

The Torah View of Slavery:

A Case Study of Morality and the Torah

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“The case of slavery serves as a paradigm, as it helps us generate diverse approaches to a wide range of apparent ethical conflicts between Judaism and Western morality. It also traces the boundaries of acceptable theological resolutions within contemporary Orthodox Jewish thought. The three basic models for dealing with potentially noxious biblical systems and laws—limiting via reinterpretation, moral and social justification, and historical qualification—are found both in their pure forms and as alloys in this context, and they shed as much light, and perhaps more, on the general approach of the contemporary Orthodox commentator as they do on the institution of slavery itself.”

Gamliel Shmalo, Orthodox Approaches to Biblical Slavery, Torah u'Madda Journal (Vol. 16, pg. 2)

Abraham Lincoln, Second Inaugural Address

"One eighth of the whole population were colored slaves not distributed generally over the union but localized in the southern part of it. These slaves constituted a peculiar and powerful interest. All knew that this interest was somehow the cause of the war. To strengthen perpetuate and extend this interest was the object for which the insurgents would rend the Union even by war while the government claimed no right to do more than to restrict the territorial enlargement of it. Neither party expected for the war the magnitude or the duration which it has already attained. Neither anticipated that the cause of the conflict might cease with or even before the conflict itself should cease. Each looked for an easier triumph and a result less fundamental and astounding. Both read the same Bible and pray to the same God and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces but let us judge not that we be not judged. The prayers of both could not be answered ~ that of neither has been answered fully. The Almighty has His own purposes. "Woe unto the world because of offenses for it must needs be that offenses come but woe to that man by whom the offense cometh." If we shall suppose that American slavery is one of those offenses which in the providence of God must needs come

but which having continued through His appointed time He now wills to remove and that He gives to both North and South this terrible war as the woe due to those by whom the offense came shall we discern therein any departure from those divine attributes which the believers in a living God always ascribe to Him. Fondly do we hope ~ fervently do we pray ~ that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue until all the wealth piled by the bondsman's two hundred and fifty years of unrequited toil shall be sunk and until every drop of blood drawn with the lash shall be paid by another drawn with the sword as was said three thousand years ago so still it must be said 'the judgments of the Lord are true and righteous altogether.'

- How could both sides of the slavery argument during the Civil War draw proof from the Bible?
- How did Lincoln understand the brutality of the Civil War?

Rambam, Mishna Torah, Laws of Slaves 9:8

מִתֵּר לְעַבֵּד בְּעַבְדֵי כְּנַעֲנֵי בְּפָרְהוּ. וְאִם עַל פִּי שְׁהֵדוּ כִּי מִדַּת חֲסִידוֹת וְדַרְכֵי חֲכָמָה שִׁיְהִי אָדָם רַחֲמָן וְרוֹדֵף צָדִק וְלֹא יִכְבֵּיד עַלֹּו עַל עַבְדּוֹ וְלֹא יִצַּר לוֹ וְיִאֲכִילֵהוּ וְיִשְׁקֵהוּ מִכֹּל מֵאֲכָל וּמִכֹּל מִשְׁתֵּה. חֲכָמִים הִרְאִישׁוּנִים הָיוּ נוֹתְנִין לְעַבֵּד מִכֹּל תַּבְשִׁיל וּתַבְשִׁיל שֶׁהָיוּ אוֹכְלִין. וּמִקְדִּימִין מִזֶּן הַבְּהֵמוֹת וְהָעַבְדִּים לְסֻעֻדַת עֲצָמָן. הָרִי הוּא אוֹמֵר (תהילים כג ב) "כְּעֵינֵי עַבְדִּים אֵל יְד אֲדוֹנֵיהֶם כְּעֵינֵי שִׁפְחָה אֵל יְד גְּבַרְתָּה". וְכֵן לֹא יִבְזֶהוּ בְּיָד וְלֹא בְּדַבָּרִים. לְעַבְדוֹת מְסֻרֵן הַכְּתוּב לֹא לְבוֹשָׁה. וְלֹא יִרְבֶּה עָלָיו צָעָקָה וְכַעַס אֲלֵא יִדְבֵר עִמּוֹ בְּנִחַת וְיִשְׁמַע טַעֲנוֹתָיו. וְכֵן מִפְּרֵשׁ בְּדַרְכֵי אֵיבֹב הַטּוֹבִים שֶׁהִשְׁתַּבַּח בְּהֵן (איוב לא יג) "אִם אָמַס מִשְׁפֵּט עַבְדֵי וְאָמַתִי בְּרַבִּם עַמְדִי" (איוב לא טו) "הֲלֹא בִּטְשָׁן עֲשִׂנִי עֲשִׂהוּ וְיִכְנְנוּ בְּרַחֲמֵם אֲחֵד". וְאִין הָאֲכַנְרִיּוֹת וְהַעֲזוֹת מִצִּוְיָה אֲלֵא בְּעַכּוֹ"ם עוֹבְדֵי עֲבוּדָה זָרָה אֲכָל זָרְעוֹ שֶׁל אֲבָרְהָם אֲבִינוּ וְהֵם יִשְׂרָאֵל שֶׁהִשְׁפִּיעַ לָהֶם הַקְּדוֹשׁ בְּרוּךְ הוּא טוֹבַת הַתּוֹרָה וְצוּה אוֹתָם בְּחֻקִּים וּמִשְׁפָּטִים צְדִיקִים רַחֲמָנִים הֵם עַל הַכֹּל. וְכֵן בְּמַדוּתָיו שֶׁל הַקְּדוֹשׁ בְּרוּךְ הוּא שֶׁצָּנְנוּ לְהַדְמוֹת בְּהֵם הוּא אוֹמֵר (תהילים קמה ט) "וְרַחֲמָיו עַל כָּל מַעֲשָׂיו". וְכֹל הַמְּרַחֵם מִרַחֲמֵין עָלָיו שֶׁנֶּאֱמַר (דברים יג יח) "וְנָתַן לָהֶם רַחֲמִים וְרַחֲמָה וְהִרְבָּה":

It is permissible to work a heathen slave relentlessly. Even though it is lawful, the quality of benevolence and the paths of wisdom demand of a human being to be merciful and striving for justice. One should not press his heavy yoke on his slave and torment him, but should give him to eat and drink of everything. The sages of old were in the habit of sharing with the slave every dish they ate, and they fed the cattle as well as the slaves before they themselves sat down to eat. Nor should a master disgrace his servant by hand or by words; the biblical law surrendered them to servitude, but not to disgrace (Niddah 47a). He should not madly scream at his servant, but speak to him gently and listen to his complaints.— — Cruelty is frequently to be found only among heathen who worship idols. The progeny of our father Abraham, however, the people of Israel upon whom God bestowed the goodness of the Torah, commanding them to keep the laws of goodness, are merciful toward all creatures. So too, in

speaking of the divine attributes, which he has commanded us to imitate, the psalmist says: "His mercy is over all his works" (Psalm 145:9). Whoever is merciful will receive mercy, as it is written: "He will be merciful and compassionate to you and multiply you" (Deuteronomy 13:18).

- **Even centuries before the movement for abolition, how did the Rambam use the general values of the Torah to inform how a Jew should treat his slave?**

Shmuel David Luzzato (Shadal al HaTorah), Shemot 21:2

התורה אשר דרכיה דרכי נועם ורחמים פתחה משפטיה במשפט העבד והאמה אשר בימי קדם היו נחשבים כבהמה ולא היה השופט דן דינם ורב ריבם נגד אדוניהם

The Torah, whose “ways are pleasant ways” opened its laws with [a discussion of] the laws of slaves and maidservants, who in ancient times were considered like animals, and no judge would hear their grievances against their masters.

Rabbi Samson Raphael Hirsch, Shemot 21:6

This is the one and only case in which the Torah orders a deprivation of freedom as a punishment (we shall see that even this case is not to be looked at as a punishment); and how does it order it? It orders the criminal to be brought into the life of a family...How careful it is that the self-confidence of the criminal should not be broken, that, in spite of the degradation he has brought on himself, he should still feel himself considered and treated as a brother, capable of being loved and giving love! How it insists that he may not be separated from his wife and family, and what care does it take that his family should not be left in distress through his crime and its result. In depriving him of his liberty, and thereby of the means to provide for his dependents, the Torah puts the responsibility of caring for them, on those who, for the duration of his lack of freedom, have the benefit of his labors.

...

But even this one single case in which the Torah ordains loss of freedom as a result of crime, can not be regarded as “punishment.”... It is obviously nothing but the simple consequence of the crime demanding repayment.

- **In what ways does the Torah improve the standing of slaves and protect their dignity?**

Rabbi Nachum Rabinovich (as summarized by Gamliel Shmalo, Torah u'Madda Journal (Vol. 16, pgs. 15-16) [Rav Rabinovich's original essay can be found in *Mesilot Bilvavam*, pgs. 38-45.]

R. Rabinovich points out that there is no positive obligation to buy a slave, because the ownership of another person is a violation of the essential equality of all humanity. Nevertheless, in giving the Torah to Israel, God recognized that this young nation was living in a world in which slavery was a normative institution. For reasons both social and economic, the Jews would have been unable, at that point in history, to give up the institution of slavery completely. The Bible therefore chose to regulate and improve the existing institution until the time came when humanity would grow out of it. Like animal sacrifice, slavery was permitted as an accommodation; but unlike animal sacrifice—and in applying Maimonides' principle to slavery, this seems to be R. Rabinovich's subtle innovation—slavery could ultimately vanish completely, since there is no positive obligation to own slaves, as there is to offer sacrifices.

- How much should the “historical context” of the Torah be taken into account when evaluating the morality of mitzvot?
- Does the fact that the Torah never commands owning slaves, but just allows for it, make it more moral?

Rabbi Jonathan Sacks, *The Slow End of Slavery, Covenant & Conversation, Mishpatim 5772* (Available [HERE](#))

In parshat Mishpatim we witness one of the great stylistic features of the Torah, its transition from narrative to law. Until now the book of Exodus has been primarily narrative: the story of the enslavement of the Israelites and their journey to freedom. Now comes detailed legislation, the “constitution of liberty.”

This is not accidental but essential. In Judaism, law grows out of the historical experience of the people. Egypt was the Jewish people's school of the soul; memory was its ongoing seminar in the art and craft of freedom. It taught them what it felt like to be on the wrong side of power. “You know what it feels like to be a stranger,” says a resonant phrase in this week's parsha (23: 9). Jews were the people commanded never to forget the bitter taste of slavery so that they would never take freedom for granted. Those who do so, eventually lose it.

Nowhere is this clearer than in the opening of today's parsha. We have been reading about the Israelites' historic experience of slavery. So the social legislation of Mishpatim begins with slavery. What is fascinating is not only what it says but what it doesn't say.

It doesn't say: abolish slavery. Surely it should have done. Is that not the whole point of the story thus far? Joseph's brothers sell him into slavery. He, as the Egyptian viceroy Tzofenat Paneach, threatens them with slavery. Generations later, when a pharaoh arises who "knew not Joseph," the entire Israelite people become Egypt's slaves. Slavery, like vengeance, is a vicious circle that has no natural end. Why not, then, give it a supernatural end? Why did God not say: There shall be no more slavery?

The Torah has already given us an implicit answer. Change is possible in human nature but it takes time: time on a vast scale, centuries, even millennia. There is little doubt that in terms of the Torah's value system the exercise of power by one person over another, without their consent, is a fundamental assault against human dignity. This is not just true of the relationship between master and slave. It is even true, according to many classic Jewish commentators, of the relationship between king and subjects, rulers and ruled. According to the Sages it is even true of the relationship between God and human beings. The Talmud says that if God really did coerce the Jewish people to accept the Torah by "suspending the mountain over their heads" ([Shabbat 88a](#)) that would constitute an objection to the very terms of the covenant itself. We are God's avadim, servants, only because our ancestors freely chose to be (see [Joshua 24](#), where Joshua offers the people freedom, if they so choose, to walk away from the covenant then and there).

So slavery is to be abolished, but it is a fundamental principle of God's relationship with us that he does not force us to change faster than we are able to do so of our own free will. So Mishpatim does not abolish slavery but it sets in motion a series of fundamental laws that will lead people, albeit at their own pace, to abolish it of their own accord.

...

If history tells us anything it is that God has patience, though it is often sorely tried. He wanted slavery abolished but he wanted it to be done by free human beings coming to see of their own accord the evil it is and the evil it does. The God of history, who taught us to study history, had faith that eventually we would learn the lesson of history: that freedom is indivisible. We must grant freedom to others if we truly seek it for ourselves.

- **What points (from Halakha) can you identify that led to the ultimate abolition of slavery?**

- Why did Hashem not just forbid slavery outright?
- Do you find Rabbi Sacks' argument compelling?

Rabbi Norman Lamm, Amalek and the Seven Nations: A Case of Law vs. Morality (pgs. 207-209)

Proof of this thesis is the fact that in certain important cases, the Rabbis has the right - which they exercised - of suspending Biblical law passively when they regard it as counter-productive, as in the case of the Scroll of the Suspected Adulteress (the *sotah*), or the abandonment on technical grounds of the death penalty, or the gradual abolition of slavery, or when they wished to protect another halakhic commandment (such as banning the sounding of the *shofar* on Rosh Hashanah which falls on a Saturday)... Similarly, polygamy was widely practiced in the Biblical period, but was formally banned for Ashkenazi communities by Rabbeinu Gershon, "the Light of the Exile," in the 11th century. The Talmud's severe treatment of heretics...is suspended nowadays, according to the Hazon Ish himself, because it is inoperative in times of "the hiding of God's face," i.e., when the society no longer feels itself bound by the strictures of faith, and because it is counter-productive.

...

Separating Halakhah from morality does violence to both, turning Halakhah into a codex of rigid and sometimes heartless rules and morality into a kind of unstructured and emotionally driven method, as imprecise as it is subjective, of deciding upon one's conduct.

Rabbi Aharon Lichtenstein, The Source of Faith is Faith Itself

What I received from all my mentors, at home or in *yeshivot*, was the key to confronting life, particularly modern life, in all its complexities: the recognition that it was not so necessary to have all the answers as to learn to live with the questions. Regardless of what issues - moral, theological, textual or historical - vexed me, I was confident that they had been raised by masters far sharper and wiser than myself; and if they had remained impregnably steadfast in their commitment, so should and could I. I intuited that, his categorical formulations and imperial certitude notwithstanding, Rav Hutner had surely confronted whatever questions occurred to me. Later, I felt virtually certain the Rav had, so that the depth and intensity of their *avodat Hashem* was doubly reassuring.

...

The source of my support was not confined to my immediate *rebbeim*. At one point, during my late teens, I was troubled by certain ethical questions concerning Amalek, *ir ha-nidahat*, etc. I then recalled having recently read that Rav Chaim Brisker would awaken nightly to see if someone hadn't placed a

foundling at his doorstep. I knew that I slept quite soundly, and I concluded that if such a paragon of *hesed* coped with these *halakhot*, evidently the source of my anxiety did not lie in my greater sensitivity but in my weaker faith. And I set myself to enhancing it.

- **What is the danger in separating Halakha from morality?**
- **Rabbi Lamm argues that there are times when Halakha can evolve in light of moral considerations. What are the potential dangers in this approach?**
- **Rabbi Lichtenstein shares that when he had questions about morality, he drew from the faith of his teachers. Is this a meaningful way to confront moral challenges?**