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פרשת שופטים PARSHAT SHOFTIM

DVAR TORAH TAMPERING WITH BORDERS

The Torah, in this week's parshah, prohibits moving the border marker of a property (Devarim 19:14). This seems to be a simple act of theft, illegally appropriating a portion of the neighbor's yard or field. It is therefore puzzling that the Torah repeats it here; theft is already prohibited. One might, of course, counter that the Book of Devarim repeats many of the mitzvot that appear elsewhere in the Torah and this is no different. But we usually search for the extra dimension of meaning the Torah adds in Devarim. What does this verse add?

Chazal in the Sifrei (Shoftim Piska 45) addressed this difficulty, asking: "Weren't we already commanded not to steal?" They answer that our verse refers to moving a border marker in the Land of Israel. This is supported by the end of the verse, that refers to the property you received "in the land that G-d gave you as an inheritance." Someone who moves the border of his property in the Land of Israel transgresses two sins; besides stealing his friend's property there is an independent prohibition against moving the border. But this just begs the question: what is the nature of this extra prohibition?

The Torah Temimah on this verse explains that there is an extra dimension to theft of land in the Land of Israel. Property ownership in Israel is eternal. Each family received a G-d-given plot of land in the times of Yehoshua and it stayed with them forever, passing from father to son (or daughter, as in the Tzelafchad episode) from generation to generation. Even if, because of some special financial difficulty, land has to be sold at some point, it eventually returns to that family at the end of the fifty-year Yovel cycle. Anywhere in the world, appropriating extra land through moving a border marker is theft, but moving a border marker in the Land of Israel and thereby taking an eternally G-d given piece of property is super-theft.

The Ramban in his commentary on this verse highlights a second aspect of expanding property through moving a border marker in the Land of Israel. This kind of activity indicates that the person is literally "unhappy with his lot." Moving the border reflects a lack of trust in Hashem for He distributed the land to each family. He knows what each family in the people of Israel needs; He distributes it fairly; He can be trusted. Unhappiness with his ancestral portion might also reflect a suspicion of the great people who were Hashem's agents for distributing the land, Yehoshua Bin Nun and Elazar Hakohen. They are the ones the verse refers to when it says not to move the border "אשר גבלו ראשונים" – "that the earlier ones determined."

There is yet a third problem with moving borders in the Land of Israel, besides super-theft and dissatisfaction with the land's distribution. Hashem apparently wants the tribes of Israel living in His land in the places He has determined are best for them. Not only does Hashem know how much land everyone should have, but He knows exactly where that land should be. The Ramban quotes another statement by Chazal, that it is also forbidden to move the tribal borders. The tribes of Israel – as we see from the blessings they received from Yaakov Avinu and Moshe Rabbeinu – have different natures and functions. Together they make up the mosaic that is the People of Israel. The Artist who put together that mosaic placed its tiles in very specific places and they should not be tampered with.

SOURCE GUIDE:

THE MAIDSERVANT, THE CRIMINAL, AND THE KING

The maidservant in Parshat Mishpatim, the criminal in Parshat Ki Teitzei, and the king in Parshat Shoftim are all illustrations of the same phenomenon: the Torah choosing to teach a universal halachah through an extreme case. This source guide begins with a passage from Harav Shimshon ben Refael Hirsch, זצ"ל's commentary on Mishpatim, continues with Harav Aharon Lichtenstein, זצ"ל's application of it in Ki Teitzei, and closes with a section of the Ramban, זצ"ל's commentary on our parshah.

A. The Maidservant

Parshat Mishpatim opens with the Torah's limitations on servitude, first for a servant, then for a maidservant. The maidservant is essentially a wife, not just a worker. If the master marries off the Jewish maidservant to his son, cautions the Torah, he should not detract from her marital rights, even if he takes another wife:

1. Shemot 21:10 If he (the master's son) takes another wife (besides the maidservant), he should not lessen her food, clothing, or intimate life.	שמות כא: אם אֶחָרָת יִקַּח לוֹ שְׁאֵרָה כְּסוּתָהּ וְעִנְתָּהּ לֹא יִגְרַע.
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Rav Hirsch comments:

2. Rav Hirsch's Commentary on Shemot 21:10 This is the exclusive verse where the Torah speaks of the husband's obligation towards his wife. The Torah wanted to hint the fundamentals of the "law of the daughters" of Israel, and it focuses on a woman who is on the lowest socioeconomic level, the daughter of a pauper, the daughter of a man who already sold the shirt off his back to save himself and his daughter from the shame of famine. And after he sold her as a maidservant and her master abandoned her and perhaps even treated her cruelly, she becomes the wife of the son of the household. The Torah places this woman on the same level as a woman who is the daughter of a free and prominent man. The Torah declares: 'The law of this woman should not be any less important in your eyes than the other – at all!' To paraphrase the Mechilta, 'It ostensibly comes to teach, but ends up being taught.' In other words, even though the verse seems to be applying the standard laws of marriage to this exceptional case, we end up learning from here the standard laws of marriage. This is the great principle that continues to protect the women of Israel: "A wife's [economic status] elevates to her husband's but does not descend to his' (Ketubot 48a). Whether a woman brings in to her husband thousands of silver and gold or she enters marriage as the daughter of a pauper with the shirt on his back – her law is identical: he must treat her according to his honor and status . But if she is accustomed to a higher socioeconomic status in her father's house, she has the right to continue the standard of living she is used to. Unless she forgives this right at the outset – 'She elevates to his status but does not descend to his.'	רש"ר הירש על שמות כא: הרי זה המקרא היחיד, שבו דיברה תורה בחיוב הבעל כלפי אשתו. רצתה התורה לרמוז עיקרי "משפט הבנות" בישראל, והנה היא מייחדת הדיבור על אשה בשפל המדרגה החברתית, בתו של קבצן, בתו של אדם שכבר מכר את הכתונת שעליו כדי להציל את עצמו ואת בתו מחרפת רעב, ולאחר שמכר אותה לאמה, ואדונה זנח אותה, ואולי גם נהג בה באכזריות, היא נעשית לאשתו של בן הבית. ואת האשה הזאת מעמידה התורה ליד אשה בת חורין ובת טובים, ומכריזה ואומרת: לא יהא דין האשה ההיא קל בעיניך מדין חברתה – כהוא זה! "הרי זה בא ללמד ונמצא למד" (מכילתא). כללו של "משפט הבנות" מומחש כאן בפרטו של מקרה מיוחד, והוא בא ללמד על הכלל. וזה הכלל הגדול, הקיים ועומד למשמרת משפט הנשים בישראל: "עולה עמו ואינה יורדת עמו" (כתובות מח.). בין אם האשה הכניסה לבעל אלפי זהב וכסף, ובין אם נכנסה לביתו כבת קבצן שרק כסותה לעורה – אחת היא: עליו לנהוג בה לפי כבודו ומעמדו. ואם מנהגי בית אביה הם משל מעמד חברתי גבוה יותר ממעמדו, זכאית היא להמשך רמת החיים שהיא רגילה בה, אלא אם כן וויתרה על כך מראש: "עולה עמו ואינה יורדת עמו"!
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The Torah teaches us every husband's responsibility towards his wife through the most extreme case – the responsibility of a slave owner's son towards the daughter of a pauper sold into servitude, even after he married another woman.

B. The Criminal

Similarly, the Torah chooses to teach us about burial through the burial of an executed criminal:

<p>3. Devarim 21:22-23 (22) When a man is convicted of the death penalty for a sin, and he is put to death and hung on a tree, (23) do not let his corpse stay on the tree overnight. Rather, you shall surely bury him on that day. For it is a curse to G-d when a person is hung; and you should not make the land that Hashem your G-d gave you as an inheritance become impure.</p>	<p>דברים כא:כב-כג (כב) וְכִי יִהְיֶה בְּאִישׁ חַטָּא מִשְׁפֹּט מוֹת וְהוּמַת וְתִלְיַת אֹתוֹ עַל עֵץ, (כג) לֹא תִלֵּין נִבְלָתוֹ עַל הָעֵץ כִּי קְבוּר תִּקְבְּרֶנּוּ בַיּוֹם הַהוּא כִּי קָלְלַת אֱלֹקִים תִּלְוִי וְלֹא תִטְמֵא אֶת אֲדָמָתְךָ אֲשֶׁר ה' אֱלֹקֶיךָ נָתַן לְךָ נַחֲלָה.</p>
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Harav Lichtenstein noted in a talk that just as the maidservant’s marital rights teach us about every woman’s, so the criminal’s burial rights teach us about everyone else’s. He too was created in the image of G-d.

C. The King

The king must lead the people, reign with authority, and retain a certain level of status and power. But the Torah sets limits on the king’s wealth and the size of his harem, and commands him to immerse himself in Torah study. Why?

<p>4. Devarim 17:20 Lest his heart become haughty, feeling higher than his brothers, and lest he veer from G-d’s command to the right or the left – so that he and his descendants should reign for many days in the midst of Israel.</p>	<p>דברים יז:כ לְבַלְתִּי רוּם לִבּוֹ מֵאֶחָיו וּלְבַלְתִּי סוּר מִן הַמִּצְוָה וְמִן וְשִׁמְאוֹל לְמַעַן יִצְרִיף זְמִים עַל מַמְלַכְתּוֹ הוּא וּבָנָיו בְּקֶרֶב יִשְׂרָאֵל.</p>
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According to the Ramban this verse is a third example of an extreme prototype:

<p>5. Ramban’s Commentary on Devarim 17:20 Lest his heart become haughty, feeling higher than his brothers – The Torah here hints at the prohibition against arrogance. For the verse prevents the king from arrogance and haughtiness, and certainly others who don’t deserve to be. For one who is fitting to be exalted and glorified is warned to have a lowly heart like all of the brothers lesser than him. For to G-d, arrogance is a despicable and disgusting trait even for a king. For greatness and loftiness is for Hashem alone. Only He is worthy of praise and only in Him can man find praise. This is explained by Shlomo the King, “Any arrogant person is abominable to G-d” (Mishlei 16:5). It is also written, “For only through this can one find praise, through understanding and knowing Me ...” (Yirmiyahu 9:23).</p>	<p>רמב"ן על דברים יז:כ לבלתי רום לבבו מאחיו – נרמז בכאן בתורה איסור הגאות, כי הכתוב ימנע את המלך מגאות ורוממות הלב, וכל שכן האחרים שאינן ראויים לכך, כי בראוי להתרומם ולהתגדל יזהירו להיות לבבו שפל ככל אחיו הקטנים ממנו כי הגאווה מדה מגונה ונמאסת אצל האלהים אפילו במלך, כי לה' לבדו הגדולה והרוממות, ולו לבדו התהלה ובו יתהלל האדם כענין המבואר על יד המלך שלמה (משלי טז ה) תועבת השם כל גבה לב, וכתוב (ירמיה ט כג) כי אם בזאת יתהלל המתהלל השכל וידוע אותי וגו'.</p>
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The Torah chooses to warn everyone against being arrogant through warning the king against ‘lifting his heart above his brethren.’ The king needs to exercise authority and he is often, in a worldly sense, objectively powerful and wealthy. Arrogance might naturally follow (as it often has for kings throughout the generations). Hashem warns the king against that arrogance. And if the king must be humble before G-d and man, so, certainly, must the rest of us.

Further Learning

- The Ramban says that the king cannot be arrogant and certainly others. But can’t we also make a case in the opposite direction: that especially a king should be extremely humble? David Hamelech and Moshe Rabbeinu (who was also a king, see the Ibn Ezra on Devarim 37:5) are paradigms of humility.
- See the Gemara’s discussion of arrogance on Sotah 5a. Doesn’t the Gemara seem to quote a different verse than the Ramban does as a source for the prohibition against arrogance?
- See the passage in that same Gemara about whether a talmid chacham should have some level of pride.

GATEWAYS BY RABBI SHAYA KARLINSKY

” – “You should place judges and enforcers at all of your gateways” (Devarim 16:18). **שופטים** are judges – that weigh conflicting issues and make judgments and decisions. The **שופטים** can be likened to the judicial branch of the judicial system. **שוטרים** are those that enforce and implement those decisions. The phrase, “בכל שעריך”, “in all of your gateways” is a strange one. If the Torah is speaking on the communal level, the simple understanding this verse, we would have expected it to write “in your cities” or “in your communities”. What is the significance of “בכל שעריך” in all your **gates**?

In addition to requiring **שופטים** and **שוטרים** on a communal level, this is also a requirement on a personal level. A person is confronted with conflicts, decisions, and priorities. He needs to have a system of **שופטים**, or tools and resources that enable him to make correct judgments. Then he needs **שוטרים**; he needs the tools and strength to implement that which he has clarified as correct.

This is where the word **שערים** takes on great significance. The **שער** is a gate or a doorway, an entryway that leads to something great and significant. A **שער** is a gateway leading to; a **שער** is a challenge, an opportunity, an opening.

According to the Slonimer Rebbe, the gateway to a person’s actions is his character, his middot. Middot are the foundation of everything a person does. At this gateway he needs **שופטים** to correctly assess what traits need modifying, and **שוטרים** to ensure that these decisions are followed through.

As we enter Chodesh Elul, the month in which we review the previous year, this month presents the **שער**, the gateway to a new year and the introspection and teshuvah that is the key element of Elul. We have to focus on the foundations of our actions, the gate that leads to all of those actions. And that gate is our character, as the Rambam writes in Hilchot Teshuvah 8:3: “Just as one has to repent from sins such as sexual impropriety or stealing, so too he must examine his character traits and repent from the corruptions of anger, animosity, jealousy, pursuit of money, hedonism, and social status.” “And,” the Rambam writes, “These are actually more serious and more difficult to change than specific actions.” The Torah here is instructing us to make **שופטים** and **שוטרים**, judges and enforcers for our middot, for our character, which holds the key to our daily actions. We must realize that the decisions that we make and the integrity with which we implement those decisions hold the key to all our accomplishments.

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