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בס"ד

Parashat Ki Tabo Part I The Last Four Passages of the Deuteronomy Law Compendium

Moses concludes the twenty chapters of law that constituted the stipulations section of the covenant reaffirmation he was leading the Israelites through with a coda of three passages. The first of these three (the final passage of *Parashat Ki Tese*) is the command regarding Amalek, followed by two agriculture-related passages. The penultimate passage of *Parashat Ki Tese*, the prohibition against possessing false weights and measures (Deut. 25:13-16), is the final case of the *mishpatim* subsection. After these four passages Moses summarizes the responsibilities of both sides of the G-d-Israel relationship and moves on to the concluding procedures of covenant reaffirmation in accordance with ancient Near Eastern suzerain-vassal covenant format.* We will comment on each of these four passages with an eye toward discerning the role each plays in the closing segment of covenant stipulations.

1. Weights and Measures

Honest weights and measures, an important requirement for the functioning of a just society, had been especially critical in former times. Accurate specimens of the standard units of measure were not then readily available and exactitude was in any event well-nigh impossible to achieve. A great deal of commerce depended on privately owned measuring apparatus, relying on the integrity of the entrepreneur, with little protection against fraud. This ordinance's demand of daily and universal relevance was a continual challenge to society and thus appropriate to be the conclusion of the *mishpatim*. Similarly, in the Leviticus 19 law compendium that is also associated with the Decalogue and the covenant, the call for just weights and measures is the final precept of the chapter (Lev. 19:35-36).

As is fitting for the finale of a long series of laws, the passage is formulated in an expansive and semipoetic manner. The individual is cautioned in second person not to have in his pouch "stone and stone, large and small" or in his home "*ephah* and *ephah*, large and small." Stones were carried around by merchants and used with balance scales while the *ephah* was a dry measure volume ascertained by a vessel that generally was kept in homes. Dishonest dealers used a large measuring artifact when buying and a small one when selling. The statement of prohibitions is followed by commanding these laws in the positive: "A complete and righteous stone must you have, a complete and righteous *ephah* must you have." In a rare flourish the passage closes with two motivational clauses, a positive and a negative: "in order that you may have length of days on the land that Hashem your G-d is giving you" and "for an abomination to Hashem your G-d are all those ... who do iniquity."

The prohibition is phrased as "you shall not have" alternate weights and measures, rather than being stated as an injunction against the use of such devices. Thus, it forbids the very possession of false weights and measures. This is an example of the Torah legislating a "fence" around the law, serving to prevent the possibility of yielding to temptation and rationalization in a weak moment. It also precludes misuse by others who may have access to the measures.

2. Amalek

The Amalek passage makes clear that this people exhibited unholy and godless behavior in its attack upon Israel, behavior that was the antithesis of that which the covenant promotes. Thus, immediately

upon completion of the *mishpatim*, Israel is commanded to “Remember what Amalek did to you” (Deut. 25:17). When secure from enemies roundabout, Israel is to “blot out the name of Amalek from under the heavens” (25:19). This nomadic people – whose geographic center appears to have been in the Negev and northern Sinai Peninsula but so far unattested outside of Scripture – was a perennial enemy of Israel until subdued by Saul and David. A band of Simeonites struck the final blow in the days of Hezekiah (1 Chronicles 4:41-43).

The Deuteronomy clauses אָשֶׁר-עָשָׂה לְךָ עַמְלֵק בְּדַרְךָ (“what Amalek did to you on the journey”) followed by אָשֶׁר קָרַךְ בְּדַרְךָ (“what he made happen to you on the journey”) indicate that Amalek was an aggressor, perhaps meaning, as NJPS translates, that it “surprised you on the march.” From Samuel’s prophecy אָשֶׁר-שָׂם לוֹ בְּדַרְךָ (“that it placed for him [the nation] on the journey” [1 Sam. 15:2]), it appears that Amalek had set an ambush for Israel. In any event, our passage indicates that Amalek attacked Israel’s rear (נִיזְנֵב, a verb derived from “tail”), and הִנְחָשׁוּ אַחֲרֶיךָ (“stragglers” or “crushed”), the infirm, sick and elderly, who could not keep up with the camp, at a time when Israel was “faint and weary.” Finally, Amalek “feared not G-d.”

Even the heathen is expected to have a measure of “fear of G-d.” This term refers to the minimum standard of civilized behavior that G-d demands of every human being. In Scripture, “fear of G-d” consistently connotes being a decent, conscionable person committed to basic values and fairness. As Abraham said to Abimelech, one who lacks it may kill a man in order to take his wife (Gen. 20:11). Joseph, while appearing to his accused brothers as a stranger, declared that instead of holding them all captive while one will return home to bring Benjamin, he will hold only one captive, allowing all the others to take food to their families, “for I fear G-d” (42:18). The midwives “feared G-d” and defied Pharaoh’s orders to kill the newborn boys (Exod. 1:17).

Amalek represented a significant threat to Israel’s goals. Balaam called it רֵאשִׁית גּוֹיִם (“first of nations” [Num. 24:20]), potentially influential, and it came to symbolize evil incarnate. Opposing Amalek was conceived as supporting G-d’s most basic demands of

man, which explains the placement of this command as the beginning of the coda following completion of the basic laws. The preceding passage’s concluding clause, that those who do iniquity are an abomination to G-d, is a perfect opening to the Amalek passage.

The requirement to “blot out the name of Amalek, do not forget” means that Israel must strive to terminate any continuation of that nation as an entity with its distinctive culture. It applies to all those members of Amalek who did not accept Israel’s terms for peace and are presumed to be hopelessly imbued with Amalek’s evil character. Israel’s terms for peace require the enemy to accept a certain minimum standard of righteous behavior (Rambam, *Mishneh Torah Hilkhot Melakhim* 1:6). This passage sets a tone for Israel to oppose any evildoers who manifest Amalek-like characteristics. In Psalm 83, Amalek is described as one of the group that conspired to destroy Israel. That group said, “Let us destroy them from being a nation, and Israel’s name will no longer be mentioned” (Ps. 83:5).

In the Torah’s other passage dealing with Israel’s interaction with Amalek (Exod. 17:8-16), the battle is described as occurring shortly before the lawgiving (at Rephidim, the station preceding Sinai). Although presented in a historical context, it appears to signal a responsibility that is introductory to the lawgiving, a biblical indication that the command to battle Amalek is a fundamental responsibility to forever oppose evildoers of Amalek’s ilk.

The last verses of that Exodus passage speak of G-d instructing Moses to “Write this as a remembrance in a document and place in Joshua’s ears, that I will thoroughly blot out the remembrance of Amalek from under the heavens” (v. 14). The passage concludes with G-d taking an oath that He will be at war with Amalek from generation to generation, that is, throughout the ages. This is in contrast to Deuteronomy’s statement that speaks only of Israel’s responsibility. Of course, if G-d is at war He could win His battle immediately, so what is the significance of an ongoing war for Him? Clearly, His oath signifies that Israel, His representative to carry out His will, is to be ever-vigilant against Amalek and what that nation represents.

In addition, the Exodus passage's quasi-magical description of the power of Moses' hand holding the rod of G-d that governs the ups and downs of the battle begs for an allegorical interpretation such as given it by the Mishnah (*m. Rosh. Hash. 3:8*). Moses' lifting his hand represents the Israelites turning their hearts toward their father in Heaven. When they do so, they prevail; when they do not, they fail, a description of an ongoing situation concerning Israel (see our *Parashat Beshalah* study on this topic).

3. First Fruits

The first passage in *Parashat Ki Tabo* prescribes the bringing of first fruits to the sanctuary, a thanksgiving ceremony to actively acknowledge G-d's gifts. Previously, it had been referred to briefly among priestly perquisites (Deut. 18:4). The following passage, the final one of the law compendium, provides an additional dimension to the statute that prescribes the triennial tithe for the poor, the basics of which had been described in 14:28-29. Both passages envision the Israelites settled in the promised land, each individual in possession of his estate, peaceful and fruitful, each giving from his produce for religious and charitable purposes. Both passages prescribe eloquent liturgical declarations for the landowner to recite. Since they depict both a materially and spiritually flourishing future, and each contains a concluding prayer with ever-relevant, appealing imagery, they were eminently suitable for closing the legal section.

The recitation that accompanies the first fruits renders this passage even more appropriate as a conclusion in that it contains a concise summary of the nation's formative history and serves as an introduction to articulation of the covenant that follows. It begins with *אָרְמֵי אַבְדָּ אָבִי יַיִךְ מִצְרַיִם*, a reference to Jacob's difficulties associated with his having gone to Aram and his subsequently having descended to Egypt, where his family grew from a small clan into a full-fledged people. It gratefully acknowledges G-d's past providence and His fulfillment of the covenant He established with the patriarchs, recognizing that Israel's land is a gift from Him. Invocation of the covenant sets the stage for articulation of the covenantal formula and a summary of the mutual responsibilities that immediately follows. Omission of

the technical details concerning which first fruits, when and how much is to be brought – left for the Oral Law – serves to highlight the conceptual dimension.

In addition, the recitation, which contains a polemic against the pagan beliefs popular in the ancient Near East and the associated gods who ruled over limited domains, leads the landowner to appreciate an important aspect of the monotheistic revolution. It proceeds from the recognition that Hashem is the source of the land's fertility to recognition that He is at work in Israel's history, guiding it from its beginnings through the centuries to the present moment. This parallels the process underlying the transformation of the three annual festivals from agricultural celebrations to commemorations of divine providence in history. "This shift of the focus of a religious ceremony from exclusive attention to the role of God in nature to an emphasis on His role in history is one of the most important and original features of the Bible. Its effect on liturgy is this type of prescribed prayer, which leads the worshipper from the immediate experience to an understanding of the larger picture" (J. Tigay, *Commentary on Deut.*, p. 238).

One wonders that the historical digest does not include reference to the momentous event of the lawgiving that occurred between the Exodus and entering the land. The explanation seems to be that in this context the landowner is celebrating G-d's having brought the nation to settle in the land and is expressing his personal gratitude for his portion and his prosperity. Accordingly, the emphasis in this recitation is on G-d's fulfillment of His promise. The lawgiving is essential but in this context it is an intermediary step.

4. Tithe for the Poor

The final passage of the coda adds a ritual detail to the previously prescribed requirement that each landowner must give a tenth of his land's produce each third year to the poor (see Deut. 14:28-29) – the landowner must also recite a "confession of compliance." Although the produce is dispensed and eaten "in your gates" (26:12), that is, throughout the country, for that is where the needy are, the recitation

is to be “before Hashem your G-d” (v. 13). This means at the sanctuary, thus conferring upon the confession the elevated status of an oath. The farmer must officially acknowledge the importance of supporting the poor by declaring: “I have cleared out the sacred [foodstuff] from the house and I have given to the Levite, to the stranger, to the widow and to the orphan, in accordance with Your command that You have commanded me; I did not violate Your commands nor did I forget” (v. 13).

Since each crop is harvested at a different time the obligation to dispense from each to the poor requires ongoing attention for an extended period of time. Knowing that eventually he had to make a declaration of compliance before G-d surely motivated the farmer to be conscientious in the fulfillment of this obligation. It is unusual that the declaration refers to the tithe as *qodesh* (sacred) given that the poor will eat their portions wherever they choose and without the stringencies attached to traditional *qodesh*. This highlights the great importance of this law, that tithe designated for the poor is to be viewed as sacred albeit with an understanding of the term different from the standard definition.

The recitation then calls for the farmer to profess having adhered to three particular laws (v. 14a) and to summarize his compliance statement with, “I have obeyed the voice of Hashem my G-d and have done in accordance with all You have commanded me” (v. 14b). Although the compliance statements in verses 13 and 14 are primarily directed to tithe regulations, they are structured as general formulations. This sets a tone of general compliance with all the statutes of the law thus rendering these statements as fit expressions for the terminus of the law compendium. But why was it necessary for two consecutive verses of the recitation to each contain a statement, one similar to the other, of having fully complied with the law?

The passage is complex. The three laws the farmer is to state that he had obeyed are a) not to have eaten from the tithe while in mourning, b) not to have cleared it out of the house while he was in a state of impurity and c) not to have given of it to the deceased. All three refer to regulations that are not attested elsewhere in the Torah; accordingly, it is surprising that the recitation formula indicates the farmer’s

familiarity with them. Furthermore, the declarations of not having eaten from them in a state of mourning and not having given from them to the deceased speak of acts incompatible with the nature of the poor man’s tithe. For what right would the landowner have to consume or give to others that which the law designates for the indigent? These problems in *peshat* point to an Oral Law complementing and elaborating the written text.

The Mishnah understands this passage to be speaking on a broader plane, encompassing more than the poor man’s tithe. According to its interpretation, at the time when the tithe for the poor is removed from the home the relevant verse also requires removal from the home of all other tithes and the various agricultural dues of previous years. That is the time to satisfy overdue obligations and to clear out any excess that was not redeemed. In the Mishnah’s formulation that includes *terumah* to the priests, first tithe to the Levites, second tithe (that which the farmer separates in the first, second, fourth and fifth years of the seven-year cycle, from which he, his family and slaves eat when visiting the sanctuary [Deut. 14:28-29]), and first fruits. (The time set for this removal from the home was the day before Passover of the relevant years.) The farmer’s declaration of compliance is seen as referring to all these obligations (*m. Ma’as. Sh. 5:6*).

Isaac Sassoon, addressing the difficulty of two recitations in consecutive verses each attesting to having fully complied with the law, suggests that verse 13 comprises the recitation associated with the tithe for the poor while verse 14 begins a more comprehensive confession relevant to the other items (*Destination Torah* p. 319). Although it does not fully fit the Mishnah – which expands the halakha in a midrashic manner – it does significantly address the *peshat* problems in light of the Oral Law.

As regards the three laws within the declaration, at least two of them appear to be a protest against known ancient Near Eastern idolatrous practices. One such custom called for mourners to partake of a meal together with the deceased, particularly the newly deceased. Another required giving food to the deceased. Since these were religious practices, their Israelite adherents may have justified the use of

second tithe produce for these purposes. They may possibly have also rationalized that it was acceptable to use the poor man's tithe to feed the deceased.

The final verse of the passage closes the law compendium with a beautiful prayer that the individual recites. It expresses appreciation for the basic covenant elements that G-d has fulfilled and calls upon Him to continue caring for Israel. Portrayal of the nation as acknowledging that its welfare is dependent upon its relationship with Him is an appropriate prelude to the summary of the covenantal responsibilities that immediately follows.**

Endnotes

* See our study *The G-d-Israel Covenant: On Meaning and Format*.

** In the two final passages (which are a couplet), the theme of appreciation for G-d's gift of the land and its produce is most prominent. Reflecting this, in these fifteen verses, the standard verbal phrase denoting G-d's giving, employing the same root in one form or another, is unusually common, appearing seven times: נתנו לך, נתנו לך, לתת לנו, ונתנו לנו, נתתה לי, נתנו לך, נתתה לנו.

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