



Likkutei Sichos

Volume 16 | Mishpatim | Sichah 4

Fully Invested

Translated by Rabbi Shmuel Kesselman
General Editor: Rabbi Eliezer Robbins | Copy Editor: Rabbi Y. Eliezer Danzinger
Content Editor: Rabbi Zalmy Avtzon

© Copyright by Sichos In English 2022 ◦ 5782

A note on the translation: Rounded parentheses and square brackets reflect their use in the original *sichah*; squiggly parentheses are interpolations of the translator or editor. The footnotes in squiggly parentheses are those of the translators or editors, and do not correspond to the footnotes in the original. Considerable effort has been made to ensure the accuracy of the translation, while at the same time maintaining readability. The translation, however, carries no official authority. As in all translations, the possibility of inadvertent errors exists. **Your feedback is needed — please send all comments to: info@projectlikkuteisichos.org**

1.

DEFENDANT OR CLAIMANT FIRST

From the verse,¹ “Whoever has a grievance should approach them,” the *Gemara* infers,² “{A *beis din*}³ always first considers the position of a plaintiff.” Meaning, a person who “has a grievance” (the plaintiff) “should present his grievance to them.”

*Shach*⁴ explains⁵ that this means — as the simple reading implies — that the *beis din* first hears a plaintiff’s claims and afterwards hears those of the defendant. A practical application (of this determination of whose claim the *beis din* hears first) is in a case of a *modeh bemiktzas* {a defendant who admits to a portion of a plaintiff’s claim}.

The law establishes⁶ that a defendant is deemed a *modeh bemiktzas* — and consequently, must swear a biblically imposed oath — only when his admission (to part of the claim) **follows** the plaintiff’s demand (of the entire amount). However, if a defendant “admits to {owing} 50, **and afterward**, the plaintiff claims 100,”⁷ the defendant is not considered a *modeh bemiktzas* and is exempt from a (biblically imposed) oath.

The rationale for this law is as follows: A defendant should have repaid the “part” (to which he concedes) even before a claim has been lodged against him in *beis din*. Since the defendant did not discharge his responsibility, and was summoned (to *beis din*), we hear the plaintiff first (in order to obligate the defendant to take a biblically-imposed oath).

¹ *Shemos* 24:14. {The context of the verse is as follows: Prior to Moshe ascending Mount Sinai to receive the Torah he spoke to the Elders instructing them to rule over the Jewish people in his absence.}

² *Bava Kamma* 46b.

³ {A Jewish court, i.e., one that adjudicates according to Jewish law.}

⁴ {Rabbi Shabbsi ben Meir HaKohen, known as “*Shach*” (1621 - 1663).}

⁵ *Shach* on “*Shulchan Aruch, Choshen Mishpat*,” ch. 24, subpar. 1.

⁶ *Shulchan Aruch, “Choshen Mishpat*,” ch. 88, par. 15, 16; *Shach*, *ibid.*, subpar. 31.

⁷ *Shach*, ch. 24, *ibid.*, and ch. 88, *ibid.*

The *Gemara* continues:⁸ “Sometimes a *beis din* considers the position of the defendant first. Under what circumstances do they do so? When the defendant’s assets are depreciating {because of the claim against him}.” *Shach* explains (subsequent to his explanation of the law that “{a *beis din*} first considers only the position a plaintiff”): If the reason why a defendant has not yet paid the “part” is (not because he wanted to withhold the money, but rather) because during this time, his assets are depreciating (and are worth less), or because his desire itself to sell his assets quickly (in order to pay the plaintiff) would **cause** his assets to depreciate — then, the *beis din* considers the position of the defendant first.

2.

LET US USE THE INNER DIMENSION

As discussed many times, every idea in the revealed part of Torah has a parallel in spiritual *avodah*.⁹ In fact, at its root, Torah is “a hidden treasure”¹⁰ Above, “and from there, the Torah has journeyed in a descent... until it clothed itself in... things of this corporeal world.”¹¹ Accordingly, Torah ideas on a spiritual and deeper plane serve as the source from where these ideas on the revealed plane of Torah are derived. Furthermore, many ideas in the revealed part of Torah can only be **fully** appreciated by explaining them on the spiritual plane.¹²

Similarly, in our context: At first glance, *Shach*’s explanation is not completely smooth. The wording of our Rabbis’ statement, “{a *beis din*} always first considers the position of a plaintiff” (**without specifying** which type of plaintiff) implies that this law applies in all cases and is **actually** consequential in many different types of claims. However, *Shach*’s interpretation suggests that

⁸ *Bava Kamma*, *ibid.*

⁹ {Divine service.}

¹⁰ *Shabbos* 88b.

¹¹ *Tanya*, “*Likkutei Amarim*,” ch. 4.

¹² See *Likkutei Sichos*, vol. 19, p. 209 (and fn. 16).

this law only has **actual** ramifications in a type of case in which the defendant is a *modeh bemiktzas*!

However, according to the deeper Torah ideas as they relate to this teaching {about always listening to a plaintiff first}, this will be clarified. For in spiritual *avodah* almost all cases of a plaintiff and a defendant involve a *modeh bemiktzas*.

3.

THE PARALLEL IN AVODAH

Every Jew has a “plaintiff” — the evil inclination that first brings a person to stumble by sinning, Heaven forbid¹³ — or, at least to a condition of “*chet* — חטא” {lit., “sin” but} connoting “deficiency — חסרון.”¹⁴ Next, the evil inclination claims that since it has caused the Jew to stumble and sin, the Jew should be “handed over” to the evil inclination’s domain.

Responding to the evil inclination’s demand, a Jew, the defendant, “admits to part”: True, he stumbled and sinned. But his “entirety” — his whole self — was not invested in the sin. Meaning, he did not transgress with his whole being, G-d forbid, for the essence of his soul is beyond sin, and even at the moment of trespass, it “remains faithful to Him.”¹⁵ Moreover, even within the sphere of a Jewish person’s characteristics — not only on account of the essence of soul — every Jew has goodness in him. And furthermore — even “the sinners among the Jewish people are מלאין {filled} with good deeds like a pomegranate.”¹⁶ And the true meaning of מלאין is straightforward: They are **completely full** (with *mitzvos*). Meaning, no matter what sort of Jew we are talking about, it is impossible for him to be completely bad.

¹³ As our Sages say (*Bava Basra* 16a): “He {Satan} descends {to this world} and entices {a person into sinning}. He then ascends {to Heaven, levels accusations against that very sinner} and inflames {Hashem’s} anger {against him}.... Satan {and} the Evil Inclination... are one.”

¹⁴ *Likkutei Torah*, “*Matos*,” 82a; elucidated in the chassidic discourse, *Al Kein Yomru 5691* (*Sefer Hamaamarim Kuntreisim*, vol. 1); et al.

¹⁵ *Tanya*, “*Likutei Amarim*,” ch. 24.

¹⁶ *Eruvin* 19a; *Chagiga* 27a.

So every Jew, of every type, is categorized as a *modeh bemiktzas*. This is true whether he is counted among the *tzaddikim*, regarding whom the verse says,¹⁷ “there is no man so righteous on earth that he {always} does good and doesn’t sin”¹⁸ (or at least doesn’t experience “*chet*,” as in deficiency); or if he is counted among the sinners of the Jewish people, who are (also) “filled with good deeds like a pomegranate.” This idea is alluded to by the verse from which we infer the law of the *modeh bemiktzas*:¹⁹ “(In every case of negligence...) about which he says, ‘this is it....’”

According to the way this verse is explained in the context of spiritual *avodah*,²⁰ a claim {against a person} is generated in both scenarios: a) “in every case of **negligence**” — when a person transgresses and breaches his mission in this world; b) “for any loss”²¹ — a “loss” or deficiency because a person failed to do as much as possible, resulting in a loss of some of his G-dly soul’s abilities. [The four details {specified in this verse} — “for an ox, for a donkey, for a sheep, or for a garment” — refer to the four types of animalistic souls²² that induce “every case of negligence...” and loss.]

In response to these aforementioned claims {made by his evil inclination} (“in every case of negligence... for any loss”), a Jew responds, (“about which he says”) “**this is it.**” Meaning, regardless of which of these claims is lodged against him, he admits to only “this” — a **part** — he (only) admits to a portion, as discussed above.

¹⁷ *Koheles* 7:20.

¹⁸ See *Tanya*, “*Likkutei Amarim*,” ch. 35 (44a).

¹⁹ *Shemos* 22:8; *Bava Kamma* 106b, ff.; *Bava Metzia* 5a; *Shavuos* 39b; *Mechilta* and *Rashi* commenting on the verse.

²⁰ See *Likkutei Sichos*, vol. 1, p. 155 ff. for a lengthy explanation of this verse in the context of spiritual *avodah*, (based on a *maamar* of the *Tzemach Tzedek*).

²¹ {The continuation of the same verse, *Shemos* 22:8.}

²² {The animalistic soul is one of the two souls possessed by every Jew, the other being the G-dly soul. A fundamental element of the animalistic soul is that it desires physicality, and all negative traits are rooted in the animalistic soul. See *Likkutei Sichos*, vol. 1, p. 155 ff. for explanation of these four types of animalistic souls.}

4.

OATHS WHICH EMPOWER AND HOW TO AVOID THEM

The Torah rules that a person who is *modeh bemiktzas* is obligated to take an oath. Specifically by taking an oath, a defendant is believed by the *beis din* regarding the part of the claim that he denies. In the context of one's spiritual *avodah*, this means as follows:

Since a person has already stumbled and has “partially” fallen into the domain of the evil inclination, the person needs a boost in fortitude to prevent himself from falling even further under its sway. (This {fall} can also be caused by him not wanting to “**confess** [and forsake] his sins” — {in which case} he would “be granted mercy.”)²³ For this reason, he is made to take an oath — a “*shevuah*” {שבועה}, cognate to the word “**satiation**” {שׂוּבֵעַ}²⁴ — he is satiated with greater power to help him keep his second {i.e., unfallen} part in the domain of holiness.

However, the gravity of taking an oath is known.²⁵ When a person takes an oath, he places himself into the following predicament: If he does not take **appropriate** advantage of the additional capabilities {conferred to him by taking the oath}, not only will the desired outcome fail to materialize, but he will be penalized for squandering the higher capabilities. For this reason our Sages²⁶ strongly urge avoiding taking an oath, even “**truthfully**,” when a person can manage without doing so.

Therefore, the *Gemara* continues, there is a solution (a scenario and procedure): “The *beis din* considers the position of the defendant first.” Doing so, a defendant is exempted from (the type of *avodah* that necessitates) an oath. This occurs when he claims that “his assets are depreciating.”

²³ *Mishlei* 28:13.

²⁴ *Kitzurim VeHeharos LeTanya*, p. 57 ff., et al; see *Likkutei Sichos*, vol. 1 (p. 41 ff.) regarding the oath of a person who is “*modeh bemiktzas*.”

²⁵ As our Rabbis describe at length — *Shavuos* 39a; et al.

²⁶ *Gittin* 35a; *Midrash Tanchuma*, *parshas Vayikra* sec. 7; *Midrash Tanchuma* and *Midrash Rabbah* at the beginning of *parshas Matos*; et al.

5.

WHY DID RABBAN YOCHANAN BEN ZAKKAI DOUBT HIMSELF?

We will understand what this means {spiritually} by prefacing with a story related in the *Gemara* about Rabban Yochanan ben Zakkai.²⁷ Immediately before his passing, Rabban Yochanan ben Zakkai wept, explaining: “Two paths lay before me, one to *Gan Eden*²⁸ and one to *Gehenom*,²⁹ and I do not know on which they will lead me. Shall I not cry?”

A well-known question:³⁰ How could Rabban Yochanan ben Zakkai — counted among the greatest *Tannaim*,³¹ whose virtues our Sages extol in numerous sources,³² who certainly was absolutely careful to avoid sin and to perform good deeds — be uncertain whether he was going to *Gan Eden* or to *Gehenoim*?

Additionally, we need to clarify:

Why did this bother Rabban Yochanan ben Zakkai specifically before his passing? True, the “two paths, one of *Gan Eden* and one of *Gehenom*” are related to the reward and punishment that the soul receives after it passes on from this world; but this is difficult to understand:

Obviously, by his statement, “I do not know...,” Rabban Yochanan ben Zakkai meant that he was bothered primarily (**not** regarding reward and punishment themselves, but rather) by his spiritual condition and level. Was he in a state of holiness (fit to enter *Gan Eden*) or, G-d forbid, the opposite? A person must feel pained *whenever* he has doubts about his spiritual state — not only when he is about to pass away, but over the course of his entire life.

²⁷ *Berachos* 28b.

²⁸ {Lit., “the Garden of Eden,” a spiritual realm where souls “bask in the *Shechinah*,” perceiving G-dly revelation. See https://www.chabad.org/library/article_cdo/aid/4848230/jewish/Heaven-and-the-Afterlife.htm}

²⁹ {I.e., purgatory.}

³⁰ *Likkutei Torah*, “*Vayikra*,” p. 50d; *Likkutei Torah*, “*Masei*,” 90b; et al.

³¹ Sages of the mishnaic era.

³² For example: *Sukkah* 28a; *Rosh HaShanah* 31b; et al.

6.

BEING FULLY INVOLVED EVERY SECOND

One of the explanations of this point is:

Every Jew is given a mission and purpose that he needs to fulfill over the course of his life in this world. And in order to be able to fulfill his mission, he is given the necessary number of days and unique abilities — not more and not less — that are necessary to fulfill his mission properly.

If a Jewish person does not take advantage of a day, an hour, or even a minute to fulfill his mission, he is not just wanting in that he wasn't elevated to the extent that he could have been. But moreover, every single moment that he does not perform his mission — even if he is doing something worthwhile, etc., yet it is not part of **his** mission — this moment is missing from the execution of his mission. Furthermore, he has deviated from, and has violated, the mission entrusted to him by the King of kings, the Holy One, blessed is He.

Rabban Yochanan ben Zakkai lived every moment of his life fully invested in, and occupied with, **his** *avodah* and his mission — learning Torah and performing *mitzvos*. He devoted himself with such focus to fulfilling his mission properly in this world that he never had time to stop and think how **he** was faring — to reflect on **his** {spiritual} overall condition.

For how could he stop and think about himself, and about **his** spiritual level while he had to use **this** time to fulfill his mission?

Only when he approached his passing, when he reached the **conclusion** of his mission in this world, did he stop to make an honest accounting (for “if not now, when?”)³³ — and this moved him to weep.

³³ {*Avos* 1:14.}

AVOIDING INFERTILITY AND THE LOSS OF CHILDREN

This method of fulfilling one's mission — not thinking of oneself at all, but only about the mission — is an important and general foundation in *avodas Hashem*, and it is demanded of every Jew. This is also alluded to and emphasized by the deeper meaning of the verses which appear later in our *parshah*: Following the clause,³⁴ “You shall worship Hashem, your L-rd...,” which refers to *avodah* in general [including both the *avodah* of love³⁵ (“no service is like the service of love”)³⁶ and the *avodah* of fear (the *avodah* of a **servant**)],³⁷ the next verse continues,³⁸ “There shall be no woman who loses her young or is infertile in your land; I shall fill the number of your days.”

A “woman who loses her young or is infertile,” in spiritual *avodah*, alludes to a scenario in which the *avodah* (of love and fear, etc.,) does not endure or does not bear fruit. This is a result of pursuing one's desires, alluded to by the term בארצך,³⁹ “in your land” (cognate to the word, “רצון,” desire).⁴⁰ When a Jew has his own desires, i.e., he **is satisfied** with his *avodah*, which indicates that he is self-centered⁴¹ — **he** serves Hashem, **he** loves and fears Hashem, etc. — this can cause him to subsequently fall, G-d forbid.

Meaning, initially, his *avodah* is measured and limited — he (only) works until satisfied with his *avodah*. Then he begins to differentiate between one *avodah* and another; he is willing to perform those tasks with which he enjoys, but he is unwilling to perform other sorts of *avodah*, until he topples from his spiritual pedestal, etc.

³⁴ *Shemos* 23:25.

³⁵ “For every person needs both aspects and levels...” (*Tanya*, “*Likkutei Amarim*,” ch. 41, 57a).

³⁶ *Zohar*, vol. 2, p. 55b; vol. 3, p. 267a; see at length, *Kuntres Ha'avodah*, ch. 1, 3, ff.

³⁷ *Tanya*, *ibid* (p. 56b, ff.); see *Kuntres Ha'avodah* ch. 2.

³⁸ *Shemos* 23:26.

³⁹ *Torah Or*, s.v. “*Lo seeh'yeh meshakeilah*,” p. 79a.

⁴⁰ *Bereishis Rabbah* 5:8; *Matnos Kehunah*, *ad loc*.

⁴¹ {At issue here is *bittul ha'yesh* (“nullification of [one's] somethingness”), a lower form of *bittul* whereby one is consciously involved in the process of nullifying the outer layer of self (ego). When ego is involved, there is a likelihood for a person to get caught up in the self, and consequently, fail.}

The solution is hinted at in the verse,⁴² “There shall be no... — I shall fill the number of your days.” When a person thinks deeply about the fact that “days have been formed,”⁴³ meaning, he ponders that a specific number of days have been allotted to him during which he must fulfill his mission in this world, and every second that he uses for other things constitutes a deviation from, and violation of, the mission placed upon him by the King of kings, Hashem, he will be shaken up, and will shake off his self-absorption. He will then become so devoted, with his entire being, to fulfilling his mission that he will be oblivious of the fact that he is the **one fulfilling** Hashem’s mission. The only thing holding his complete attention is the mission itself.

In fact, when someone will attempt to remind him of “your land”⁴⁴ (about his own spiritual situation), he will respond with **a broken heart**: “I do not care about my desire or pleasure. ‘Days have been formed!’⁴⁵ We need to stand at our posts, safeguarding that no moment is lost, and not worry about spiritual levels.”

When a Jew can bring himself to this kind of utter devotion, surrendering himself with the essence of his being to Hashem and to his {divine} mission, then the verse, “I shall fill the number of your days,” will be fulfilled (as the verse implies a promise): Even if days passed when a person did not perform his mission, or even perhaps acted contrary to his mission, the Torah promises, “I shall fill the number of your days.” (Scripture does not identify the Speaker because the promise comes from) Hashem’s very Essence (beyond all names, unaffected by any blemish), guaranteeing⁴⁶ that He will compensate for and top off any missing days, and all the person’s days will be wholly perfect.

⁴² {*Shemos* 23:26.}

⁴³ *Tehillim* 139:16.

⁴⁴ {From the previously quoted verse in *Shemos* — “There shall be no woman who loses her young or is infertile in your land....”}

⁴⁵ {Meaning to say plaintively that the clock is ticking.}

⁴⁶ As explained in *Or HaTorah* (“*Mishpatim*,” s.v., “*vaavadtem*,” p. 1219 **ff.**) regarding “*vehasiroti...*” (in the previous verse).

8.

“HIS ASSETS ARE DEPRECIATING” IN AVODAH

This is also the deeper significance of the law that when “his assets are depreciating,” a person is exempt from making the oath (of *modeh bemiktzas*).

The time and abilities that Hashem gives to every Jew with which to fulfill his mission in this world are a person’s assets. When a Jew engenders within himself a state of total *bitul*⁴⁷ to Hashem, whereby his whole being is aligned with the idea that he is an emissary of Hashem, i.e., all his time and abilities are invested in fulfilling Hashem’s mission — to make this world into a dwelling-place for Hashem — he certainly will have no time to haul the evil inclination into court.

For if he would use the time and abilities to argue with the evil inclination, his assets would “depreciate” — his Divinely given time and abilities would be devalued; they would not be spent on things of the **utmost** value (fulfilling Torah and *mitzvos*).

Therefore, we accept his claim and exempt him from taking an oath. For not only are we certain that he will not fall {further} into the evil inclination’s domain, G-d forbid; but on the contrary! — “**I shall fill** the number of your days” — his previous deficits will also be completely recouped.

— Based on talks delivered on *Shabbos parshas Mishpatim* 5715 (1955) and on the *maamar, Lo Sihyeh Meshakeilah* 5712 (1952)

⁴⁷ {*Bittul* connotes self-nullification, humility, and the negation of ego.}