

# SEPHARDIC INSTITUTE

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בס"ד

## Parashat Behar Part III Concerning the Needy and the Slave

### 1. To Be Fair and Supportive

In legislating the laws of the Jubilee Year, *Parashat Behar* addresses the plight of those who suffered the reversals of having to sell their ancestral land or being sold into slavery. It segues from there to situations of economic decline, mandating basic modes of assistance to a needy individual at whatever step he may be.

Upon prescribing that in the fiftieth year each man whose ancestral land had been sold returns to it, the Torah highlights the importance of “A man may not exploit his brother” (Lev. 25:14). Though this law of course has wide application, it is specifically delineated in regard to the sale of ancestral land because one generally does not do so unless in dire straits and prone to misjudgment and exploitation. Fair practice requires that a landowner realize that he does not really sell his land but rather the years of crops until the next Jubilee Year; accordingly, the sale price must be for “the number of crop-years” (v. 15) being sold. The Torah repeats in slightly different words: “A man may not exploit his fellow” but should have fear of G-d, “for I, Hashem, am your G-d” (v. 17). And He promises that fulfillment of His laws leads to blessings in the land and secure dwelling upon it (vv. 18-19).

The seller is assured the right to redeem sold ancestral land for its fair value (according to crop-years remaining) at any time that he acquires the means to do so. His relatives are called upon to redeem the property on his behalf. If it is not redeemed before the Jubilee Year, at that milestone the land reverts back to the seller or his heirs.

These laws are followed by the obligation incumbent upon all Israelites to be supportive of a kinsman who

is in economic distress: וְכִי יָמוּךְ אָחִיךָ וּמְטָה יָדוֹ עִמָּךְ (“When your kinsman sinks low and his hand falters beside you” [v. 35]). The Sifra takes this to refer to one who is in trouble but has not yet actually fallen, perhaps has not yet sold his land; immediate action is required in order to prevent him from falling. (The Sifra compares this to a large burden on a donkey that has become imbalanced and is crushing the animal. One person could rearrange it by himself and keep the donkey standing strong. But after it has fallen, five men may not be able to raise it.) However, in accordance with the flow of verses many have viewed this case as referring to an individual who had already sold his property.

In any event, in the continuation of the verse the Torah mandates that the community is required to provide support to a kinsman in distress to the degree of a minimum living standard: וְהִתְחַזְקֶתָּ בּוֹ גֵר וְתוֹשֵׁב נָחִי עִמָּךְ (“support him [like a] sojourner-resident that he should live with you” [ibid.]). In biblical times, such non-Israelite sojourners generally did not own land within Israel and usually lived as merchants, laborers or hired farmhands at a modest living standard. In peshat, the verse set the minimal communal obligation for assistance to a needy Israelite by the standard of living of the sojourner-resident. The Sifra takes the unusual clause of גֵר וְתוֹשֵׁב נָחִי עִמָּךְ as mandating that the Israelite community is obligated to support even the non-Israelite resident who is living among them, of course assuming that he accepted the seven Noahide laws.

Very often the assistance an individual may require is a loan. In the following verses we are told that such loans should be made available and should be interest-free. It is critical to keep the objective in mind: וְחַי אָחִיךָ עִמָּךְ (“and [so that] your kinsman shall live with you” [v. 36]). The importance of providing interest-free

loans is greatly stressed by the use of literary devices of parallel words and phrases and a poetic formulation. Motivation is strengthened by invoking the fear of G-d and citation of the hallmark phrase of the covenant, "I, Hashem, am your G-d who brought you forth from the land of Egypt" (v. 38), a reference to the opening proclamation of the Decalogue. In this unparalleled manner, the Torah leaves no doubt that providing interest-free loans for the needy is of the highest priority. (The rabbis interpreted the Torah's intention in its great emphasis on interest-free loans to avert the need for outright charitable assistance whenever possible to preserve the dignity of the recipient.)

What is the Torah's position on whether a lender may receive interest on a loan from a borrower who has substantial assets but who chooses to borrow to meet immediate needs? It often is inconvenient for one to use personal resources, even if extensive, which may themselves be invested in profit-generating holdings. In many cases, especially in business situations, it may be unethical for one to expect an interest-free loan from an individual who might be forgoing an opportunity to earn profit with the funds he is requested to lend.

Our passage prohibiting interest on loans, as well as the formulation of this prohibition in Exodus (22:24), speaks of a needy person. (We are only addressing loans of money or money-equivalents, such as food. Borrowers of particular items in biblical times were not necessarily poor but that is not relevant to our discussion.) Deuteronomy's formulation prohibiting interest on loans (Deut. 23:20) does not specify a needy person but the blessing formulae in Deuteronomy indicate that loans were then signs of personal need, and that in times of widespread blessing the need for loans would be eliminated (Deut. 15:4, 6; 28:12). Jeffrey Tigay points out that "The laws about loans must be understood in the light of the simple agrarian economy of ancient Israel. There is no evidence that there was a money market of any significance, or that solvent Israelites commonly borrowed for commercial or other purposes" (JPS Commentary on Deut., p. 217).

With the introduction of loans to finance business ventures and for investment purposes – that is, loans contracted by people who were not necessarily

personally needy – the situation concerning interest was radically altered. In *Destination Torah* (pp. 195-6), Isaac Sassoon suggests the following brief explanation of what likely had transpired through the centuries. With the change of the economic system, potential lenders, fearing the biblical law of the seventh-year debt release (Deut. 15:1-2), may have refused to provide loans to individuals who they thought were not needy, presuming the loan was needed for commercial purposes. They considered it their right to refuse extending a loan to a non-needy person. However, many truly needy, if not known to be so, were thus being refused loans. Hillel the Elder recognized the problem and established the *Prosbul* – a legal device that a creditor may obtain to circumvent the sabbatical year release – so that "the door should not be sealed before borrowers" (*b. Git.* 36a). In that spirit, another legal instrument, one involving investment, was eventually developed – the *heter 'isqa* or "permission for a transaction" – designed to circumvent the prohibition of lending for interest by utilizing a method of silent partnership in a potential business venture.

The intent of the Torah is clear that the prohibition on interest was in reference to needy individuals. But due to the difficulty to differentiate, the rabbis interpreted the prohibition in an across the board manner with an enabling solution to satisfy lenders in business and investment situations.\*

Following the obligation to support the needy, the Torah prescribes laws concerning a fellow Israelite who becomes poor to the point of selling himself to a kinsman (Lev. 25:39-43). The Torah is emphatic; his master is forbidden to treat him as a true slave. At the Jubilee Year he goes free and returns to his family and ancestral holdings.

Finally, Leviticus presents the case in which an Israelite sold himself to a resident non-Israelite. Here, reflecting the greater importance of redemption, the Torah is particularly expansive in emphasizing his relatives' obligation to him: "One of his brethren shall redeem him, or his uncle or his cousin shall redeem him, or one of his family clan from his flesh relatives shall redeem him" (Lev. 25:48-49). Specific relations are mentioned in order to prompt them to accept their responsibility. In any event, the non-Israelite master is also forbidden to treat the indentured Israelite as a

slave. The latter also goes free at the Jubilee Year. Of course all these details are taken into account in his purchase price.

The pericope's legislation concludes (except for the final two verses, which we addressed in our *Parashat Behar Part I* study) with G-d's proclamation of the reason an Israelite cannot sell himself into permanent slavery (echoing the statement of verse 42): "They are My slaves, whom I brought forth from the land of Egypt, *Ani Hashem Elokekhem*" (Lev. 25:55). The Torah's demands on the Israelite community regarding one of its members who must sell himself take on cosmic importance in the light of this monumental tenet and recall the first verse of the Decalogue.

## 2. Regarding פְּרָךְ (Perekh)

The word פְּרָךְ, which here describes an aspect of a master's treatment of an indentured Israelite, appears three times in our chapter (Lev. 25:43, 46, 53). It is attested three other times in Scripture (Exod. 1:13, 14 and Ezek. 34:4). (In all biblical attestations it appears with the prepositional prefix "with," generally as בְּפְרָךְ.) For centuries the most widely accepted translation has been (with slight variation) in accordance with *Targumim Onqelos* and *Jonathan*, בְּקִשְׁיָא ("harshly"), which appeared to have some basis in Semitic languages. The Exodus context, which according to this translation was understood to mean, "They embittered their lives with hard work, with mortar and bricks and with all types of labor in the field" (Exod. 1:14) lent support to this view. Thus Rashi, Rashbam and others on Exodus 1:13 explain it as "work that breaks the body," and modern commentaries translate "crushing labor" (Fox, Alter); "rigour" (JPS, Koren); "ruthlessly" (NJPS); "duress" (Propp) – all essentially along similar lines.

In our Leviticus context, the peshat commentators translated the word in accordance with what was thought to be its meaning in Exodus (see the *Targumim* and Ibn Ezra). The Sifra on our passage, however, explains *perekh* as unneeded work that a master gives his slave; essentially, work that manifests the master's rights and keeps the slave occupied. As this does not at all fit the Exodus context nor the final attestation of the word in Ezekiel 34, and is without a linguistic basis, it has not been considered *peshat*.\*\*

Recent work on ancient Near Eastern languages has recognized *perekh* as very probably the Hebrew equivalent of the Akkadian *pirku*, a legal term that has the meaning of "unjust demands" associated with "extended forced labor" as applied to non-slaves. In effect, the word referred to transforming free men into a category akin to slaves. The term was never used for actual slaves, since it had no meaning in that context.

In our study on Exodus 1 we pointed out that the *pirku* translation fits the context there, as well as here, well. This translation removes any possibility to interpret our Leviticus passage in such a way that it permits subjecting a non-Israelite slave to crushing labor or ruthless treatment, an implication that otherwise presents itself, particularly in regard to verse 46. At this time we will demonstrate the appropriateness of the *pirku* translation through a textual analysis of the relevant verses of our chapter.

In verse 43, בְּפְרָךְ continues and complements verse 42. After the statement that "an Israelite cannot be sold to you as a slave," verse 43 adds בּוֹ בְּפְרָךְ ("you shall not rule him in the manner of forced labor"), which, albeit unofficially, would transform him into a slave. It thus parallels the first verse of the subsection that states, אַ תַּעֲבֹד בּוֹ עֲבֹדַת עֶבֶד ("Do not make him work slave work" [v. 39]) and closes the subsection by invoking its opening. This envelope structure is a popular biblical style, as we have repeatedly shown.

The first two and a half of the three verses that comprise the next subsection (vv. 44-46) speak about the purchase of non-Israelites as slaves and their being part of one's inheritable estate. In the final half verse (46b), the subject is changed to Israelites: "as concerns your Israelite brethren, one man over his brother, you shall not rule him in the manner of *parekh*" (בְּפְרָךְ). If *perekh* means anything like "back-breaking labor" the verse lacks coherence – why abruptly change the subject?

But understanding *perekh* as *pirku*, which has no relevance to the non-Israelite slave, once again closes an envelope, the one begun in verse 39 (a larger envelope surrounding a smaller one), basically recapitulating the central idea in different words. It would be saying that in contrast to the case regarding the non-Israelites, just as you may not work an

Israelite as a slave you may not work him as an “unofficial slave.” The juxtaposition of the two parts of verse 46 is understandable; you may have slaves, לעלם בָּהֶם תַּעֲבֹדוּ (“them you may work in an ongoing manner”), but not such from your brethren. Consistent with the revolutionary humane laws in Exodus 21 which serve to sharply limit a master’s harsh treatment of his non-Israelite slave, our verse does not contain any implication whatsoever that the non-Israelite slave may be worked with body-breaking labor.

In verse 53, the case of אִם יָרְדְּנוּ בְּפִרְךָ לְעֵינֶיךָ (“he shall not rule him with *perekh* in your sight”) legislates that when an outsider purchases an Israelite he must treat him as a yearly hireling, with whatever rights that entails, and not rule over him with *perekh* “in your sight.” If the *perekh* clause prohibits the outsider from working the Israelite with back-breaking labor, the final word in this verse, לְעֵינֶיךָ (“in your sight”) would not be understandable, for what difference should it make? The Sifra’s comment, codified by the Rambam, which understands the law to be that “we are not required to enter his premises to check on him; the law only applies when we see the violation” (*MT Laws of Slaves* 1:6), is clearly strained.

If, however, this law prohibits the outsider from ruling over the Israelite in such a manner that the latter is essentially transformed from a free man into a slave, being pressed into a new status, the wording is understandable. We are dealing with a matter that can only be accomplished with the knowledge, indeed,

even the acquiescence of the local authorities. In a natural translation, “within your sight” would mean “within your jurisdiction.” The passage thus prohibits the case wherein the Israelite is not being treated as a hireling. He is not given the opportunity to be redeemed by others or to be able to accumulate the means to redeem himself, or is being physically mistreated or considered as inheritable chattel. Thus, the law is addressed to the Israelite authorities and reads smoothly.

In our *Exodus 1* study we show that the Ezekiel usage is also far better translated in the sense of *pirku*.

### Endnotes

\* The law of the seventh-year debt release is not mentioned in our chapter; its single attestation in the Torah is in Deuteronomy 15:2.

\*\* The Sifra is an excellent example of early rabbinic exegesis designed to prevent an immoral result. The sages surely knew that the translation of “body-breaking labor” that would have permitted such harsh treatment to the non-Israelite slave was incorrect, despite their not knowing the accurate definition of the word. Such a translation could not stand on moral grounds. Accordingly, they interpreted the word in a benign manner, as unneeded labor, despite lacking the linguistic support for their view.

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