Torah is guiding us to heighten, condition and reinforce our understanding for the emotional welfare of all.

Rabbi Obadiah Sforno, a sixteenth-century Italian commentator, offers an explanation of this law that is surprisingly relevant for our own society. He points out that if one were to swipe both a mother bird and her offspring, one would have effectively destroyed that family line. By sending the mother bird away, we offer her the

chance of beginning her life anew, of producing more children and playing her part in the perpetuation of her species. In other words, the Torah is raising our awareness of environmental conservation. When utilising natural resources, one of the most important considerations must always be sustainability. We cannot simply take what we want from the earth, because it cannot always replenish itself to keep up with our desires. The spirit of this law teaches us to be constantly reassessing our relationship with our environment, to ask ourselves whether we are leaving sufficient resources to sustain our children and whether we are calibrating our actions to ensure that we don't exhaust our natural habitat. Sforno's interpretation of this law teaches us that the thoughtless destruction of an entire line of a species is a desecration of God's natural system.

There is an important lesson that we can learn from the explanations of both Maimonides and Sforno in relation to this most unusual commandment. The Torah is painfully aware that our perceived dominion over animals may easily lead us to practice cruelty, greed and destruction upon our helpless fellow creatures. Equally, it is concerned with inculcating the character traits of empathy and kindness within all of humanity. With the advantages and intelligence, we have over other species, comes great responsibility. Through commandments like this, relating to our behaviour towards animals, we are guided towards a life of care and concern to all creatures.

When hiring educators, those with the sacred task of teaching the next generation, I often do so in coffee shops and restaurants. One reason I enjoy interviewing in this context is to see how the potential employee acts towards the people

around us – the staff and strangers who could be perceived to be insignificant to our conversation. When sharing this strategy with a student of mine, they quoted Sirius Black, who, in a rare moment of acting as a good role model, tells Harry Potter and his friends, 'if you want to know what a man's like, take a good look at how he treats his inferiors, not his equals.' On the way to the top of the figurative food chain, many can lose their sensitivity towards those lower down. Through commanding us to treat animals in a humane way, the Torah educates us to maintain our humanity in everything we do.



Human Life

In this week's portion, we are commanded to help someone load and unload their animal if they are having difficulty. What if you find two people who both need help, one with unloading the animal and one with loading? The Sages say that you should help with the unloading first, because the animal is potentially in pain and therefore it takes precedence.

The principle of not causing pain to animals is a very important one in Torah. Animals, we believe, are here for us to use - but not abuse. This is a significant distinction. To use an animal for human needs - agriculture, transport, food, clothing - is not only permitted, it is considered doing the animal a favor. Instead of

living a mundane and robotic existence, this gives it the opportunity to play a meaningful role in God's purpose for the Universe.

To cause an animal pain for no purpose, however, is completely prohibited. The way calves are treated to make tender veal, the way hens are kept for eggs, or the way many animals are transported nowadays is frowned upon by Judaism. Torah invented the idea of animal rights at a time when no other society even believed in human rights.

It is important, though, not to take the idea too far. A few years ago, high school students in America were surveyed. If they saw their dog and a stranger drowning and they could only save one, which would they save? Over 80 percent said they would save their dog.

My sense is that the reason for this response is not because these students were taught to value animals so much, but rather they have not been taught to value human beings enough. I don't believe that anyone who appreciates the value of human life could even consider saving an animal first. Only in a society that has lost its respect for human life can such an answer be given. And when violent crime is commonplace and the average child sees hundreds of deaths on TV and film, respect for human life is bound to suffer.

As with anything, a balance is needed. Animals are to be respected and appreciated. But human beings must be respected and appreciated much, much more. Do not substitute animals for people. As much as our fellow humans might sometimes frustrate and upset us, it is they, not animals, who are created in God's image.

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