

YOU THINK THAT YOU WON, BUT YOU REALLY LOST!

PARSHAS YISRO

Two boats were on a river going in opposite directions. They came to a point in the river that was not wide enough for both to pass. If both boats pushed ahead, attempting to pass, they would crash into each other and sink. If they went, one after the other, both would pass through safely. How should the owners decide which of them should go first? If one boat was laden and one boat was not, the one that was laden should go first. If one boat was close to its destination and one boat was not, the one that was close should go first. If both boats were laden or both were close to their destinations, they should make a compromise to decide which should go first. The owner of the boat that would go first should compensate the owner of the second boat for any loss that was incurred. This story is from the **Talmud** (Sanhedrin 32B) which explains the pasuk, "*Justice, justice, shall you follow...*," (Devarim 16:20). The first mention of "justice" is referring to judgment, and the second one is referring to compromise.

The Torah says, "*And these are the judgments [hamishpatim] that you shall set before them*" (Shemos 21:1). Interestingly, The **Ba'al Haturim** comments that the word hamishpatim, המשפטים, is a mnemonic for, הדין מצוה שיעשה, פשרה טרם יעשה משפט. That is, the judge is commanded to negotiate a compromise before entering into judgment.

In this week's Parsha, Moshe had achieved atonement for the Jewish People for the sin of the Golden Calf. That day was Yom Kippur. **Rashi** says that the following day, Moshe made himself available to judge any disputes among the Jewish People. The Torah tells us that Moshe judged them from morning until evening (18:13). Moshe's father-in-law, Yisro, was not happy about that. He told Moshe, "*You are going to wear yourself out You cannot do it alone* (18:18)." Yisro suggested that Moshe set up a court system so that Moshe would only have to judge the more difficult cases. Yisro told Moshe, "*And you shall teach them the statutes and the laws and shall show them the path wherein they shall walk and the action that they must perform* (18:20)." The **Talmud** (Bava Metzia 30B) cites this pasuk as the source for going beyond the letter of the law in the performance of mitzvos. "*The*

"And you shall teach them the statutes and the laws and shall show them the path wherein they shall walk and the action that they must perform." (Shmos 18:20)

path in which they should go" refers to the letter of the law and "*the deeds that they should do*" refers to action beyond the letter of the law (*lifnim m'shuras hadin*).

The **Talmud** says in the name of Rabbi Yochanan that Jerusalem was destroyed because people insisted on enforcing their rights based on

Torah law, rather than accepting the concept of going "*beyond the letter of the law*". The concept of *lifnim m'shuras hadin* is that even in a situation where a person could take another person to court to enforce his monetary legal rights and win he should still be prepared to compromise more than the law would require. He should not always enforce his rights.

Ben Yehoyada is perplexed by Rabbi Yochanan's statement. The Jews did some terrible sins. Why didn't Rabbi Yochanan say that Jerusalem was destroyed because of those sins? How could he say that Jerusalem was destroyed because the Jews did not go "*beyond the letter of the law*"? **Ben Yehoyada** answers true, the Jews deserved to be punished because of their serious sins. However, had the Jews treated each other by going beyond the letter of the law, then Hashem, *midah keneged midah*, measure

for measure, would have treated them the same way. Hashem would have gone beyond the letter of the law and would not have destroyed Jerusalem!

This dovetails with the **Talmud** in Yoma 9B, which says that Jerusalem was destroyed because of *sinas chinam*, unwarranted hatred. **Rabbi Yissocher Frand** (Torah.org) explains the connection of these ideas. *Sinas chinam* results from a society where people are constantly taking each other to court. They may have been legally permitted to take each other to court, and they may have been 100% correct and may have won their cases, but going to court causes unwarranted hatred. There is a winner in court and a loser. The loser never forgets that he lost. That baseless hatred permeated society and caused the destruction of Jerusalem.

To prevent these feelings of hatred, the Jewish court advises that the two parties try to settle their dispute by compromising. They recommend this even if the court realizes that one of the parties is probably correct.

The **Semah**, one of the commentaries on Shulchan Aruch, questions why the judges are allowed to advise a person to compromise when the judges feel that one of the sides is 100 percent correct? Isn't that acting against the Torah which forbids one to give bad advice?

The **Semah** answers that suggesting a compromise **is** giving good advice! The long-term advantage of emerging from the dispute as friends rather than enemies outweighs any financial loss. One might win the case and receive money but at the same time he is buying an enemy for the rest of his life.

This is what the **Semah** is teaching. One may likely win the case, but at the cost of acquiring an enemy for life. The best advice is to compromise!

The **Chofetz Chaim** says that this was also Yisro's advice to Moshe. Besides suggesting a court system, Yisro wanted Moshe to teach the Jewish people the concept of 'lifnim m'shuras hadin'. It is not always necessary to insist upon one's rights. There is a place for, and a value in, compromise. That, in and of itself, was part of the solution to lighten the judicial burden. People would not always be running to court with every argument. They would start settling by compromise, outside of court.

The idea of compromise does not exclusively refer to a court case. Throughout life, we meet people who have different opinions. Even if we feel that our idea is best, we should look to compromise with others.

The willingness to compromise shows that we have respect for the opinions of others.

That will help maintain peace and will help bring Moshiach more speedily.

(Based largely from Rabbi Yissocher Frand on Torah.org)

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