

Tze U'Imad—Go and Learn

Weekly Talmud Learning with Rabbi Mordecai Schwartz, director of admissions, The Rabbinical School, JTS.

Babylonian Talmud Shabbat 102b

בעא מיניה רב נתן בר אושעיא מרבי יוחנן מסתת משום מאי מיחייב
אחוי ליה בידיה משום מכה בפטיש

Rav Natan bar Oshaya asked Rabbi Yohanan, "What [category of Torah prohibited labor] has the sculptor [in marble on Shabbat] violated?" Gesturing with his hands, he showed him—the hammer blow.'

Of the thirty-nine categories of prohibited labor that the Mishnah lists, one of the most puzzling is "the hammer blow." Often this category is invoked to demonstrate that the final act of production of an object is an act forbidden in its own right—in other words, it is the *final* hammer blow that this category prohibits. But in this text we see quite a different understanding of this prohibition. Here the act of knapping away at a piece of marble is seen as violating the category of the hammer blow. This is likely because the act is literally taking blows at a chisel with hammer, even though no actual blow of the hammer finishes the marble sculpture: the smoothing and sanding process does that.

We see here that if a physical act demonstrably replicates the Mishnah's description of the prohibited category, the Rabbis of the Talmud are inclined to prohibit the act, even if it does not fall into the conceptual category. So here we prohibit an act in which a hammer strikes a chisel, even though it is not the *final* hammer blow. For this reason Rabbi Yohanan feels the need to physically demonstrate the act, pounding one fist upon the other: "Look! It is a hammer blow, unquestionably, even though it does not finish the sculpture."

Questions:

1. How can Shabbat help us to see the significance of our actions, regardless of their consequences?
2. Are some acts to be condemned regardless of their consequences? Even if the results are good?

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Torah from JTS

Parashat Mishpatim

Exodus 21:1–24:18

Shabbat Shekalim

February 21, 2009

27 Shevat 5769

Parashah Commentary

This week's commentary was written by Dr. David Marcus, Professor of Bible at JTS.

Last week's parashah contained a magnificent description of the revelation at Mount Sinai. The scene was dramatic: The people were gathered at the foot of the mountain as Moses ascended. There was smoke, fire, thunder, and loud sounding of the shofar. Then God revealed Himself and gave the Ten Commandments. The Ten Commandments represent the first laws of the mutual covenant between God and Israel, and this week's parashah contains more of these laws that collectively are known in English as "The Book of the Covenant" (*sefer habrit*). Our sages long ago pointed out that our parashah starts with the Hebrew word for *and*: *ve'eleh hamishpatim* (*and* these are the rules), indicating a direct connection between the Ten Commandments and the Book of the Covenant. Both were given on Sinai.

This covenant between God and Israel became the cornerstone of Israel's legal system and the foundation of Israel's national, cultural, and religious life. Throughout its later history, the nation was judged on how it measured up in keeping the covenant. Prosperity was attributed to its observance and misfortune to its nonobservance. The prophets who arose at various points in Israel's history were the great defenders and spokespeople for the covenant: they warned, cajoled, and threatened the people to keep the covenant. They repeatedly charged that the nation had violated its covenant with God and optimistically hoped that the people would return to it. What is remarkable about this collection of laws in the covenant is the combination of criminal, civil, and ethical law entwined together. Thus, amid laws dealing with safekeeping of property, seduction, sorcery, bestiality, idolatry, and blasphemy are humanitarian laws dealing with the protection of the *ger* (stranger), the widow, the orphan, and the poor. These four groups constitute the classic biblical categories of disadvantaged people: those without power and without legal protectors, who must depend on the good will of society to help them.

Of all the laws concerning the disadvantaged, there is one that is constantly

repeated in many parts of the Torah: the law enjoining the Israelites not to oppress the stranger. It is an astonishing fact that the Bible has more laws dealing with the protection of the stranger than with any other law, including honoring God, observing the Sabbath, festivals, etc. Obviously, for the biblical legislator, concern for the stranger was considered a religious value of supreme importance. The law concerning the stranger reads: "You shall not wrong a stranger (*ger*) or oppress him, for you were strangers in the land of Egypt" (Exod. 22:20) and, when it is repeated, the phrase "you know the mind of a stranger [for you were strangers in the land of Egypt]" is added (Exod. 23:9). The reason given for not wronging the stranger is only an ethical one: the Israelites were once strangers in a foreign land and so can empathize with the experience of foreigners in their own land. This is borne out by the language that is used in the verse where the Hebrew verb *lahats* (to oppress) alludes to the situation of the Israelites in Egypt. Their treatment there was described with the same verb: "I have seen the oppression (*lahats*) with which the Egyptians oppress (*lohatsim*) them" (Exod. 3:9).

But not all of our sages were convinced that mere empathy with the stranger's plight would be sufficient protection. They were quite familiar with cases of former downtrodden people, now in power, becoming worse oppressors. The Israelites should not think that they could oppress strangers with impunity as if they had no source of help. They do have a source of help: God. Just as the Israelites had the help of God when they were strangers in Egypt, so will divine assistance, ultimately, help the stranger in Israel.

But who were these strangers (*gerim*)? Biblical scholars identify them as outsiders who are living apart from their tribes, or as resident aliens, people who have left their own countries and are now residing among the Israelites either for a short or extended period of time. Being strangers, they would be natural targets for discrimination and abuse because they lacked the protection of their own clans or communities. The Bible, by its repeated admonitions on the strangers' behalf, appeals to the Israelites' better nature and the historical memory of their experiences in Egypt. Some rabbinic commentators specify that the prohibitions against wronging the strangers refer to abuse in commercial activities. Because the stranger has left his homeland and has come to a new place, he is at an economic disadvantage and easy to exploit. The stranger must not be exploited economically, neither by overcharging nor by high taxes.

But the stranger (*ger*) has also been understood by our sages to be a proselyte or convert to Judaism. They warned that converts must not be verbally harassed. It is verbal harassment to remind strangers of their non-Jewish origins. As the Mechilta puts it, you must not say to them: "Yesterday you had swine's flesh sticking out from between your teeth!" The reason for this is that the stranger can respond with exactly the same argument to you, because you were in the same situation when you were in Egypt.

In the Talmud (Baba Mezia: 59b), Rabbi Nathan derived a moral lesson from this discussion: "Do not reproach your fellow man with a fault which is also your own," or as we would say colloquially: "People who live in glass houses should not throw stones." This lesson of Rabbi Nathan resounds with us today. For two thousand years Jews have been strangers and religious minorities in foreign lands. We have suffered discrimination and persecution solely for being

religious strangers. Now that we have again returned to Zion and control our own destiny, we must constantly remember that not long ago we were strangers in many Egypts.

The lesson is an obvious one. Because of our bitter experience in other lands, we must ensure that all present-day strangers in the modern State of Israel will not be subject to discrimination or coercion, and that the religious sensibilities of all minorities will be respected. For the Torah tells us never to forget that once we too "were strangers in the land of Egypt."

The publication and distribution of the JTS Commentary are made possible by a generous grant from Rita Dee and Harold (z"l) Hassenfeld.

A Taste of Torah

A Commentary on Ramban by Rabbi Matthew Berkowitz

Exodus 22:20 You will not wrong a stranger or oppress him, for you were strangers in the land of Egypt.

Ramban, "You will not wrong a stranger" That is to say, you know that every stranger feels oppressed, and is always sighing and crying, and his eyes are always directed towards God, therefore God will have mercy on him even as God showed mercy to you, just as it is written, "and the children of Israel were groaning under the bondage and cried out; and their cry for help from the bondage rose up to God," (Exod. 2:23) meaning that God had mercy on them not because of their merits, but only on account of the bondage.

Far from being a text of bitterness and vengeance, Torah is a book of life. Parashat Mishpatim affirms life repeatedly as we read of the many ordinances that will form the foundation of Israelite society. Most striking, however, is the teaching regarding a stranger. While so many societies in the modern world see fit to exploit the strangers in their midst, Torah seeks to create a different model for the Jewish people. Eschewing discriminatory treatment, Torah promulgates law that will apply equally to all the citizens of an Israelite polity. From where is such sensitivity born, and how do we understand the complexities of this law?

In commenting on this verse, Ramban underscores a particular angle grounded in the experience of the oppressed. The Israelites are enjoined not to oppress the stranger, Ramban argues, because it is the stranger that cries out to God. Out of daily oppression, the stranger prays for redemption. This sense of urgency and brokenness brings the stranger closer to God. And just as God listened to the Israelites out of the depth of their pain and suffering in Egypt, so too will God listen to the voices of all those who are oppressed.

In our own generation, Ramban's lesson is vital. God will hear the cry of one who is perceived as *stranger*. But more than that, Toraitic legislation regarding the stranger grows out of the unique experience of the Israelite. Because we were strangers in the land of Egypt, and know the disease of discrimination, we must rise above the propensity to oppress a foreigner. From the perspective of the Torah, exploiting a foreign worker through insufficient wages or substandard working conditions is unacceptable. Neither may one avert one's eyes from the suffering of "the other." For the desire to wield power must not trump the recognition of God's image in every human being. Parashat Mishpatim presents a sacred challenge for the Jewish people and the entire world.

The publication and distribution of A Taste of Torah are made possible by a generous grant from Sam and Marilee Susi.