YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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SICHOT OF THE ROSHEI YESHIVA

**Parashat Beshalach**

**Sicha of HarAV yaakov medan**

**“He Made a Statute and Judgment and He Tested Them”**

**A. Law and Judgement**

A review of the story of “*Mei Meriva”* (15:22-26) demonstrates that the water that Moshe sweetened was meant to do more than quench the thirst that had built up over three days: “He called out to God, and God showed him a tree; he cast it into the water and the water was sweetened. There He made for them ‘*chok u-mishpat*’ (a statute and a judgment), and there He tested them” (15:25).

The Torah gives no indication of what the “test” was, but from the context we may conclude that it was related to the “statute and the judgment” mentioned together with it. We must clarify, then, which “statute and judgment” were given at Mara.

In the *midrashim* of *Chazal* we find different opinions on this question. The *Gemara* (*Sanhedrin* 56b) mentions judicial laws (*dinim*), *Shabbat*, and honoring parents. Given that in the Ten Commandments in *Sefer* *Devarim*, both of the latter commandments mention the words, “as the Lord your God commanded you” (*Devarim* 5:11, 15), the Gemara deduces that *Bnei Yisrael* were given these commandments prior to the Revelation at Sinai.

But what “statute” was given at Mara? I believe the word “statute” (*chok*) is meant here as a specified measurement – particularly, a specified ration of food. When the waters of the well were sweetened, God established a “*chok*” – a ration, or measure – as to how much water each person was entitled to draw for himself, his family and his cattle. If no ration were determined per person from the waters of the well, imagine the chaos that would have ensued when 600,000 thirsty people, after three days of wandering in the desert, were to grab water for themselves, their families, and their cattle. The “*chok*” (= ration) required “*mishpat*” – i.e., a rule for the ration of each family. At Mara, the group of slaves who were just freed, who did not recognize each other and their rights, faced a test of mutual respect, consideration for others, and discipline. These are all elementary concepts for building a proper society and nation, basic concepts on the road to freedom. The test of freedom is not whether a person can do as he wishes, but rather whether he can act out of free choice while remaining a human being, in the moral and cultural sense of the word. Thus, this is also the test of a free society and of a free nation.

The “statute and judgment” concerning the water are thus themselves the test, as the continuation of the story proves. When *Bnei Yisrael* reach the wilderness of Sin, their bread runs out. In their hunger, they complain against Moshe and Aharon. And just as God sweetened the water for them at Mara, so too He rains down food for them from heaven – the manna. The manna is also given with a test: “Behold, I rain down for you bread from the heavens, so that the people can go out and gather each day’s rations, in order that I may test them as to whether they will follow My Torah or not” (16:4).

Regarding the manna, an explicit commandment is given, which is it itself the test: “This is the thing that God commanded: Gather of it each person according to his eating, an *omer* per person according to your numbers; each person shall take for those who are in his tent” (16:16). *Bnei Yisrael* succeed in this test, as each gather an *omer* per person (see 16:17-18).

We do not know how much manna descended each day, but even if there was a great abundance – no one could know in advance what quantity would be needed to feed millions of hungry mouths with manna. The manna had to suffice for everyone. People who took more than they needed would cause their neighbors to suffer a shortage. Again, this was a test of respect presented to free people who were not receiving set rations from their masters, but rather were able to gather it themselves, and could – were it not for the commandment, and had they so wished – take more for themselves.

We may add: the test of gathering a set measure of manna was not easy. In two places the Torah praises the taste of the manna (see 16:31, *Bamidbar* 31:8). Yet, the Torah states: “He afflicted you and made you hungry, and fed you with the manna, which you had not known” (*Devarim* 8:3). An overall analysis leads us to conclude that although manna was good and tasty, it was provided in small measure – enough for survival but not to fill one’s stomach; it did not give a feeling of satiety. If we add to the sense of hunger, and that it was forbidden to keep any manna aside even for emergencies, we may begin to understand the extent of the test involved in “gathering by measure.” The purpose of this measure was “statute and judgment”: to enable everyone to gather and to eat in equal measure, not to allow a situation in which “may the best (strongest) man win.”

**B. Shabbat**

As mentioned above, two additional commandments were given at Mara: Shabbat and honoring parents. Let us discuss the commandment of Shabbat in this context.

Two main reasons are given for the commandment of Shabbat. Firstly, Shabbat is a testimony to the fact that God created the heavens and the earth within a given time (20:10); secondly, “in order that your manservant and maidservant shall rest like you, and you shall remember that you were a servant in the land of Egypt” (*Devarim* 5:13; *Shemot* 23:12). These two reasons may be viewed as addressing the two foci of our faith – the Creation of the world and the Exodus from Egypt. Here we shall emphasize the first reason: the Creation *ex nihilo*, and the continuation of the world’s existence by virtue of justice and righteousness.

The *Gemara* mentioned above (*Sanhedrin* 56b), as well as Rashi on *Devarim* (5:11) assume that Shabbat, as commanded at Sinai, is a sign of the Creation, while Shabbat as commanded at Mara (and in the Ten Commandments in *Sefer* *Devarim*) is a remembrance of the Exodus from Egypt, and “in order that your manservant and maidservant shall rest like you.” This assumption fits what we said above – that the crux of the commandment at Mara concerned the “*chok* *u-mishpat*”: the emphasis is on equality, on the “like you.” “Like you” in resting on Shabbat, in the ration of water from the well, and – later – in the *omer* measure of manna.

Let us explain further. The *Gemara* provides no details as to which of the laws of Shabbat were commanded to *Bnei Yisrael* at Mara. It is difficult to imagine that all 39 categories of *melakha* were taught there, since these are derived from the *melakhot* performed in the *Mishkan*, and on the juxtaposition of the parshiyot discussing the *Mishkan* and Shabbat respectively – all of which came later. Thus, *Bnei Yisrael* could not have received this commandment at Mara. It seems, therefore, that *Bnei Yisrael* were commanded concerning the 39 categories of *melakha* to explain the *mitzva* of Shabbat given at Sinai. The categories of creative *melakha* associated with the *Mishkan* are a remembrance of the creative *melakha* of Creation, and the cessation from such *melakha* on Shabbat is a remembrance of the Shabbat of Creation, as stated in the Ten Commandments as they appear in *Sefer* *Shemot*, and in the Shabbat command in the context of the *Mishkan*: “For in six days God made the heavens and the earth, and on the seventh day He ceased and rested” (31:17).

I believe that the *mitzva* of Shabbat that was given at Mara consisted in one prohibition of *melakha* – a category of *melakha* whose connection with the work of the *Mishkan* is weak: the act of carrying from one sort of domain (*reshut*) to another. This *melakha* is mentioned in the *parasha* of Shabbat in the wilderness of Sin, and from the rebuke over the breach in Shabbat observance it appears that this prohibition was already known to them. Apparently, then, *Bnei Yisrael* were commanded in this regard at Mara.

According to Rashi’s understanding, the Shabbat commandment given at Mara is the Shabbat mentioned in the Ten Commandments in *Sefer* *Devarim*, whose essence is remembering the Exodus from Egypt, social justice, equality between the master and slave in rest and in the rations of water and manna whose essential command concerns the *melakha* of carrying from one “domain” to another. The Shabbat commanded at Sinai, on the other hand, and mentioned in the Ten Commandments in *Sefer* *Shemot*, reminds us of the Creation of the world within a set time; this is the Shabbat mentioned in connection with the work of the *Mishkan*, and whose essence is the commandment concerning the 39 categories of *melakha*.

Let us note further that it stands to reason that it was specifically at Mara that *Bnei Yisrael* were commanded only concerning transfer from one domain to another, while at Sinai they were commanded concerning all 39 categories of *melakha*. While after Sinai, as they were preparing to move to permanent homes (and construct a home for God), they were prohibited in all categories of creative labor, at this earlier stage – they were still not engaged in such activity, receiving their food with relatively little effort or miraculously.

It appears, then, that the main occupation of those who left Egypt in this period was commerce. Basic nourishment was provided to all from on High, but when it came to other requirements – like vessels and clothing – they must have traded. Many of them owned assets that they took from the Egyptians when they borrowed their vessels and from the booty seized at the Red Sea. The water and manna could have served as additional property for trade and an additional factor in the accumulation of capital, if not for the explicit prohibition against gathering more than required for each individual.

Thus, specifically at Mara, the Torah limits commercial activity and the efforts to accumulate capital. This is done in two ways. a) By placing a “*chok* *u-mishpat*,” setting down the ration of water for each family and each individual, as in the case of the manna later on. At the same time, the other rules of “*chok* *u-mishpat*” were set down: the concepts of uprightness, loyalty, and justice in national life. b) Through the *mitzva* of Shabbat, given at Mara, the creative *melakha* that was prohibited here concerned carrying from one domain to another.

The unique character of the category of *melakha* that involves carrying between domains, and its associated prohibitions, is emphasized not only in the *parasha* of Shabbat in the wilderness of Sin, and in the source for Shabbat at Mara (as explained above). Nechemia introduced Shabbat enactments specifically concerning carrying due to concerns related to business being conducted on Shabbat (see 13:15-22). In the time of Yirmeyahu, there were similar concerns (see 5:6, 13:19, 17:19-27, 35:11), but in another prophecy he seems to link this with the oppression of the widow, the orphan and the downtrodden – namely the performance of justice and righteousness (see 22:1-5).

Shabbat, as it relates to the place of business, does not come to testify to God’s creation of the world in six days. The cessation of the *melakha* of carrying is not to cease from creative *melakha*, since it lacks a creative element. The Shabbat of the workplace is not meant to stop productivity and development, but rather to halt the unending pursuit of money in commerce. The greatest danger in this pursuit of money is the overt and covert deceit, the villainy which may or may not be technically permissible. All of these involve the same result: injustice to the weak and the innocent.

For one day a week God commands a person to halt his battle for survival, his desire for riches. For one day in the week, one must remember the waters of the well at Mara and the manna, by which Shabbat was sanctified and blessed (see *Rashi*, *Bereishit* 2:3). In this way he will recognize that his sustenance comes from God, and that God determines how much he will receive. He will recognize that we borrow from Him and He gives – that all eyes are turned to Him, and He gives them food at the proper time. Throughout the forty years, beginning with the Shabbat at Mara and the Shabbat in the wilderness of Sin, all those who left Egypt, and their children ate the same food and in equal quantities. Together they quenched their thirst and together they suffered hunger. A merchant, rather than focusing on “making the *‘efa’* small and the shekel great, falsifying their deceitful balances” (*Amos* 8:5), will remember, by postponing commerce on the seventh day, that all of God’s children are equal in His eyes, and He opens His hand to feed them all. No amount of effort on man’s part will achieve anything unless his Father in heaven sets aside sustenance for him. He Who redeemed him from the slavery of Egypt and from the fleshpot there, is the same One Who provides food for him and for his family; He asks only one thing: “That your manservant and your maidservant shall rest like you” (*Devarim* 5:14).

**C. Honoring One’s Father and Mother**

At Mara, along with the *mitzva* of Shabbat, *Bnei Yisrael* were also commanded to honor parents. We have explained the link between Shabbat and the “*chok* *u-mishpat*” at Mara; we must now explain the link between Mara and the *mitzva* of honoring parents. This *mitzva* is multi-faceted; we shall relate here only to that issue that appears to be related to our discussion.

One topic that seems linked to the *mitzva* of honoring parents is that of the rebellious and wayward son (*Devarim* 21:18-20):

If a man shall have a wayward and rebellious son – he does not listen to his father and to his mother, and they punish him but he does not listen to them – then his father and his mother shall take hold of him and bring him out to the elders of his city, and to the gates of his place. They shall say to the elders of the city: This son of ours is wayward and rebellious, he does not listen to us; he is a glutton and a drunkard.

The only sin that is explicitly mentioned regarding the rebellious son is that he is a “glutton and a drunkard.” In halakha, too, only this issue is addressed in detail: “From what point is he deserving of death? When he eats a *tartemar* [a certain measure] of meat and drinks a half a *log* of Italian wine. R. Yossi says: a full measure of meat and a *log* of wine” (*Mishna* *Sanhedrin* 70a).

The *Gemara* expresses surprise at this sole halakha defining the law of the wayward and rebellious son, asking why he should be condemned to death for eating meat and drinking wine. The Gemara’s answer is that the Torah anticipates that he will spend his parents’ money supporting his gluttony and then turn to banditry, “So the Torah says: Let him rather die innocent, rather than waiting for him to die guilty” (see *Sanhedrin* 72a).

This explanation removes the *parasha* of the rebellious son from the realm of honoring parents and moves it to that of robbery and violence. It is difficult to reconcile this with the literal text of the Torah. Rather, the link between a rebellious son and a glutton and drunkard appears in *Sefer* *Mishlei*, in a description of those who are never satisfied, like a leech, who constantly asks, “Give, give,” never saying it is “enough” (see 30:15-17). Those verses also describe a harsh punishment for “The eye that mocks its father and scorns to obey its mother.”

In the metaphor of the leech, man is the son who knows no satisfaction for his desires. His parents are limited in their ability to satisfy the son’s unbridled appetites, and he repays them with an attitude of scorn. The glutton and drunkard who knows no satisfaction and never says “enough” – he will eventually scorn and mock his parents, who do not fulfill his desires. But this is not the full extent of his sin – the verses just before describe those who curse their parents and “devour the poor from the off the land and the destitute from mankind” (see 30:11-14).

The son scorns the generation of his father, earning its meager bread honestly. He is pure in his own eyes, and his way of filling his belly is simple and easy. His sharp teeth and grinding molars, which lead his desires down to his stomach, are the swords that oppress the poor and the destitute. The Torah understands the full extent of the rebellious son’s thinking: he does not get what he wants from his father, so he stands and robs passersby.

Let us now return to Mara, the wilderness of Sin, and the “*chok* *u-mishpat*” – the fair distribution of resources – food and water – during the desert wanderings. Let us note that so far, the Torah has not insisted that every individual take the same amount as his fellow. Rather, the Torah enforced equality on the family level: “Gather of it each person according to his eating; an *omer* per person, according to the number of you; each person shall take for those who are in his tent” (16:16)

Every person took for the number of people in his household, and the Torah relies on the natural system of distribution within the family. Within the family there is no reason for concern as to an unjust distribution, for parents are not suspect of favoring one child over another when doling out food.

But when the family includes a rebellious son, a glutton and a drunkard – a son who appropriates all the family’s food for himself and has no consideration for his siblings, a son whose rations consist of a *tartemar* of meat and a half-*log* of wine – then how can the rationing of an *omer* per person remain justified? And if the son has no concept of fair rationing even between himself and his siblings, how will he act towards his neighbors or everyone else? Will he keep to taking an *omer* and no more? And how will he treat his parents, who provide him with only an *omer* instead of a *tartemar*; the same *omer* concerning which it is written, “He afflicted them and made them hungry” (*Devarim* 8:3)?

When those who left Egypt stood next to the well at Mara, when God gave them a “*chok* *u-mishpat*,” the Torah also commanded the honoring of parents. This is honor which means – first and foremost – a son’s respect for the parents’ right to distribute food among their children according to their best judgment and in keeping with their sense of fairness.

By observing this “*chok u-mishpat*,” the Jewish people could set out on a path described in the book of Amos, who wrote, just before discussing the forty years in the desert, “Let justice roll down like water, and righteousness like a mighty stream” (*Amos* 5:24-25).

Translated by Kaeren Fish