

Small Tastings of Torah, Judaism and Spirituality

From **Rav Binny Freedman**

(Portion of Mishpatim)

We had an aunt in our family who was a very special person and had been a kindergarten teacher for many years, with a lot of experience in child education. Although she passed away a number of years ago, I still have fond memories of some of the discussions I had with her regarding educational questions. One that stands out in my mind was how she dealt with a child whom she termed a 'biter'; perhaps seeking attention, he would sometimes bite other children. No amount of explanation and cajoling seemed to work, and one can imagine the impact this must have had on other children and their parents. So, one day when he was caught biting a fellow kindergarten classmate, she promptly took his arm... and bit him back!

After a moment of shock, the boy burst into tears, but as she described it to me, it was the last time he bit another child! I wonder what the result of such a decision would have been today. Would she have been summarily terminated? Disciplined? Put on trial? In fact, the boy's mother actually appreciated her action as it finally put an end to what had been a very difficult and embarrassing dilemma for them as parents.

It reminded me of a difficult experience I had, though under very different circumstances.

Many years ago, I and a number of my men were attached to a paratrooper unit in the reserves for a few weeks of reserve duty in the Gush Etzion and the Hebron region. Part of an IDF army experiment during the 'knives intifada' of 2013-14, the idea was to insert seasoned and older commanders with younger reserves units; the better to marry the wisdom and calm of older commanders with the physical prowess and high motivation of younger soldiers. For the most part this experiment actually worked in a number of difficult situations, though as a fifty-year-old, keeping up the pace on midnight ambushes and patrols with twenty-five-year-olds proved to be a bit more than some of us had bargained for....

Of all the challenging experiences that month, the ones that stand out the most are the 'hafsadim' (hafarot seder, or Palestinian riots) we were sometimes called to.

On one particular instance, as part of the ready alert squad, we were sent to El Aroub, a nasty little Arab village on the Northern end of Hebron. Teens would often throw rocks, bottles, and iron bars at Jewish civilians driving along the highway near their village, and army units would be called in to protect the roads and clear the way so civilians could drive safely. But on this particular day, a jeep had caught two teenagers throwing rocks (a Jewish mother and her two children had been severely injured as a result...) and they had been taken to the local army base for processing.

A crowd very quickly gathered and by the time we got there a few hundred people had gathered including rock throwers and masked Palestinians riling up the crowd, alongside women and children.

The real fear we felt as soldiers (bear in mind we were not allowed to use live fire unless we could later prove our lives were in danger, and many of us did not even have live ammo in our guns) was in large part due to a story that we had been told about from the reserve unit serving in the area the month before we arrived.

Some of the Palestinian kids had become expert in the use of slings and would regularly use larger marbles in their slingshots aiming them with an impressive degree of precision at the IDF Soldiers. A deputy

Commander in an exactly similar situation had been hit in the knee by such a marble. It completely shattered his kneecap and ended his military career to put it mildly.

We had been warned what such a marble might do to us in the event we were hit and many of us had stuffed wads of thick newspapers into our pants to protect our groins; not exactly a high-tech solution but better than nothing. So the men were tense and quite nervous as we arrived on site. It was then that I noticed one of the guys, who looked to be no more than twenty-two, had a very non-regulation pistol in his belt. When I asked him about it, he grinned and showed me it was a lethal BB gun that held steel pellets. I had never seen anything quite like it and he showed me it even had a laser site with a movie-like red dot that would allow him to hit a target at 50 yards, or so he claimed.

“Anyone I see with a slingshot is getting one in the knee” he said; “only way to put a stop to these guys ...”

But he had picked the wrong commander to share this with as I confiscated the gun, unloaded it, and left it in the Command car with the driver. A lively debate ensued on the way back (fortunately we were able to disperse the riot with tear gas and a few arrests and no-one was hurt ...) to base, with my position being I might well have saved him from a court martial, and from doing something really stupid (imagine if a child got hit with one of his steel pellets...).

His position? Quite simply: ‘there is only one language they will understand, and it’s in the Bible: an eye for an eye ...’

So... who was right?

This week’s portion of *Mishpatim* is famous for many of its laws, one of which is, indeed the famous exhortation (*Shemot* (Exodus) 21:24):

“An eye for an eye, a tooth for a tooth, a hand for a hand and a foot for a foot...”

Seems pretty barbaric; but maybe it works? Saudi Arabia, as an example, apparently has a relatively low crime rate, perhaps as a result of its policy that thieves caught in the act may be sentenced to the cutting off of their right hand. Maybe if every teenager caught throwing a rock at a moving car was lined up against a wall and a Major league baseball pitcher was employed to fire a 90 miles per hour fastball shattering their elbow, there would be significantly less incidents of rock throwing at civilians?

In truth, Jewish tradition does not see it this way as **Rashi** famously notes (based on the Talmudic discussion in tractate *Baba Kamma; perek hachovel*), we are really speaking of monetary compensation. Specifically, how much less worth would such a person (minus an eye or a tooth etc.) fetch on the job market.

Indeed, **Maimonides** makes very clear (*Hilchot chovel u’mazik* 1:2-3) that this is a law of monetary compensation, pointing out in his introduction to his commentary on the Mishna that this is a tradition given to Moses at Sinai which is why there is no debate about it in the Talmud: everyone agrees one cannot literally take an eye for an eye.

This, of course, begs the question: why didn’t the Torah simply describe it as monetary compensation? Why is this tradition in the Torah stated in such a barbaric fashion?

One possibility mentioned by the Rambam (ibid. *chovel u’mazik* 1:3), suggests that it is important that everyone concerned, and particularly the transgressor, understand, that it is not possible to compensate the person who has been hurt. No amount of compensation will *ever* make up for the loss of an eye, so the Torah

tells us that even though the tradition and the law will only extract monetary compensation, he will forever be owed, an eye....

We live in a world where increasingly we think we can fix everything; it's just a question of how much it costs. But some things cannot be bought and paid for and can never be fixed. In the world of 'me too', a person who has been violated or abused will never fully be compensated for the pain and suffering they have endured. Long after the perpetrator is sentenced and the media has moved on, the victim will still be living with the demons of that abuse....

There is, however, a second approach, possibly based on a *Tosafot* in *Sanhedrin* 58b, who suggests that in the event the rabbis feel crime is not being deterred, the Torah actually leaves open the possibility of cutting off a person's hand to deter crime.

Think about it: if the Torah had just written that a person must be compensated for the loss of a hand or an eye, then a wealthy person might well decide to cut off a person's hand and simply pay what the hand was worth! Indeed, this might eventually mean that the poor would be terrified to offend the wealthy for fear of such retribution! So the Torah leaves this opening so that any corrupt and wealthy individual would know that if monetary compensation is not enough of a deterrent, the *Beit din* (Jewish court) has more painful options available....

And while this is a radical suggestion, when looking at the world stage, it is worth considering the value of deterrence. For fifty years, through the cold war, serious deterrents prevented either superpower from doing the unspeakable, keeping the world safe from a possible nuclear Holocaust. Indeed, this seems to be a major part of Israel's military strategy, and the reason they respond with significant force every time an errant Syrian mortar shell lands in the Golan, or a *Hamas* missile lands in an open field in the South.

Perhaps we would do well to create our own deterrents in our search for success in overcoming our own personal challenges? Imagine if every time you spoke in anger, you had to do the dishes, take out the garbage or (horror of horrors) wash the floor?

Something to think about....

Shabbat Shalom from Jerusalem,

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