

A Weekly Byte... from Isralight

(Portion of Mishpatim)

Small Tastings of Torah, Judaism and Spirituality
From **Rav Binny Freedman**

At the end of World War Two, the United States Army liberated the Concentration camp of Buchenwald, and began the painstaking process of administering to the survivors. Rabbi Herschel Schechter, who was the chaplain of the US eighth army, stayed in the camp and attempted, as much as was possible, to create a semblance of Jewish experience for those who had survived. How does one run a prayer service, and encourage people to pray to a G-d who seemed to have been so absent in those terrible years?

Rabbi Schechter requisitioned one of the barracks and set it up as a makeshift synagogue, and began running services for those who were interested. One day, noticing one of the survivors standing on the side watching the prayers, Rabbi Schechter invited him to join the service, but the man refused. Nonetheless, he remained in the barracks, watching the service with the vacant eyes that were common in the camps in those days.

Realizing he had seen this fellow attend services before, though always as a spectator, Rabbi Schechter approached him again, and offered him a siddur (prayer book). The survivor, whom we now know as Simon Weisenthal, refused again, and explained:

“One day, one of the men in our barracks succeeded in smuggling a siddur into the camp. I was amazed that someone was willing to risk torture and certain death simply for the opportunity to pray. That a Jew, even in this hell, was willing to defy the Germans, and continue to believe in G-d, was a testament to the power of the human spirit, and to the Jewish people’s survival, against all odds. And I resolved that if a Jew could continue to pray under such circumstances, then maybe G-d was still out there, hidden in the indomitable spirit of the human soul, and I, too, would pray.

“I was in awe of this fellow, until I discovered what he was doing with the prayer book he had smuggled in: he refused to lend the siddur to anyone unless they first handed over their meager daily food ration. He was renting the prayer book out for rations, and Jews in the barracks, desperate to hold a siddur in their hands after all this time, were forced to give up their only food for a few minutes with the prayer book.

“And at that moment I decided that if a human being could sink that low, then truly there was no G-d, and I resolved never to pray again.”

After hearing his words, Rabbi Schechter responded with a simple question:

“Instead of looking at the fellow who refused to give away his siddur without first taking the food of his fellow prisoners, why don’t you look at all the Jews who were willing to give up the only food they had for a chance to pray with a siddur?”

There was a moment of silence between the two, and something glimmered deep inside those vacant eyes. And then, quietly, Simon Weisenthal stepped forward, took a prayer book, and began to pray.

What does it mean to be a slave, and are we ever truly free?

This week's portion, Mishpatim, begins with a very challenging and almost incomprehensible concept: the idea of a Jewish slave, serving his Jewish master.

"And these are the judgments (or rules) that you must set before them (the Jewish people): If you buy a Hebrew slave, he shall serve for six years, but in the seventh year, he is to be set free.

"If he was unmarried when he entered his enslavement, he shall leave by himself. But if he was a married man, his wife shall leave with him. If his master gives him a wife, and she bears sons or daughters, the woman and her children shall remain her master's property, and the slave shall leave by himself.

"And if the slave declares, "I love my master, my wife and my children; I do not want to go free," his master must bring him to the courts. And he must bring the slave next to the door or doorpost, and his master must pierce his ear with an awl, and the slave shall then serve his master forever." (Shemot 21:1-6)

Slavery? Masters? Is this the reason we left Egypt behind us, to create our own system of slavery? Just last week, in the portion of *Yitro*, the Jewish people received the Torah, and began their journey to fulfill a dream, and create an ethical society on the way to a better world. Three thousand years before the American declaration of independence, in a world steeped in paganism and the belief that makes right, the Jewish people came onto the world scene with the belief that *all men are created equal*. This is why the Torah we received at Sinai begins with the creation of the world, and the creation of human beings, all of whom are created in the image of G-d.

So what went wrong? How can the Torah now be telling us about Jewish slaves, in a Jewish slave system?

It is important to note that this is not a small, obscure set of details, hidden somewhere at the end of the Torah; this is the beginning of the very first portion we read after Sinai. In fact, the commentaries make a point of explaining that these laws are a direct continuation of Sinai.

In the verse: "*And these are the judgments....*", **Rashi** quotes the *Midrash* which explains that the word "*And*" comes to include that which precedes it, to teach us that just as the commandments that preceded these came from Sinai, so too these judgments are a direct continuation of Sinai and are a part of the law given by G-d.

Having just experienced Sinai, received the Torah, and heard the Ten Commandments, the Torah begins to delineate the mitzvot we were given at Sinai. The Torah chooses to begin with this very strange set of rules, all about human slavery. Why?

How can the same system that speaks of ‘loving one’s fellow as much as oneself’, or ‘loving the stranger’ allow one human being to enslave another?

Perhaps a closer look at some of the details of these verses will help us understand what lies at the root of this challenging set of laws.

A slave, it seems, remains a slave for only six years. However, when he is set free the question arises as to what he takes with him. Quite simply, he only takes out with him, says the Torah, what he had when he came in. This alone would be challenging enough; after all, shouldn’t the master be responsible to set him free with some allowance or stipend, so he at least has some head start on life? But it gets worse! If this fellow marries a woman who is a fellow slave, she doesn’t go with him when he leaves; she is the property of her master, and remains enslaved!

And as if *that* isn’t difficult enough, the question then becomes what to do in the event the slave, as a result of this seemingly cruel law, decides he prefers a life of slavery to a life of loneliness, and wants to stay? The Master is then obligated to take the slave to court and subject him to a ceremony, which is nothing short of bizarre! And all of the commentaries here seem to agree, that this ear-piercing ceremony (itself a piece of this puzzle we need to understand) is actually some form of punishment... for the slave!

Why would this slave’s wish to remain in the home of his master, be viewed as something worthy of punishment? It seems, at first glance, like a perfectly natural desire: this slave wants to stay with his wife and children, whom he loves.

In fact, the verse expresses this when it says that the slave declares: *"I love my master, my wife and my children; I do not want to go free."* (21:5)

And this does not seem to be a pre-requisite to the subsequent proceedings; it appears rather, to be the underlying reason, for this slave’s actions. Why then is this slave worthy of punishment? If this piercing of the ear is indeed a punishment of sorts, what has this slave done wrong? His desire seems a perfectly natural one, and it is the system that seems to be at fault?

Unless of course, one takes a closer look at the story:

Isn’t it interesting that this slave declares: *"I love my master, my wife and my children"*?

What sort of a slave loves his master? (And what sort of a husband loves his master more than his wife?) This must have been a common enough occurrence as to be predicted, and even addressed by the law.

Indeed, the Talmud tells us: *"Kannah Eved Kannah Rav"*; *"He who acquires a slave, has really acquired a master."*

And, in fact, the laws of how one is meant to treat a slave are nothing short of incredible:

If one has a Jewish slave, and there is only one pillow in the house, he must give it to the slave. If there is only enough food for one meal, he must give it to the slave. And if there is only one bed in the house, the *master* must sleep on the floor! This is certainly not the

kind of slavery we are accustomed to reading about. In fact, if the master hits his slave, and injures him in any way, the slave immediately *goes free!* (See 21:26)

Indeed, the term slave, with all of its negative connotations, would probably be better replaced by the term 'indentured servant'. And in order to really understand this, we need to understand the process by which a Jew becomes such an indentured servant in the first place.

A Jewish 'slave' is someone who was, for example, caught stealing. In our society, such a person, if convicted, is punished by being sent to prison. Whereupon he or she will serve their time in prison until their sentence is up, and the courts decide that they have paid their debt to society.

In Judaism, however, punishment never involves prison. In fact, the concept of prison barely exists in the Torah, and then only when no one knows what to do. For example, when Eldad and Meidad (two elders) are teaching in the camp without Moshe's permission, and it is unclear what the response should be, Joshua suggests they be locked up:

"Adoni' Moshe, Ke'la'eim" "My master Moshe (says Joshua), lock them up!" (Numbers 11:28), because no one as yet knows what to do with them. (In fact, the Modern Hebrew word for prison: *Keleh'*, comes from this same biblical root.)

And when the Jewish people find one of their own gathering wood on the Sabbath, no one knows what to do with him, and what the law is regarding such a person: "*Vaya'simu Oto' Be'mishmar.*" "He was placed under guard." (Numbers 15:34) And here too, *mishmar* is a form of incarceration.

Prison in Judaism essentially means: we have no idea what to do with someone, so we put them out of the way, in a place where we don't have to deal with it. In fact, as many are beginning to realize, the civil penal system in effect today in most countries not only is not a solution to the problems and not a viable form of rehabilitation, it in fact exacerbates the problem.

Judaism has a much simpler system, which begins with the idea that we do not believe in punishment. Punishment purely for punishment's sake serves no one and accomplishes nothing. It is most probably a Christian concept related to the idea of purgatory or eternal damnation. In Judaism there is no such thing as eternal damnation, because what could be the point of being in hell or purgatory forever?

In Judaism the result of mistakes or transgressions is not about punishment, it is about *consequence*. If a person makes a mistake, there is a consequence to that mistake, which must be assumed as the responsibility of the person who made the mistake in the first place.

Imagine you are lost in a forest, trying to get to the other side. You come to a fork in the road and don't know which way to go. If you take the correct path, you will be getting closer to the other side of the forest, which is your goal. But if you take the wrong path, with every step you take you will be headed in the wrong direction, further away from the other side of the forest you are seeking.

There is a consequence to taking that wrong path, then: you basically have to return to the fork in the road and get back on the right trail. Having to retrace your steps in this instance is not a punishment; it is simply the necessary consequence of your mistake.

And this is the paradigm of life in this world. Life in this world is like a forest, and the other side of the forest we are trying to reach is to become better, ethical people in order to help create a better, more ethical world. But sometimes you come to a fork in the road, and the choices aren't so clear, because you're a little lost.

Imagine you walk into a room and someone has left a wallet full of money on the table. You can take the right path and make sure the wallet with all of its contents is returned to its owner, or you can take the wrong path, and keep the wallet. And if you steal the wallet, then you are headed in the wrong direction, and getting deeper and deeper into the woods. And once you steal, it becomes easier to steal again, and again, and again....

And there is a consequence to this wrong turn in the road: you have to go back and retrace your steps till you can return to that fork in the road, and get back on the right path. So how do you do that? Well, first thing, you have to return the money you stole! It is incredible that civil law 'rehabilitates' a prisoner through the prison system, without ever forcing him to repay what he stole!

The first thing a person must do, as the obvious consequence of his mistake, is to repay what he took. (Sometimes this is not so simple, but at least it is the principle on which Jewish criminal law is based.) And then, he has to try and become again the person he was before he ever stole in the first place; he has to try and get back to that crossroads.

Indeed this is why Judaism's word for this process is not 'repentance' (again, a Christian word based on the concept of penance, which is very different from what Judaism suggests.), it is *Teshuvah*, which comes from the root *Shuv*, to return, or go back.

Maimonides (*Hilchot Teshuvah* 2:1) points out that real *Teshuvah* occurs when a person finds themselves in the same situation they were in, and this time make the right choice instead of the wrong one. In other words, they succeed in getting back to that crossroads.

So, in order to rehabilitate himself, a person must give back what he stole, and then attempt to become the person who never would have stolen in the first place.

All of which brings us back to our portion, and the Jewish indentured servant (not slave).

What happens if a person stole, but has long since disposed of what he stole? What if he spent the money, and now has nothing with which to pay back the person he stole from?

This is essentially the situation many petty thieves and criminals find themselves in today. But Judaism has a very different response. When a person has nothing, and ultimately must feel like nothing, the Jewish court evaluates what this person is worth on the 'open market' and sells his services to someone in order to facilitate his ability to repay those he stole from. Imagine a person stole \$5,000 dollars, and has not a penny to his name. The court will assess what skills he has and allow the market to actually place a value on those services. And by selling *himself* into servitude, he can repay the debt he owes, and begin the process of returning to the person he was meant to be.

In other words, when a person has hit rock bottom, and feels he is utterly worthless, a thief, with nothing to contribute to society, Judaism tells him he is wrong.

He is taken to court, where the judges effectively say to him: 'you think you are worthless? We will show you that you have value; you are worth much more than you think you are.' And this is why he goes into service, and in the process discovers all that he has to contribute. And he becomes an intricate part of a family, which is such a different reality from our modern day convicts, shunned by society and hidden away to rot where no one can see them.

It is easy to understand why a person would want to stay in such a reality: who wouldn't? No bills, no worries, a great job, a great family, a sense of purpose and belonging, it would probably be hard for most people to leave such a life. This, of course, is precisely the problem.

Note that the indentured servant in the verse declares his love first for his master and only then for his wife and children. This is not at all about a person not wishing to leave the love of his life and his partner in creating a better world. In fact, the woman described is not even a Jewish woman, she is, according to tradition a Canaanite servant, who at least according to Maimonides has not fully accepted the seven Noachide laws, which is why she is still in service. (And if she is still an idolatress, she cannot be a true partner for a Jewish servant, because the most important aspect of any relationship is the sharing of common goals. It is hard enough to build a home when you share the same purpose and dreams; without them, it is close to impossible.)

The servant here loves his master more than his wife, which means he likes the life his master provides for him. And that is his mistake, because the whole purpose of his experience is to teach him that he has only one master. We are put in this world to make a difference, and G-d never wanted slaves; we are meant to be partners with G-d in building the world He has given us.

Our challenge is to embrace the freedom we have and decide what to do with it, and how best to use it to serve the whole world, by making this world a better place to be.

And this is what is really going on when the court brings him to the doorpost, the same doorpost whereon the blood of the lamb (of the Paschal sacrifice) was placed prior to our Exodus from Egypt. Before we got out of Egypt, we had to get Egypt out of ourselves. So we slaughtered and ate of the lamb, one of the gods of Egypt, and placed it upon the doorpost as if to say: "into this home the gods of Egypt do not enter". On that last night in Egypt we discovered that freedom is not about where you are; it's about who you are.

And, much like those Jews in Buchenwald, whether we are free or living as slaves is really up to us.

At that same door, the servant's ear is pierced, because there is something that he was meant to hear, but didn't.

Sometimes, you listen to something, but you don't really hear it. The word *Shema* (Hear) is also related to the word '*Me'aim*', which means innards, or guts. There are things that we need to hear, and feel in our gut. And if this servant had really heard the message at

Sinai, and internalized the challenge of creating a world in partnership with G-d, he would never have walked through whatever mistaken doorway got him into trouble in the first place.

The fact that he wants to stay there means he still hasn't gotten the message, which is why he needs to hear where he is at on a much deeper level.

Ultimately, we all serve something; and the only freedom we really have is the ability to choose what we wish to serve: the pot of soup at the end of the day, or the higher purpose we are willing sometimes to give it up for.

Shabbat Shalom,

R. Binny Freedman