

Mishpatim 2017

1.

Who is the best doctor?

“...and a doctor will heal him” (21, 19)

"ורפא ירפא."

The last Mishna in mesechas Kiddushin says that the best doctors will go to hell. (טוב (שברופאים לגיהנם. What is the simple explanation of this? The Marsha explains that many times good doctors are too arrogant to ask others for help. They tend to think that they always know the answer. Patients could end up being killed because of these types of doctors. (יש לפרש טוב שברופאים דהיינו שמחזיק עצמו לטוב ולמומחה שברופאים שאין כמוהו וסומך ביותר על) אבל המזאתו מתוך גאוותו ולפעמים הוא טועה בטבע זה החולה וממית את החולה ברפואותיו בדבר שמזיק לחולה זה, אכל (יש לו לישא וליתן עם שאר הרופאים כיון שהוא סכנת נפשות.

2.

Widows and orphans

“You shall not cause pain to any widow or orphan. If you cause him pain ...! – for he shall cry out to Me, I shall surely hear his outcry. My wrath shall blaze and I shall kill you by the sword, and your wives will be widows and your children orphans.” (22, 21-23)

"כל אלמנה ויתום לא תענון. אם ענה תענה אתו כי אם צעק יצעק אלי שמע אשמע צעקתו. וחרה אפי והרגתי אתכם בחרב והיו נשיכם אלמנות ובניכם יתמים."

The Mechilta quotes Rabbi Yishmael who says that this pasuk refers to the prohibition of oppressing anyone. Rabbi Akiva explains that the pasuk specifically choose widows and orphans as an example because it is the norm to oppress such easy targets. However, it is prohibited to mistreat anyone. Rashi explains that they're weak individuals and it is the norm to oppress them. They are typically monetarily and emotionally weak. They are usually vulnerable. The Or Hachaim (22, 22) proves this from the wording of the pasuk. The Minchas Chinuch (mitzvah 65 os gimal) (based on a Sema and Taz (Choshen Mishpat siman 97 sif 14)) says that this also applies to a divorced woman and an older woman who isn't married. In conclusion, according to the Mechilta, Rashi, and the Or Hachaim the prohibition of not oppressing widows also applies to others as well. However, the Rambam, Ramban and Chinuch argue. (As a side point everyone agrees that onus devarim (verbal abuse) is prohibited and applies to others as well. Onus devarim is an independent negative commandment.) The Rambam (hilchos dayos perek vav halacha yud) says that we are obligated to be careful with orphans and widows because they are low spirited. Even if they have a lot of money, we must still be careful. We must speak to them softly and respectfully. We mustn't give them hard work. We must be more careful with their money more than with our money. Anyone who tries to needle, anger or cause pain or a loss to a widow's money violates this negative commandment. We clearly see from this Rambam that the prohibition of afflicting widows solely applies to widows. The Ramban (Shemos 22, 21) says that we must be careful with wealthy widows because her tears are common. The Chinuch (mitzvah 65) also says that we must speak to them nicely and companionably conduct business

with them. The Chinuch then explains the reason for this prohibition. **The widow and orphan are in a weak position in that they don't have anyone to take up their causes with total devotion, as the husband of the widow or the father of the orphans, would have done for them were he still alive. The Torah therefore warned us to acquire the traits of kindness and mercy in our souls and to be upright in all of our actions that affect the orphan and widow.**

What is the punishment for one who causes pain to a widow? Death as stated in the pasuk. The Seforno explains that Hashem will have mercy on the one who cries out to him and be angry at the one who caused the pain. This is similar to the Jews in Egypt. This punishment is measure for measure. One who willingly mistreats an orphan will also get mistreated.

Are there any situations where it is permissible to afflict orphans? The Chinuch (mitzvah 65) says it is permissible to slightly afflict them for a purpose. For example, a Rebbi can afflict his talmid who is an orphan. The Seforno (22, 21) explains that one who oppresses an orphan in order to improve his ways is considered an act of kindness. The reason for this is that since this orphan doesn't have parents to properly educate him; therefore one who educates him has performed a good act.

The Mechilta says that even one who minimally afflicts an orphan violates this prohibition. From the story of Nachum Ish Gam Zu (related in mesechas Tanis 21a) we see how careful we need to be not to cause pain to others.

When the Chafetz Chaim (Chafetz Chaim al hatorah page 121) was young there was a poor widow who was kicked out of a house she rented in the middle of the winter because she couldn't afford rent. She didn't leave. The landlord then removed the roof. All of the people in the city were very upset at his behavior. Many years passed by and this man wasn't punished. The Chafetz Chaim wondered why Hashem didn't punish him. Ten years later the man was bitten by a wild and crazy dog. He then subsequently died.