

Mishpatim 2014

1.

Shemita

“Do not oppress a stranger; you know the feelings of a stranger, for you were strangers in the land of Egypt. Six years shall you sow your land and gather in its produce. And in the seventh, you shall leave it untended and unharvested etc.” (23, 9-11)

"וגר לא תלחץ ואתם ידעתם את נפש הגר כי גרים הייתם בארץ מצרים. ושש שנים תזרע את ארצך ואספת את תבואתה. והשביעת תשמטנה ונטשתה."

Nachalas Tzvi page 209:

The question arises; why are these two pesukim juxtaposed to one another? The letter ו usually connects two matters. That being so; what is the connection between shemita and being foreigners in Egypt?

The main purpose of shemita is in order to prevent us from becoming haughty and fall under the impression that everything we have was accomplished solely from our hard work. Every seven years we have to stop working our fields in order to remind us that Hashem owns everything and it is He whom we must attribute our success to. Therefore, we are really just foreigners working the land, not the complete owners since that title belongs to Hashem.

This is the explanation of the mitzvah of Succah. The Suka represents this concept. We go outside into a shack like structure and expose ourselves to external forces, such as weather and bees. This process will automatically lead us to the realization that Hashem is the one in control and running the show.

2.

Fires and payments

“If a fire shall go forth and find thorns, and a stack of grain or standing crop or a field is consumed, the one who kindled the fire shall make restitution.” (22, 5)

"כי תצא אש ומצאה קצים ונאכל גדיש או הקמה או השדה שלם ישלם המבער את הבערה."

V'haarev Nah (Rav Zilberstein) Chelek Beis, page 196:

He brings a case of two friends, Reuven and Shimon, who roomed together in a dorm. Reuven easily became cold. He therefore bought an electric heater and put it in the room. **On erev (the eve of) Shabbos, he plugged it into a Shabbos clock so it would turn on in the middle of the night. When Shimon came in and prepared to go to sleep, he saw that the heater was off and decided that it would be a good place to hang his shirt for the night. Later that night, when the heater turned on, the shirt caught fire and everything in the room got burnt. The question arose as to who is liable for the damages.** Is the owner of the heater liable because he

should have warned his friend it was going to turn on? Or maybe the one who threw his shirt on the heater has to pay because he caused the fire and put his clothing on the heater without asking Reuven first? **They are both exempt!**

In reality, Shimon is guilty because he should have realized what was going on and been more careful. However, he didn't directly damage anything, it occurred through *grama* (indirectly). He is therefore patur (exempt) from damages. He quotes the Chazon Ish (Orach Chaim: siman 30, seif 8, seif katan 2) who says that adjusting a Shabbos clock on Shabbos to have something go off earlier is not a problem mi'doraisa because it is indirect extinguishing (*gram civu*). Applying the same logic to our case as well, since it was all done indirectly, Shimon isn't liable from a Torah standpoint.

However, he says that **the one who threw his shirt on a heater is liable to pay from a moral point of view**. He quotes the Shulchan Aruch (Choshen Mishpat, 418:9) which says if someone brought matches and someone brought wood and a fire resulted, who is liable? The one who brought the wood is liable! So too here, Shimon is similar to the one who brought the wood to the fire!

-There is another, similar case, with **someone in Yeshiva setting a heater on erev Shabbos to turn on during Shabbos. A janitor came that night and saw that the heater was off. He picked it up and put it on the bed so he could clean the floor. While on the bed, it turned on and caught fire, burning all the person's possessions! In this case, is the janitor liable?** Rav Zilberstein says that he is completely exempt, because he didn't have intent to burn anything.

The first case is different because someone who throws a shirt on a heater is being negligent!

The janitor was just doing his job; doing what he does every week!

Not only that, but in the case of the janitor, it's possible that the owner of the heater might be liable. He compares it to a Gemara in Bava Kama (6) that says if someone put a knife on a roof and a prevalent wind came and blew the knife off the roof and it injured or killed someone, the person who put the knife there is chayav (obligated) to pay for damages. The same logic can be applied to this case; he should have told the janitor that his heater will turn on.

However, at the end Rav Zilberstein says that even the owner of the heater is not liable because it is considered a 'non-prevalent wind' since the custodian doesn't come every single day.

Additionally, even when the janitor does come, he doesn't always put all of the items on the beds. Furthermore, the custodian had the ability to realize that the heater is connected to the wall.

If everyone is exempt, then who is going to pay for the damages? He brings the Yerushalmi in Berachos (Perek four Halacha three) that says **Hashem will take care of it!**

Thank you Yair Moshe Ausabel for typing this up. Thank you Ari Zaslowsky for editing this.