

I. Human Dignity - The Mitzvah and its application

**Gensis 1:27**

And God created man in His own image, in the image of God created He him; male and female created He them.

□□:□ □□□□□□  
הָאָדָם בְּצִלְמוֹ, וַיְבָרָא אֱלֹהִים אֶת  
זָכָר תּוֹ: בְּצִלְמֵ אֱלֹהִים בָּרָא אֶ  
וּנְקֵבָה, בָּרָא אֹתָם.

**Babylonian Talmud, Berakhot, 19b**

*Kavod haberiyot* (human dignity) is so important that it can push off a Torah prohibition.

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ת"ש גדול כבוד הבריות שדוחה  
[את] לא תעשה שבתורה

**Mishnah Sanhedrin 10:1**

All Israel have a portion in the world to come, for it says, "Your people, all of them righteous, shall possess the land for ever; They are the shoot that I planted, my handiwork in which I glory" (Isaiah 60:21).

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ם כל ישראל, יש להם חלק לעול  
שנאמר "ועמך כולם --הבא  
דיקים, לעולם יירשו ארץ"  
(ישעיהו ס, כא).

Questions for thought

- 1. What is the basis for the mitzvah of human dignity?
- 2. Does this mitzvah apply to everyone? Do you think it should?
- 3. How far does it extend?

II. Prison in the Torah

**Leviticus 24:10-12**

**10** And the son of an Israelitish woman, whose father was an Egyptian, went out among the children of Israel; and the son of the Israelitish woman and a man of Israel strove together in the camp. **11** And the son of the Israelitish woman blasphemed the Name, and cursed; and they brought him unto Moses. And his mother's name was Shelomith, the daughter of Dibri, of the tribe of Dan. **12** And they put him in ward, that it might be declared unto them at the mouth of the LORD. {P}

□:□□ □□□□□□-□□  
□ אִשָּׁה יִשְׂרָאֵלִית, וְהוּא -וַיֵּצֵא, בֶּן  
אִישׁ מִצְרַיִ, בְּתוֹךְ בְּנֵי יִשְׂרָאֵל; -בֶּן  
וַיֵּצֵא, בַּמַּחֲנֶה, בֶּן הַיִּשְׂרָאֵלִית, וְאִישׁ  
הָאִשָּׁה -וַיִּקְבּוּ בֶן □□ הַיִּשְׂרָאֵלִי.  
וַיָּבִיאוּ הַשֵּׁם, וַיִּקְלַל, -הַיִּשְׂרָאֵלִית אֶת  
מֹשֶׁה; וְשֵׁם אִמּוֹ שְׁלֹמִית -אֹתוֹ, אֶל  
וַיִּנְחֲלוּ, □□ □□. -דַּבְּרִי, לְמִטֵּה-בֵּית  
פִּי יְהוָה. -בַּמִּשְׁמֶר, לְפָרֵשׁ לָהֶם, עַל  
{פ}

**Numbers 15:32-34**

**32** And while the children of Israel were in the wilderness, they found a man gathering sticks upon the sabbath day. **33** And they that found him gathering sticks brought him unto Moses and Aaron, and unto all the congregation. **34** And they put him in ward, because it had not been declared what should be done to him. {S}

□□:□□ □□□□□□-□□  
□□ יִשְׂרָאֵל, בַּמִּדְבָּר; -וַיְהִי בְנֵי □□  
בַּיּוֹם --וַיִּמְצְאוּ, אִישׁ מְקַשֵּׁשׁ עֵצִים  
וַיִּקְרְבוּ אֹתוֹ, הַמִּצְאִים □□ הַשַּׁבָּת.  
-מֹשֶׁה, וְאַל-אֶל--אֹתוֹ מְקַשֵּׁשׁ עֵצִים  
וַיִּנְחֲלוּ □□ הָעֵדָה. -אֶהְרֹן, וְאַל, כָּל  
-אֶ-פָּרֵשׁ, מֵהִכִּי לֹא אֹתוֹ, בַּמִּשְׁמֶר:  
{ס} יַעֲשֶׂה לוֹ.

Questions for thought:

1. How does prison function in these cases?
2. What is its purpose?
3. How does it compare to today's prisons in America?

III. Alternatives in the Torah  
 A. Eved Ivri (Hebrew Slave)

**Leviticus 25:30-46**

**39** And if thy brother be waxen poor with thee, and sell himself unto thee, thou shalt not make him to serve as a bondservant.**40** As a hired servant, and as a settler, he shall be with thee; he shall serve with thee unto the year of jubilee.**41** Then shall he go out from thee, he and his children with him, and shall return unto his own family, and unto the possession of his fathers shall he return.**42** For they are My servants, whom I brought forth out of the land of Egypt; they shall not be sold as bondmen.**43** Thou shalt not rule over him with rigour; but shalt fear thy God.**44** And as for thy bondmen, and thy bondmaids, whom thou mayest have: of the nations that are round about you, of them shall ye buy bondmen and bondmaids.**45** Moreover of the children of the strangers that do sojourn among you, of them may ye buy, and of their families that are with you, which they have begotten in your land; and they may be your possession.**46** And ye may make them an inheritance for your children after you, to hold for a possession: of them may ye take your bondmen for ever; but over your brethren the children of Israel ye shall not rule, one over another, with rigour. {S}

**Mehilta de-Rabbi Ishmael Mishpatim**

“Six years he shall work” – From this I understand that he can be made to do any kind of work. To negate this understanding, the verse comes and teaches “he shall not be made to do the work of a slave.” From this we learn that he [the slave] should not wash his [the master’s] feet and should not tie his shoes etc.

“Six years he shall work” – From this I understand that the slave can be made to do any kind of work – whether it is humiliating work or work without humiliation. To negate this understanding, the verse comes and teaches “like the hired worker, like the dweller.” Just like a hired worker cannot be asked to do any other work than the work associated with his trade, so too the Hebrew slave cannot be asked to do

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 יִמּוֹךְ אַחֲרָיְךָ עִמָּךְ, וְנִמְכַר-וְכִי □□  
 תַּעֲבֹד בּוֹ, עַבְדֻת עֶבֶד -לֹא--לְךָ  
 שְׂכִיר כְּתוֹשֵׁב, יִהְיֶה עִמָּךְ; עַד-כִּי  
 וַיֵּצֵא, □□ שְׁנַת הַיָּבֵל, יַעֲבֹד עִמָּךְ.  
 -הוּא, וּבְנָיו עִמּוֹ; וְשָׁב, אֶל--מֵעִמְךָ  
 אַחֲזַת אֲבֹתָיו, יָשׁוּב -מִשְׁפַּחְתּוֹ, וְאֶל  
 הוֹצֵאתִי -עֶבְדֵי הֵם, אֲשֶׁר-כִּי □□  
 קָרוּ, אַתֶּם מֵאֲרָץ מִצְרָיִם; לֹא יִמְ  
 תִרְדֶּה בּוֹ, -לֹא □□ מִמִּכְרֹת עֶבֶד.  
 □□ בְּפָרֶךְ; וַיִּרְאתִי, מֵאֲלֹהֶיךָ.  
 לְךָ: -וְעַבְדְּךָ וְאִמְתְּךָ, אֲשֶׁר יִהְיוּ  
 --מֵאֵת הַגּוֹיִם, אֲשֶׁר סְבִיבֹתֶיכֶם  
 וְגַם □□ מֵהֵם תִּקְנוּ, עֶבֶד וְאִמָּה.  
 מִבְּנֵי הַתּוֹשְׁבִים הַגֵּרִים עִמָּכֶם,  
 ם תִּקְנוּ, וּמִמִּשְׁפַּחְתָּם אֲשֶׁר מִהֶ  
 עִמָּכֶם, אֲשֶׁר הוֹלִידוּ בְּאֶרְצְכֶם; וְהָיוּ  
 וְהַתְּנַחֲלֶתֶם □□ לָכֶם, לְאֶחְזָה.  
 אַתֶּם לְבַנְיֵיכֶם אַחֲרֵיכֶם, לְרֵשֶׁת  
 לְעֵלֶם, בְּהֵם תַּעֲבֹדוּ; --אַחְזָה  
 יִשְׂרָאֵל אִישׁ בְּאָחִיו, -וּבְאֲחֵיכֶם בְּנֵי  
 {ס}רְדֶה בּוֹ בְּפָרֶךְ. -תִּלֹּא

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 שש שנים יעבוד. שומע אני כל  
 עבודה במשמע, תלמוד לומר  
 וויקרא כה לט+ לא תעבוד בו  
 עבודת עבד, מכאן אמרו, לא  
 ירחוץ לו רגליו ולא ינעול לו מנעליו  
 ...

שש שנים יעבוד, שומע אני, בין  
 עבודה שיש בה בזיון, בין עבודה  
 שאין בה בזיון, ת"ל +שם שם  
 /ויקרא כה+ כשכיר כתושב, מה  
 שכיר אי את רשאי לשנותו  
 מאומנתו, אף עבד עברי אי אתה

work other than that associated with his trade.

רשאי לשנותו מאומנותו...

**Deuteronomy 15: 12-15**

12. If your brother, a Hebrew man or a Hebrew woman, is sold to you, he shall serve you for six years, and in the seventh year you shall send him forth free from you. 13. And when you send him forth free from you, you shall not send him forth empty-handed 14. You shall surely provide him from your flock, from your threshing floor, and from your vat, you shall give him from what the Lord, your God, has blessed 15. And you shall remember that you were a slave in the land of Egypt, and the Lord, your God, redeemed you; therefore, I am commanding you this thing today.

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יִמְכַר לְךָ אַחִיךָ הָעֶבְרִי, או - כִּי □  
וְעַבְדְּךָ, שֵׁשׁ שָׁנִים; --הָעֶבְרִיָּה  
וּבְשָׁנָה, הַשְּׁבִיעִת, תִּשְׁלַחְנוּ חֹפְשִׁי,  
תִּשְׁלַחְנוּ חֹפְשִׁי, - וְכִי □ מֵעִמְךָ.  
□□ יָקָם. לֹא תִשְׁלַחְנוּ, ר--מֵעִמְךָ  
הָעֵבֶדִים תַּעֲבִיד, לוֹ, מִצֹּאֲנֶךָ, וּמִגֵּרְךָ  
אֲשֶׁר בְּרֶכְךָ יְהוָה אֱלֹהֶיךָ, וּמִיִּקְבְּךָ:  
וְזָכַרְתָּ, כִּי עֶבֶד הָיִיתָ □□ לוֹ. -תִּתֵּן  
בְּאָרְץ מִצְרַיִם, וַיִּפְדְּךָ, יְהוָה אֱלֹהֶיךָ;  
--זֶה הַדָּבָר הַכֵּן אֲנִכִּי מִצֹּרָה, אֶת-עַל  
הַיּוֹם.

Questions for thought:

- 1. What are some of the components of this system?
- 2. What values do these components convey?

**B. Ir Miklat (City of Refuge)**

**Numbers 35:9-15**

9. The Lord spoke to Moses saying 10. Speak to the children of Israel and say to them, When you cross the Jordan to the land of Canaan, 11. you shall designate cities for yourselves; they shall be cities of refuge for you, and a murderer who killed a person unintentionally shall flee there. 12. These cities shall serve you as a refuge from an avenger, so that the murderer shall not die until he stands in judgment before the congregation. 13. The cities that you provide shall serve as six cities of refuge for you. 14. You shall provide the three cities in trans Jordan and the three cities in the land of Canaan; they shall be cities of refuge. 15. These six cities shall be a refuge for the children of Israel and for the proselyte and resident among them, so that anyone who unintentionally kills a person can flee there.

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מֹשֶׁה לֵאמֹר. - וַיְדַבֵּר יְהוָה, אֶל □  
□  
בְּנֵי יִשְׂרָאֵל, וְאָמַרְתָּ -דִּבַּר אֵל  
-כִּי אַתֶּם עֹבְרִים אֶת אֲלֵהֶם:  
□□ הַיַּרְדֵּן, אֲרָצָה כְּנָעַן.  
וְהִקְרִיתֶם לָכֶם עָרִים, עָרֵי מִקְלָט  
תִּהְיֶינָה לָכֶם; וְנָס שָׂמָּה רֹצֵחַ,  
וְהָיוּ לָכֶם □□ בְּשִׁגְגָה. נֶפֶשׁ-מִכָּה  
הָעֹרִים לְמִקְלָט, מִגָּאֵל; וְלֹא יָמוּת  
עַמְדוֹ לִפְנֵי הָעֵדָה -הָרֹצֵחַ, עַד  
וְהָעָרִים, אֲשֶׁר □□ לְמִשְׁפָּט.  
עָרֵי מִקְלָט, תִּהְיֶינָה -שֵׁשׁ--תִּתֵּן  
אֶת שְׁלֹשׁ הָעָרִים, □□ לָכֶם.  
וְאֶת שְׁלֹשׁ תִּתֵּן מֵעֵבֶר לַיַּרְדֵּן,  
עָרֵי הָעָרִים, תִּתֵּן בְּאָרְץ כְּנָעַן:  
לְבְנֵי □□ מִקְלָט, תִּהְיֶינָה.  
יִשְׂרָאֵל, וְלָגֵר וְלַתּוֹשֵׁב בְּתוֹכְךָ,  
הָעֹרִים הָאֵלֶּה, -תִּהְיֶינָה שֵׁשׁ  
מִכָּה-לְנוֹס שָׂמָּה, כָּל--לְמִקְלָט  
נֶפֶשׁ בְּשִׁגְגָה

**Babylonian Talmud Makkoth 10a**

These cities of refuge – they are not made to be small manors nor large cities – rather, they are medium-sized cities. We do not count these cities in our census either

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ערים הללו אין עושין אותן לא

cities. We do not set up these cities in any place other than one with a water source. If there is not a water source – we transport water there. We do not set up these cities except in a place where there are markets. We also do not set up these cities except where there is a sizeable population. If the population dwindles – we add to it (by bringing people)...

A Tanna taught: A disciple who goes into banishment is joined in exile by his master, in accordance with the text, and that fleeing unto one of these cities he might live, which means — provide him with whatever he needs to live. R. Ze'ira remarked that this is the basis of the dictum, 'Let no one teach Mishnah to a disciple that is unworthy.' R. Johanan said: A master who goes into banishment is joined in exile by his College.

### Babylonian Talmud Makkoth 13a

[He] returns to the position of power that he had, according to the words of Rabbi Meir. Rabbi Yehudah says, he doesn't return to the position of power that he had.

### Rashi Makkoth 13a

[He] returns to the position of power that he had: if he was the prince of a tribe or the head of a tribal group, he returns to his greatness when he returns from the city of refuge when the High Priest dies.

### Numbers 35:9-15

9. The Lord spoke to Moses saying 10. Speak to the children of Israel and say to them, When you cross the Jordan to the land of Canaan, 11. you shall designate cities for yourselves; they shall be cities of refuge for you, and a murderer who killed a person unintentionally shall flee there. 12. These cities shall serve you as a refuge from an avenger, so that the murderer shall not die until he stands in judgment before the congregation. 13. The cities that you provide shall serve as six cities of refuge for you. 14. You shall provide the three cities in trans

טירין קטנים ולא כרכין גדולים  
אלא עיירות בינוניות ואין מושיבין  
אותן אלא במקום מים ואם אין  
שם מים מביאין להם מים ואין  
מושיבין אותן אלא במקום שווקים  
ואין מושיבין אותן אלא במקום  
אוכלוסין נתמעטו אוכלוסיהן  
מוסיפין עליהן נתמעטו דיוריהן  
... מביאין להם ...

תנא תלמיד שגלה מגלין רבו עמו  
שנאמר וחי עביד ליה מידי דתהוי  
ליה חיותא אמר ר' זעירא מכאן  
שלא ישנה אדם לתלמיד שאינו  
הגון א"ר יוחנן הרב שגלה מגלין  
ישיבתו עמו

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וחוזר לשררה שהיה בה, דברי  
רבי מאיר; רבי יהודה אומר: לא  
היה חוזר לשררה שהיה בה.

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□:□□

אם היה -בה חוזר לשררה שהיה  
נשיא או ראש בית אב חוזר  
לגדולתו כשישוב לעירו במיתת  
כה"ג.

□:□□ □□□□□-□□

□ משה לאמר. - וידבר יהוה, אל

כי אתם מ: בני ישראל, ואמרת אלה-דבר את  
והקרייתם □□ הירדן, ארצה כנען. -עברים את  
לכם ערים, ערי מקלט תהיינה לכם; ונס שמה  
והיו לכם הערים □□ נפש בשגגה. -רצח, מכה  
לפני עמדו-למקלט, מגאל; ולא ימות הרצח, עד  
ש-ש-- והערים, אשר תתנו □□ העדה למשפט.  
את שלש □□ ערי מקלט, תהיינה לכם.  
הערים, תתנו מעבר לירדן, ואת שלש הערים,  
□□ ערי מקלט, תהיינה. תתנו בארץ כנען:  
ש-ראל, ולגר ולתושב בתוכם, תהיינה ששלבני י  
מ-מכה-לנוס שמה, כל--הערים האלה, למקלט  
נפש בשגגה

children of Israel and for the proselyte and resident among them, so that anyone who unintentionally kills a person can flee there.

### **Babylonian Talmud Makkoth 10a**

These cities of refuge – they are not made to be small manors nor large cities – rather, they are medium-sized cities. We do not set up these cities in any place other than one with a water source. If there is not a water source – we transport water there. We do not set up these cities except in a place where there are markets. We also do not set up these cities except where there is a sizeable population. If the population dwindles – we add to it (by bringing people)...

A Tanna taught: A disciple who goes into banishment is joined in exile by his master, in accordance with the text, and that fleeing unto one of these cities he might live, which means — provide him with whatever he needs to live. R. Ze'ira remarked that this is the basis of the dictum, 'Let no one teach Mishnah to a disciple that is unworthy.' R. Johanan said: A master who goes into banishment is joined in exile by his College.

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ערים הללו אין עושין אותן לא טירין קטנים ולא כרכין גדולים אלא עיירות בינוניות ואין מושיבין אותן אלא במקום מים ואם אין שם מים מביאין להם מים ואין מושיבין אותן אלא במקום שווקים ואין מושיבין אותן אלא במקום אוכלוסין נתמעטו אוכלוסיהן מוסיפין עליהן נתמעטו דיוריהן מביאין להם ...  
תנא תלמיד שגלה מגלין רבו עמו שנאמר וחי עבד ליה מידי דתהוי ליה חיותא אמר ר' זעירא מכאן שלא ישנה אדם לתלמיד שאינו הגון א"ר יוחנן הרב שגלה מגלין ישיבתו עמו

### **Babylonian Talmud Makkoth 13a**

[He] returns to the position of power that he had, according to the words of Rabbi Meir. Rabbi Yehudah says, he doesn't return to the position of power that he had.

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רבי וחוזר לשררה שהיה בה, דברי רבי מאיר; יהודה אומר: לא היה חוזר לשררה שהיה בה.

### **Rashi Makkoth 13a**

[He] returns to the position of power that he had: if he was the prince of a tribe or the head of a tribal group, he returns to his greatness when he returns from the city of refuge when the High Priest dies.

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אם היה נשיא או ראש -חוזר לשררה שהיה בה בית אב חוזר לגדולתו כשישוב לעירו במיתת כה"ג.

**Moshe Greenberg, "The Biblical Conception of Asylum," Journal of Biblical Literature 78, no. 2 (June 1959), 125.**

The humanitarian purpose of these laws is obvious, and their aspiration to control vengeance by making it possible for public justice to intervene between the slayer and the avenger has long been recognized as an advance over the prior custom of regarding homicide as a purely private matter to be settled between the families of the two parties.

Questions for thought:

1. Is this a punishment for the one who killed?
2. How does this relate to today's American prison system?
3. What are some of the components of this system?
4. What values to these components convey?

IV. Extra - The purpose of punishment

**Maimonides, Guide for the Perplexed III:41.**

It is right that the more frequent transgressions and sins are, and the greater the probability of their being committed, the more severe must their punishment be, in order to deter people from committing them; but sins which are of rare occurrence require a less severe punishment.

- The United States has the highest rate of incarceration in the world:
  - 2.3 million inmates
  - 7 million in custody of the state (in prison or jail, on probation, or on parole).
- The rate of incarceration has grown exponentially over the past decade:
  - 1/218 U.S. residents in 1990
  - 1/147 U.S. residents in 1999
- Prisoners live with:
  - A cell 30 square feet (4 ½ by 6 ½ ft.)
  - Toilets without privacy right next to their beds.
- Prisoner suffer:
  - 250,000 to 600,000 (14,500 of whom are juvenile boys and girls) of America's 2.3 million inmates have been traumatically lambasted and raped behind bars.#
  - New York state correctional system has an HIV rate of 8.5 percent, which continues to be spread deleteriously through rape.#