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# PARSHA ENCOUNTERS

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Parshas Mishpatim ✍️ Rabbi Doni Deutsch

## Being Connected

In the description of the events surrounding the giving of the Torah at Har Sinai (p'sukim 24:9-11), the Torah describes how Moshe, Aharon, Nadav, Avihu, and seventy of the elders of Israel went up the mountain and had a mystical vision of Hashem.

Then the Torah tells us: "And to the 'Atzelay B'nai Yisrael, Hashem did not stretch forth His hand; they saw Hashem and they ate and they drank."

Rashi, explains that Nadav, Avihu, and the seventy elders who were there, sinned by continuing to eat and drink while they saw the sacred vision described in the previous pasuk. Because they did this, they deserved to have Hashem 'send His hand against them' – i.e. punish them. Hashem did not punish them at that time however, so as not to mar the great joy of matan Torah.

While Rashi's explanation is based on the medrash, there seem to be a number of difficulties with using this medrash to explain the *p'shuto shel mikra* (simple meaning) of these *p'sukim*.

Some of the questions we can ask on this medrash are:

1. If the 'Atzelay Bnai Yisrael' sinned, and that is why they deserved punishment, we would expect the words, "they ate and drank" to be found at the beginning of the pasuk before the phrase, 'Hashem did not stretch forth His hand'. However, the phrase, 'they ate and drank' is not found until the end of the pasuk, after the phrase 'He did not send forth His hand'.

2. It seems more likely that the phrase, 'Atzelay Bnai Yisrael' refers to a different group of people and not the ones being discussed in the psukim until now. According to the Medrash however, it refers to Nadav, Avihu and the elders – i.e. the entire group of people referred to in the earlier p'sukim, except for Moshe and Aharon. This seems difficult to understand according to the simple *p'shat*.

3. In pasuk 10, the first time the vision is described it says, 'vayiru'u', they saw. In pasuk 11, it says 'vayechezu', they saw. What exactly is the difference between the two and why does the Torah use different words if it is in fact describing their seeing the same thing?

4. Finally, HaGaon Rav Shmshon Raphael Hirsch points out that although we do find the phrase, 'shalach yado' when referring to harming someone, when this is the meaning it is usually followed by the preposition 'against' – "shalach yado b' ..." – and not "shalach yado el" – to send His hand 'to' the other person.

Therefore, Rav Hirsch suggests an entirely different explanation of pasuk 11 based on an alternate understanding of 'shalach yado'.

If we look in Tanach, (such as in many places in sefer Yechezkel) we will find the words 'Yad Hashem' used to mean a spirit of prophecy that Hashem bestows upon a navi. Perhaps, says Rav Hirsch, this is what the *pasuk* here means as well. The first *pasuk* speaks about the great leaders of Israel, who at Hashem's command ascended the mountain. The next *pasuk* goes on to describe the vision of Hashem they merited to see. The one thing left to describe is what was happening at that time to the rest of klal Yisrael who were

not yet at the level of prophecy? That is what the third *pasuk* is talking about.

The word "Atzelay" Rav Hirsch suggests, comes from the word "Aitzel". We usually translate *Aitzel* as 'next to'; however, Rav Hirsch explains that the word *Aitzel* is really referring to something that is separated or off at a distance. In our context, this word refers to the rest of Klal Yisrael – the ones 'off to the side', who did not – and could not – go up to the mountain for they weren't at that level. What was their spiritual experience at this time?

About them the Torah says, that although 'lo shalach yado' – Hashem did not 'send His Hand' – meaning that as opposed to Moshe, Aharon, Nadav, Avihu and the seventy elders, the rest of Klal Yisrael did not merit seeing a prophetic vision, however, 'vayechezu' - they had a different kind of vision of Hashem. Whereas the Hebrew word "ra'ah" means to see up close, "chazah" Rav Hirsch says, denotes a vision from afar in one's mind's eye or one's heart.

The Torah is saying that the rest of the *B'nai Yisrael* did not go up to the mountain, and they were not raised up to the level of prophecy, of seeing Hashem 'from close' as it were. However, they were *zocheh* to a different type of seeing Hashem – *vayechezu es Ha'Elokim*, they saw Hashem in their hearts and their minds. How? 'Vayochlu vayishtu' - they ate and drank and enjoyed the bliss of feeling Hashem's closeness while living their physical lives.

Rav Hirsch concludes that attaining such a level day in and day out, is Klal Yisrael's aim and aspiration.

This message and its relevance to us is powerful.

We are not on the level to receive prophecy. However, Hashem has given us the ability to live a life of *kedusha*, of true holiness, by connecting to Him through our daily activities.

*This is the unique potential of each member of Klal Yisrael.*

To truly live a life of Torah means to serve Hashem not only when we study Torah, *daven* or do *mitzvos*. It means to connect to Him with every meal we eat, every physical pleasure we derive and every other legitimate use of this world.

Practically speaking this can be done in many ways. It can be as simple as having guests at our meals; it can be by thanking Hashem for each and every pleasure He gives us; it can be by making a point of thinking 'by eating this food I will be stronger, which will allow me to serve Hashem better'; and it can even be by thinking, 'as a result of my enjoying myself this way I will be in a better mood and that will help me better care for the needs of others'.

The bottom line is that we can and we should look for ways to use every experience in this world to connect to Hashem and to better serve Him.

As the Ramchal says in *Mesilas Yesharim*, by conducting ourselves this way, we not only elevate ourselves, we elevate the entire world.

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# HALACHA ENCOUNTERS

## Hashovas Aveida (Part 1)

Rabbi David Greenberg

**A**lthough the mitzvah of “Hashovas Aveida”, returning a lost object to its owner is well known, practical knowledge of its many laws is unfortunately not. What does one do if he finds an embroidered scarf in the street, a ring of keys in shul, or a ten dollar bill on the floor of a store? Let us review the general rules of this Torah obligation and then some of their applications in many common occurrences.

The Torah states both a positive commandment to return a lost item to its rightful owner (Shmos 23:4 Devarim 22:1) as well as a prohibition against knowingly passing by a lost item and ignoring it. One is obligated to safeguard a lost item and search for its owner. This law applies both when the owner was unaware of his loss as well as if the item was knowingly placed somewhere and forgotten i.e. clothes at the dry cleaners. Included in this mitzvah is the obligation to prevent someone from experiencing financial loss. Some examples of this is testifying on one’s behalf, in court, warning someone of other peoples’ evil intentions to harm him, and shutting off another’s lights if he left home forgetting to do so. (C.M. 260:9)

### Conditions for Returning Lost Items

1) One is only obligated to return an item if at the time that he found it, the owner had not yet given up hope of ever getting it back (“yish”). If the owner was known to have had yish, the finder may keep the item. (There are times when one may assume that the owner had yish immediately after the loss. This will be discussed later.) The Shulchan Aruch (C.M. 259:5) states that although it is permissible to keep the item if the owner had yish, if the finder knows who the owner is i.e. a lost wallet with I.D., the proper procedure is to return the item. However, one need not search for the owner by publicizing the find. If the item was found before the owner had yish, and then it became known that the owner had yish later, one is obligated to return the item.

2) The mitzvah only applies to returning lost items of Jews. If it is known or can be assumed that the owner is a gentile, i.e. it was found in an area where the majority of passersby are gentiles, one may keep the item. However, it is deemed praiseworthy to make a Kiddush Hashem (sanctification of Hashem’s Name) by returning the item to the gentile owner.

3) One should only pick up an object if it is considered lost. If the object was found in a settled state i.e. it doesn’t appear to have been dropped, and it is in a secure area, one may assume the owner left it there purposely, and he plans on coming back for it. If after a prolonged period of time, the object remains unclaimed, one may assume that it was forgotten, and the regular obligation applies. If the object was found in an insecure environment or even semi-secure i.e. a bus stop shelter, and there are distinguishing details (simanim) on it, one should publicize the find. If there is no “siman” on the item, one should leave it there because it is likely that the owner will come back to reclaim it.

4) One is not obligated to return an item that was lost due to obvious negligence and of course if it was disregarded purposefully. If one sees another person strewing his belongings out in the street, he need not return them. If one entrusts his items with someone who is inherently irresponsible i.e. minors, it is considered obvious negligence. It follows that any item lost from a child, even with a name tag on it need not be returned. It is proper to go above the letter of the law and return the item regardless especially when there is a chinuch aspect involved i.e. training children to return lost items. When one receives books from institutions in the mail he need not return them even if he does not wish to donate to the cause. He may even use the

books, because the institutions purposely distribute them knowing that they will not receive due compensation in many cases.

5) One is only obligated to return an object worth a peruta.

6) One is only obligated to be involved in picking up and returning a lost item if it is “Lphi kvodo”, according to his honor. This law applies to many instances such as an older person, a sickly person, a Talmid Chacham and someone with an honored position. If such a person would pick up his own lost item in similar circumstances i.e. in the middle of the street, one is obligated to do so for his friends item too. If the majority of people wouldn’t bother to pick up their own item in this case i.e. a pen cap that fell into the street, nobody is obligated to return it. Furthermore, even something which the owner would pick up i.e. a button, but he would be embarrassed to retrieve it from the finder, there is no obligation to pick it up (Kitzur Hilchos Hashavas Aveida pg. 40).

### Publicizing the Find

In a scenario where one is obligated to pick up the lost object, one must attempt to find the owner by publicizing the find. When there are distinguishing characteristics (simanim) on the item or in the place where it was found, one should publicize the find in a general way and wait for the owner to come forth with the proper simanim. Until that point, one is obligated to safeguard the item, and then he must be careful to return it only to the one who is unequivocally the true owner. Turning over the item to the police where they allow anyone who claims to have lost a similar item to look around and see if it’s there, is an abrogation of one’s responsibility. If the item is a generic product available in many stores, simple variables like color or brand name do not suffice as a siman. One would need something more definitive like a scratch or a rip in a certain place to identify the true owner.

One should put up signs around the area where he found the object, as well as in surrounding shuls and Jewish stores. If the item was found in a place where the passersby are generally from places out of that neighborhood i.e. a ring found at the Kosel, one should publicize the find in an international Jewish newspaper. If the owner fails to claim his lost item, one must guard it until the advent of Eliyahu HaNavi.

An item which has no valid simanim may only be claimed if two witnesses would testify that they saw the owner drop the item, and they saw the finder pick it up. Being that this occurrence is extremely unlikely one is not obligated to pick up a “simanless” item, for then he would surely have to safeguard it with no chance of returning it. If one did pick up such an item up, even by mistake, indeed he has already accepted the responsibility to safeguard it. (Rabbi A. Eiger B.M. 26a)

A Talmid Chacham who is renowned for his honesty is believed when saying he recognizes his lost item even without furnishing proper simanim.

### Rewards

One is forbidden to accept any reward for returning a lost item even when the owner has publicly offered the reward beforehand. Even compensation for one’s toil and effort is included in this prohibition. However, for expenses incurred through publicizing the find or through caring for the lost item i.e. pet food for a lost cat, one is allowed to accept and even demand compensation. Hence one must be certain that the owner of the lost item would agree that the money spent for the publicizing and upkeep is well worth the return of the item.

Y”H practical applications of the aforementioned principles will appear in next week’s Encounters.

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