

## Parsha Halacha - Parshat Mishpatim and Parshat Shekalim

# Counting a Robot for a Minyan

Based on the Halachic Discussion of Counting a Golem for a Minyan

Sponsored by Bertie and Jackie Woolf and their children Anton and Julie Woolf, and Lara and Brandon Grusd and their grandchildren, in honor of Bertie and Jackie's parents of blessed memory, Lazar (Eliezer Zev) and Hannah (Chana Rochel) Woolf and Michael and Zeta Susman.

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The Torah portion of Mishpatim contains no fewer than 53 mitzvot according to the Sefer HaChinuch.<sup>1</sup> The 21<sup>st</sup> of these mitzvot is “You shall not allow a sorceress to live.”<sup>2</sup>

This mitzvah applies to men and women but since it was more common for women to practice sorcery than for men, the Torah speaks about sorceresses in the feminine following the principle that “the Torah speaks about what is more common.”<sup>3</sup> In addition, the Torah specifies that even a female sorceress be put to death since people are, generally, more merciful towards women and may hesitate to kill them.<sup>4</sup>

### Magic and Idolatry

Maimonides explains why practicing magic is considered such a severe sin by the Torah. Magic was generally used by its practitioners to “prove” the power of certain idols, stars or constellations. “And since the intention of the entire Torah is to eradicate idol worship and erase its memory, so that we should not think that any star can be injurious or beneficial in any material way to human beings, this belief (that they can benefit or harm) being the cause for people to serve these entities – it follows that all sorcerers must be put to death since all

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<sup>1</sup> Actually, the custom in the area of the Sefer HaChinuch (13<sup>th</sup> century Barcelona) was to divide Parshat Mishpatim into two parshiyot (Torah postions). The first parsha ended with Exodus 22:23 and the second parsha began with the words “Im Kesef Talveh” (22:24). These words (Im Kesef Talveh) were also the name given to the second parsha. These two portions were usually read together but were separated on leap years of א"ח and ג"ש. (These letters signify what days of the week Rosh HaShana and Pesach are on respectively and whether the months of Cheshvan and Kislev have 29 or 30 days. So, א"ח means that Rosh Hashana is on Sunday, the year is *chaseirah* – incomplete [Cheshvan and Kislev both have 29 days] and Pesach is on Tuesday. ג"ש means that Rosh Hashana is on Thursday, the year is *shleima* – complete [Cheshvan and Kislev both have 30 days] and Pesach is on Tuesday.) The purpose of adding this parsha was to ensure that the Torah portion of Metzora be read before Pesach. This is still the custom of Algerian and Tunisian Jewry. (From a note on the Sefer HaChinuch, Machon Yerushalayim edition, mitzvah 66.)

I am not aware of a similar parsha, that some separate into two. But see Avudraham in the Seder Haprashitot vhaftorot, that (according to his custom) Shelach and Korach were sometimes joined but Chukat and Balak were never joined.

<sup>2</sup> Exodus, 22:17

<sup>3</sup> Rashi based on Sanhedrin, 67a

<sup>4</sup> Rambam in his Guide to the Perplexed, vol. 3, chapter 37

sorcerers are certainly idol worshipers except that they serve them differently than how the masses do.”<sup>5</sup>

### **Meddling in the Forces of Nature**

The Sefer HaChinuch<sup>6</sup> explains that G-d created every aspect of this world with a certain nature so that it can function in the way that is best for the world. He commanded that every element of nature fulfill the purpose for which it was made. G-d also created spiritual (angelic) forces that energize every aspect of this world and ensure that they function in the proper way. If any of these spiritual forces are mixed, the physical elements that they energize will be altered. Mankind is forbidden from mixing these forces in certain ways (i.e., through magic) as G-d knows that that the ultimate effect on the world from this sort of mixture, is negative.

Rabbeinu Bachaye<sup>7</sup> explains that the mingling of the spiritual forces in nature can be accomplished by connecting and mixing the physical items that are energized by these forces. He writes that this is also the reason for the Torah’s prohibition of Shaatnez (mixing wool and linen) as this would cause an improper mingling of certain spiritual forces.

### **Kabbalistic Intervention**

It is noteworthy that, although practicing magic is severely forbidden, there is no prohibition against intervening in the forces of nature by using Kabbalistic methods.<sup>8</sup> This does not lead to any idolatrous practice, on the contrary it shows G-d’s might and power in this world.<sup>9</sup> As far as improper meddling in nature, it would seem, that when using Kabbalistic methods, one is able to alter nature without mixing the disparate spiritual forces. One may only do so if they are holy and pure and, even then, only to be able to do a great mitzvah or to sanctify G-d’s name. In these generations, it is difficult to find someone who is on the level of doing this.<sup>10</sup> In addition, one should not utter names of G-d in order to perform miracles. Since the Mishnah<sup>11</sup> says “ודאשתמש בתגא, חלף” – “And one who make personal use of the crown of Torah shall perish.” Some interpret this to mean one who uses names of G-d for their own purposes.<sup>12</sup>

There are many examples in the Talmud and Midrash of sages who engaged in this practice. Here are some examples.

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<sup>5</sup> Ibid

<sup>6</sup> Mitzvah 62

<sup>7</sup> On Exodus, 22:17

<sup>8</sup> Y.D. 179:15

<sup>9</sup> Shach, *ibid*, 18

<sup>10</sup> *Ibid*, in the name of the Levush

<sup>11</sup> Avot, 1:133

<sup>12</sup> See Birkei Yosef on Y.D. *ibid* who discusses whether this prohibition applies to using any name of G-d or only the explicit name (*Shem Hameforash*). He also quotes Rav Chaim Vital who strongly discourages the use of practical Kabbalah.

- Some say<sup>13</sup> that Avraham created one of the calves which he served to his guests, using the Sefer Yetzirah (an ancient Kabbalistic book about creation attributed to Avraham Avinu himself. Our sages were able to use the secrets of this book to form living creatures.)
- According to one opinion,<sup>14</sup> Moshe killed the Egyptian taskmaster who was beating the Jew, by uttering the explicit name of G-d. (This is not considered a personal use of G-d's name as he did this in order to save the life of a Jewish person.)
- Some say that Moshe said the explicit name of G-d in order to bring up Yosef's coffin from the Nile river before the exodus.<sup>15</sup>
- Isaiah the Prophet said a holy name so that he would be swallowed up by a cedar tree when (his grandson) King Menashe was trying to kill him.<sup>16</sup> (Unfortunately, despite this, his grandson found him and proceeded to murder him. Some say that this was a punishment for using G-d's holy name for his personal use.<sup>17</sup>)
- There is a tradition that Ben Sira once created a golem (a human like form that has some life but cannot speak) using the letters of the Alef Bet. The prophet Yirmiyahu disapproved of this and instructed him to return it to dust. And so he did.<sup>18</sup>
- The Talmud<sup>19</sup> says that Rava once created a golem using the book of Yetzirah. He sent him to Rav Zeira who tried to converse with him. When Rav Zeira realized that the being could not speak, he remarked "you were created by my colleagues, return to dust."<sup>20</sup> And so it was.<sup>21</sup>
- See [here](#) for several other examples of this.

### A Golem for a Minyan

The Mishnah Berurah (Rabbi Yisroel Meir Kagan, 1839 – 1933) cites the following halacha: "If a man was created using the book of Yetzirah, see Responsa of Chacham Tzvi as to whether or not he counts for a minyan..."

<sup>13</sup> Rabbi Avraham Azulai in Chesed LeAvraham, Mayan 5, Nahar 51.

<sup>14</sup> Shemot Rabbah, 1:29, cited in Rashi on 2:12. See Midrash Otiyot DeRabbi Akiva, page 24 and 32 (in the Jerusalem, 1914 edition) that G-d revealed His explicit name to Moshe although He had not done so for the patriarchs.

<sup>15</sup> Yalkut Shimoni, Beshalach, 13, Remez 228

<sup>16</sup> Yevamot, 49b and Talmud Yerushalmi, Sanhedrin, 11:2

<sup>17</sup> Levush, cited in Shach, ibid. But see the Talmud (ibid) which explains that he was being punished for a different sin.

<sup>18</sup> Yalkut Reuveni, Parshat Bereishit, cited in Ben Yehoyada, Sanhedrin, 65b D.H. Amar lei min chevraya

<sup>19</sup> Sanhedrin, 65b

<sup>20</sup> The Ben Ish Chai, in Ben Yehoyada (ibid), explains that the way Rav Zeira "deactivated" the golem was by uttering the letters with which he had been created, in a reverse order.

<sup>21</sup> See Chacham Tzvi, cited below, who explains that, even if a golem were to be considered human, it is not forbidden to "kill" him since it was not created inside the womb of a mother. Regarding murder, the Torah (Gen. 9:6) says, שֹׁפֵךְ דַּם הָאָדָם בְּאָדָם דָּמוֹ שֹׁפֵךְ, which can be understood to mean "One who spills the blood of man *that was fashioned within* a man, shall have his blood spilt."

Here is the story and the Halachic discussion about this unusual question.

### **The Golem of Chelm**

The Chacham Tzvi (Rabbi Tzvi Ashkenazi of Amsterdam, 1656 – 1718) writes<sup>22</sup> that his ancestor, Rav Eliyahu Ba'al Shem of Chelm (1550 – 1583) created a human like being (a golem) using the Sefer Yetzirah. The Chacham Tzvi's son, Rav Yakov Emden (Altona 1697 – 1776) writes<sup>23</sup> that, eventually Rav Eliyahu decided to deactivate the golem. So, he removed the name of G-d which he had placed in the golem's forehead. But as he was doing this, the golem fought back and scratched Rabbi Eliyahu on his forehead.

### **Counting the Golem**

The Chacham Tzvi wonders if a golem can be counted for a minyan. On the one hand, only a Jew may be counted for a minyan and a golem is not a Jew. On the other hand, since a golem is created by a tzadik and the actions of a tzadik are considered their progeny, perhaps they should be considered like a child of a Jew. This can be compared to the teaching of the Talmud<sup>24</sup> that one who rears an orphan in their home is considered to have birthed them.

The Chacham Tzvi concludes that a golem does not count for a minyan since we find in the Talmud (cited above) that Rav Zeira "killed" a golem. If the golem would have counted for a minyan, Rav Ziera would not have done this so quickly.

Many other reasons are given as to why a golem does not count for a minyan.

- He does not have a human soul
- He is not obliged to keep mitzvot nor will he ever be.<sup>25</sup>
- A golem is like an animal in human form.<sup>26</sup>
- Since a golem does not have a human soul, it is unable to communicate (speech is the hallmark of humanity).<sup>27</sup> As such, even if he were to be considered the progeny of a Jew, he is no better than a deaf mute.<sup>28</sup>
- Even if a golem were to be considered human, it would have to be "alive" for 13 years before it could count for a minyan. In addition, it would have to show signs of puberty which is impossible.<sup>29</sup>

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<sup>22</sup> Responsa 93

<sup>23</sup> In She'ilat Ya'avetz, vol. 2, Siman 82

<sup>24</sup> Sanhedrin, 19b

<sup>25</sup> Tosfot Chadashim printed in the Chacham Tzvi published by Mifal Chacham Tzvi (Jerusalem, 2005).

<sup>26</sup> Chidah in Marot Ha'ayin on Sanhedrin, 65b

<sup>27</sup> Maharsha in Chidushei Aggadot, Sanhedrin, 65b D.H. Lo Hava

<sup>28</sup> Chidah in Birkei Yosef, O.C. 55:4

<sup>29</sup> Likutei Chaver ben Chaim in his notes on the Chacham Tzvi, cited in the Likutei Ha'arot on the Chacham Tzvi of the above-mentioned edition.

- The Talmud<sup>30</sup> says that, once Rav Elazar freed a Canaanite slave in order to make a minyan. (A freed slave becomes Jewish upon his release.) He did this, despite the fact that, generally, it was considered a mitzvah to keep Canaanite slaves indefinitely, because of the great mitzvah of praying with a minyan. Were a golem to count for a minyan, Rabbi Elazar would not have resorted to freeing a slave in order to make a minyan when he could have simply created a golem.<sup>31</sup>

### **Counting a Robot for a Minyan**

Based on the above discussion, it is clear that a robot would not count for a minyan even if it were fashioned by a Jew and were considered that Jew's progeny. Several of the abovementioned reasons apply to a robot.

- It has no human soul.
- It is not obliged to perform mitzvot.
- It cannot be considered a human being since it is not forbidden to "kill" it.
- It is not 13 years old and, even if it is, can never reach puberty.

**Wishing you a Shabbat Shalom and a Chodesh Tov!  
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<sup>30</sup> Gittin 38b

<sup>31</sup> Mahari Leib Katz, son of the Sha'ar Efraim, cited in Birkei Yosef, ibid. Rav Elazar was a great Kabbalist as stated in the Zohar, vol. 1, page 98a.

The Birkei Yosef disputes this proof as he says that creating a golem takes a lot of time and a great effort. Rav Elazar may have been unable to do this while everyone was waiting for a minyan.