

# תורה מציון Torah MiTzion

RELIGIOUS ZIONIST KOLLELS כוללים ציוניים בתפוצות

## Shabbat Shalom from Torah MiTzion

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## The Sin of the Blasphemer

**Rabbi Yossi Slotnik, former Rosh Kollel, Cape Town**

At the end of this week's Torah portion, the Torah tells the story of the blasphemer and conveys God's instructions about how to deal with him. We will not discuss the entire section here; rather, we will focus on these instructions.

And God spoke to Moses, saying: Take the blasphemer outside the camp; and let all who were within hearing lay their hands upon his head, and let the whole community stone him. And to the Israelite people speak thus: Anyone who blasphemes his God shall bear his guilt; if he also pronounces the name "God," he shall be put to death. The whole community shall stone him; stranger or citizen, if he has thus pronounced the Name, he shall be put to death. If anyone strikes any human being mortally, he shall be put to death. One who strikes an animal mortally shall make restitution for it, life for life. If anyone injures his fellow, as he has done so shall it be done to him: fracture for fracture, eye for eye, tooth for tooth. The injury he inflicted on another shall be inflicted on him. One who strikes an animal shall make restitution for it; but one who strikes a human being shall be put to death. You shall have one standard for stranger and citizen alike, for I the Lord am your God (*Leviticus* 24:13-22, translated based on the following Seforno).

The subject of this section is clear - the law regarding one who blasphemes his God. This law begins the section and establishes that "stranger or citizen, if he has thus pronounced the Name, he shall be put to death." The context, both before and after the law, is an actual case of a blasphemer. The story concludes with the carrying out of his sentence:

"Moses spoke thus to the Israelites. And they took the blasphemer outside the camp and pelted him with stones. The Israelites did as God had commanded Moses."

In light of this, it is surprising that the heart of the section is a sequence of laws which relate to killing and injuring. These laws do not seem related to the law of the blasphemer, since they concern a physical attack against a person or animal. In contrast, a blasphemer's attack is not a physical one, and is not against a mortal but against God.

In order to address this problem, I would like to present the wonderful commentary of the Seforno on this section.

The Seforno brings up another, serious problem. There is no doubt that blaspheming God is a purposeless action. A person does not have the power to hurt God, so by definition his blasphemy can be categorized as meaningless speech. What, then, is the punishment for?

The Seforno answers with a principle:

The same evil action will result in different punishments, depending upon whom the action targets. This is true to such an extent that a punishment can range from a mere monetary penalty to corporal punishment or even death. It all depends on who is targeted.

An action is measured not only by its characteristics and ability to harm, but also in accordance with the person it victimizes. Therefore, an action which targets one person will bring in its wake a certain punishment, while the same action aimed at a less important target will carry a lighter punishment. In order to illustrate this principle, the Torah gives a list of laws which includes three examples. The Seforno elaborates on these three.

- 1) The case of killing. Someone who kills a person is liable to the death penalty. In contrast, someone who kills someone's animal is liable only to a monetary penalty.

The act of killing is identical whether you are killing a person or an animal, but the punishment for killing a person is more severe because the target of the action is more important.

- 2) The case of injury. Someone who causes injury to a person should be subject to corporal punishment. However, our rabbinic tradition recognizes that we are unable to apply such punishment fittingly, so we are forced to substitute monetary punishment. Nevertheless, a person who injures another person is obligated to pay a hefty sum of money - five types of penalties - in accordance with the rabbinic tradition. In contrast, someone who injures an animal is subject to only a small monetary penalty.

The act of injuring a person or an animal is identical, but according to the letter of Torah law the severe punishment of "an eye for an eye" should apply when the victim is a person. Even according to Chazal, who explain that the punishment is monetary, it is five-fold (damage, pain, embarrassment, medical expenses, and unemployment). In contrast, one who injures an animal pays only for the damage done.

- 3) The case of injury to a parent. One who injures a parent is liable to death, while one who injures anyone else is liable to monetary penalty. It goes without saying that injuring an animal carries only a very light penalty.

The Seforno explains the second half of the verse, "One who strikes an animal shall make restitution for it; but one who strikes a human being shall be put to death," as referring to the case of someone injuring a parent. This explains why he is subject to the death penalty and not a monetary penalty. Here we have another example where the identity of the victim leads to a more severe penalty.

Let us now return to our initial question. The Seforno answers that it is true that the action of the blasphemer is not one that harms; nevertheless, since the target of the action is God, the punishment is very severe. The blasphemer must be put to death.

### **Freedom of Occupation vs. Prohibition Against Employment on Shabbat: Which Should Prevail?**

**Simon M Jackson, Legal Advisor to Torah MiTzion**

Design 22 - Shark Deluxe Furniture Ltd. is an Israeli company that works seven days a week and employs Jewish workers on Shabbat. The Ministry of Labor and Welfare fined the company three times in the past for working on the Sabbath. Design 22 ultimately decided to apply for a permit to enable it to remain open and its employees to continue working on Shabbat and Chag, but the Labor Ministry turned it down for not fulfilling the conditions needed for such a dispensation. The company took the case to the highest court of the land - the Israeli Supreme Court.

How did the President of the Supreme Court, Justice Aharon Barak, rule on this issue?

Design 22 claimed that the law forbidding the employment of Jews on the Sabbath negates the Basic Law providing for freedom of occupation. It further argued that every worker and employer should be allowed to choose their own weekly day off. In addition, it asserted that the current law is outdated and not appropriate to Israeli culture, especially given the arrival of a million people from the former Soviet Union since 1990.

#### **Freedom of Occupation - "A Meta-Constitutional Right"**

Justice Barak reviewed the history of the right to freedom of occupation. It became, he argues, a "meta-constitutional right" since its entrenchment in a Basic Law in the year 1992. The Knesset restricted the legislature's own ability to violate this right, by permitting its violation *only* in those cases where a law, which befits the values of the State of Israel as a Jewish and democratic state, has been enacted for a proper purpose and such law does not infringe on the right to freedom of occupation to an extent greater than is required (s. 4 of the Basic Law). All laws must be examined for their constitutionality in the light of the Basic Law - even those, such as the Hours of Work and Rest Law, which preceded its passage.

#### **The Right to Freedom of Occupation is not Absolute**

The Hours of Work and Rest Law does, indeed, violate the right of a person (or company) to open his business during the weekly rest period, as well as the right of an employee who wishes to work on the Sabbath. As we have seen, this does not automatically make it illegal. For example, section 5 of the Basic Law: Human Dignity and Freedom prohibits the deprivation or restriction of a person's liberty by his imprisonment, arrest, extradition, or by any other manner. Yet, no one would claim that the Israeli penal laws or arrest and extradition laws are unlawful! An individual's rights are the right of the individual as part of

the society in which he lives. Alongside a person's rights exist his *duties*, states Barak. They are not therefore absolute and may be restricted in appropriate circumstances.

### **Israel as a "Jewish" and "Democratic" State**

Do the restrictions contained in the Hours of Work and Rest Law conform to Israel's values as a "Jewish and democratic state"? Justice Barak makes three extremely revealing points in this regard:

"First, the State of Israel is a Jewish state. I made this point in an earlier judgment when I stated: 'There are many democratic countries. Only of them is a Jewish state.' Indeed, the *raison d'être* of the State of Israel is the fact that it is a Jewish state. The Jewish people established the Jewish State. There are two aspects to the Jewish state: a Zionist aspect, founded on the world of Zionism and the traditional-halakhic aspect, based on the world of Judaism. At the crux of these aspects, *inter alia*, lies the right of every Jew to make Aliyah to the State of Israel; that Jews should constitute the majority of the State; that Hebrew should be the official language of the State, and that the majority of its festivals and symbols should reflect the national renaissance of the Jewish people. The Jewish heritage is a key element in its religious and cultural heritage. It follows, therefore, that a 'Jewish state' is a rich and multi-faceted concept (*The Central Elections Committee to the Sixteenth Knesset v. MK Ahmed Tibi* [2002]).

Secondly, Israel is a democratic state, at the basis of which lies the acknowledgment of the sovereignty of the people as expressed in free and equal elections; a recognition of the core of human rights, including dignity and equality, the separation of powers, the rule of law and an independent judiciary. It follows that the world of democracy multi-dimensional and sophisticated.

Thirdly, the constitutional interpreter needs to make efforts to bring about an integrity and harmony between the values of the State of Israel as a Jewish state and between its values as a democratic state."

### **The Court's Ruling**

Chief Justice Barak stated that ***the ban on Jewish employment on the Sabbath is compatible with Israel's values, both from a sociological standpoint and from the national-religious standpoint.*** He noted that there is great importance in providing for a day off that will enable the entire family to be together. Barak therefore ruled that the Sabbath has "become a central component in Judaism," and that the combination of the need to provide a uniform day of rest and the choice of the day based on national-religious considerations is appropriate to the State of Israel's values as a Jewish and democratic state. "At the heart of the law stands the social-welfare need to grant workers rest, while allowing the worker's family to be together during that day. At the same time, the law is based on a religious consideration that the Jews' weekly rest will include Saturday," Barak ruled.

### **Violation of freedom of occupation - "to an extent no greater than required"?**

Justice Barak ruled that the Hours of Work and Rest Law conforms to this requirement in the Basic Law: Freedom of Occupation. By contrast, ***the choice of mobile rest hours would not realize the protective purpose of the Law.*** Fixed hours of rest are required to do this. The legislator's choice of Saturday (for Jews) and Sunday and Friday (for non-

Jews) is compatible with the need for proportionality when breaching a Basic Law. In this connection, it should be remembered that an integral part of the Hours of Work and Rest Law are those provisions under which the Law does *not* apply: policemen, civil servants whose position requires them to serve the country even outside of normal working hours, sailors and air crew members. Account also needs to be taken of the fact that the Labor Minister is given authority to grant permits which enable certain activities to be carried out on rest days, e.g. hotel management, guard duty, rescue services etc. And the Municipality Ordinance empowers local councils to regulate the opening of a variety of businesses, including cinemas, restaurants, and cultural institutions.

In light of all these reasons, Justice Barak concluded that the injury caused to freedom of occupation by a law that forbids Sabbath employment *cannot* be said to be a violation which is in excess of that which is required.

### **Next Column: The Pitfalls of "Mobile" Rest Days**

#### **Family Learning- Parshat Emor Bluma Zalcman**

- 1) What is a "Meit Mitzvah"? Is a kohen allowed to bury someone who is a "Meit Mitzvah"?
- 2) When is the Kohen's family allowed to eat the teruma?
- 3) What are the five yamim tovim that the Torah commands us to keep?
- 4) What is one of the commandments given to us on Sukkos, not given on the rest of the yamim tovim?
- 5) When do we start counting the omer?

*Answers follow below*

#### **Looking Back: Giorgio Perlasca**

Giorgio Perlasca was born in Como, Italy. During the 1920s he became a supporter of Fascism, and fought in East Africa and in the Spanish Civil War, where he received a gratitude safe conduct for Spanish embassies from Francisco Franco. He grew disillusioned with Fascism, in particular due to the alliance with Germany and the anti-Jewish laws that had come into force in 1938.

When the 2nd World War began, he was sent as an official delegate with the status of Diplomat to the East Curtain countries to buy meat for the Italian army.

At the time of the armistice between Italy and the Alliance (8th September 1943) he was in Budapest: feeling bound to the oath of allegiance towards the King he refuses to adhere to the Italian Social Republic, and was therefore committed for some months in a castle reserved for diplomats.

When the Germans assumed power (mid October 1944) the Government was put into the hands of the "Croci Frecciate", the Hungarian Nazis, who then began with the systematic persecution, violence and deportation of citizens of Jewish religion. Taking advantage of a permit to travel to Budapest for a medical visit, Perlasca fled.

He first hid with acquaintances, and thanks to a document which he had received while on leave in Spain, he finds refuge in the Spanish Embassy and within a matter of minutes becomes a Spanish citizen with a regular Spanish passport in the name of Jorge Perlasca. He begins collaborating with Sanz Briz, the Spanish Ambassador who together with other neutral powers present (Sweden, Portugal, Switzerland and the Vatican City) is already issuing safe conduct passes to protect Hungarian Jews.

Under the guise of a diplomat he kept the Spanish Embassy going almost on his own, while organizing and carrying out the incredible deception which enabled him to protect, save and feed, day after day, thousands of Hungarian Jews crowded in the "protected houses" along the Danube.

He protects them from the raids of the "Croci Frecciate" (Arrowed Crosses) he goes with Wallenberg, the King of Sweden's personal aid, to the station in an attempt to recuperate the protected, deal day by day with the Hungarian government and the occupying German authorities, he releases safe conduct passes which state: "Spanish relatives have requested your presence in Spain; until communications are restored and the journey is possible, you will remain here under the protection of the Spanish government".

He released these documents using a law passed in 1924 by Miguel Primo de Rivera who recognised Spanish citizenship to all Jews with "sefardita" ancestry (of old Spanish origin, driven away hundreds of years ago by Queen Isabella la Cattolica) spread all over the world.

The Rivera Law is therefore the legal basis of the whole operation organized by Perlasca, which enabled him to save 5,218 Hungarian Jews.

Following entry into Budapest of the Red Army, Giorgio Perlasca was made prisoner, then freed after some hours, and following a long and adventurous journey via the Balkans and Turkey he finally entered into Italy.

Thanks to Hungarian Jewish women, who were young at the time of the persecution, who used a Jewish community newspaper to search for news of the Spanish diplomat who had saved their lives during the Second World War, the story of Giorgio Perlasca emerged after years of silence.

There are numerous testimonies of those saved - stories arriving from newspapers, television, books and Giorgio Perlasca himself visited schools to tell his story. He did this, certainly not for protagonist reasons, but because he thought it necessary to tell his story to the young generation so that no such madness is ever repeated.

He later received decorations from the Italian, Hungarian and Spanish governments and is considered by Israel as one of the Righteous Among the Nations.

Giorgio Perlasca died on 15th August 1992. He is buried in the cemetery at Maserà, a few kilometres from Padova. He wished to be buried in the ground, with the words written in Hebrew "Righteous Among Nations".

**Torah MiTzion** establishes Religious Zionist Kollels (centers of Jewish learning and outreach) in Diaspora Jewish communities to strengthen the study of Torah, Jewish identity, the unity of the Jewish people, and the connection between Torah study and Israel.

The Kollels, led by a Rosh Kollel, are comprised of Israeli shlichim (emissaries) - married men and their wives, and single young men, graduates of Yeshivot Hesder in Israel - who serve in the communities for a period of one-three years.

Torah MiTzion is also proud to be a partner of the "**Jewish Learning Initiative**" program on college campuses.

**The Head Office in Jerusalem:**

**Beit Meir**, 54 King George Street  
PO Box 71109  
Jerusalem, 91710  
Israel

**Tel: +972-2-620-9020**

**Email:** [office@torahmitzion.org](mailto:office@torahmitzion.org)

**Look for us on the web:** [www.TorahMiTzion.org](http://www.TorahMiTzion.org)

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Answers, Family Learning:

- 1) Someone who died on the road and has not been buried. A kohen may bury a meit mitzvah if there is no one else to.
- 2) They may eat the Teruma when they are Tahor.
- 3) Yom Kippur, Rosh Hashana, Sukkot, Pesach, Shavuot
- 4) Arbat Haminin; build a sukkah
- 5) on the second night of Pesach.