

# PSHUTO SHEL MIKRA

From the Teachings of Rav Yehuda Copperman zt"l

## PARSHAT BEHAR

### Pshat Establishes the Framework for Midrash

וְכִי יָמוּךְ אָחִיךָ עִמָּךְ וְנִמְכַר לָךְ ... כְּשֹׁכֵר כְּתוֹשֵׁב יְהוּדָה עִמָּךְ

*If your brother becomes impoverished with you and is sold to you ... Like a resident worker he shall be with you (Vayikra 25:39-40)*

In *Parshat Mishpatim* we learned about a Jew who is sold as an *eved* as a result of having stolen and not having the financial means to make restitution. Here, in *Parshat Behar*, we learn about a Jew who sells himself as an *eved* due to his dire financial situation.<sup>1</sup>

The focus of our present discussion will be a principle that will, *be'ezrat Hashem*, give us a deeper appreciation of the relationship between *pshuto shel mikra* and *midrash halachah*.

<sup>1</sup> It is interesting to note that in *Parshat Mishpatim* he is referred to as an “*eved ivri* — a Hebrew servant,” a term which denotes nationality, but no more. In contrast, in our parsha he is called “*achicha* — your brother,” emphasizing the feelings of love and brotherhood that one must have towards him. The reader is referred to our *sefer Mavo LeLimud HaTorah* (pp. 30–54), where we discuss the unique focus of each of the five *Chumashim*, with *Chumash Shemot* focusing on the category of Mitzvah known as *Mishpatim*, i.e. mitzvot which could be intuited by intellect alone. In this context, he is called an *Ivri*, denoting his nationality, and no more. *Chumash Vayikra*, on the other hand, focuses on the mitzvot known as *Chukim*, whose understanding is beyond the intellect, and which reflect the *kedushah* of Am Yisrael. In the context of this *Chumash*, the *eved* is referred to as “your brother.”

## The Source for the Drashah of “עֶמֶךָ”

There are a number of places in the Gemara where Chazal derive *halachot* regarding the way one should treat his *eved* from the word “עֶמֶךָ” stated with regards to *eved ivri*. In the eyes of *midrash halachah*, this word denotes that the *eved* should be equal in certain respects to the owner.

For example,

1. In *Masechet Ketuvot* (43a), the Gemara derives from this word that the master is obligated to provide the *eved* with food and moreover, that it be of quality equivalent to the food the master himself eats.
2. In *Masechet Kiddushin* (15a), the Gemara derives from this word that the master cannot obligate the *eved* to work both day and night, rather, he must choose one of them, similar to the way the master himself only works during one of them.

In *Masechet Ketuvot* (ibid.), the Gemara quotes only the word “עֶמֶךָ,” and does not provide any context as to where this word is written. As we will see, there is more than one *pasuk* dealing with *eved ivri* which contains the word “עֶמֶךָ.” Indeed, *Tosafot* (s.v. *lo*) there comment:

*The text in the Gemara should not include the words (Devarim 15:16) “כִּי טוֹב לוֹ עִמָּךְ” — for it is good for him with you,”<sup>2</sup> for the Sifrei does not derive this (law) from that pasuk, rather, it is derived<sup>3</sup> from the pasuk “כְּשָׂכִיר כְּתוֹשֵׁב יְהִיָּה עִמָּךְ — like a resident worker he shall be with you.”<sup>4</sup> For there, the word “עֶמֶךָ” is redundant, since it could have simply said “כְּשָׂכִיר כְּתוֹשֵׁב יְהִיָּה” (like a resident worker he shall be).” However, the words “כִּי טוֹב לוֹ עִמָּךְ” are merely part of a narrative (סיפור דברים בעלמא).*

*Tosafot* are pointing out that words “כִּי טוֹב לוֹ עִמָּךְ” written in *Chumash Devarim* do not represent the Torah stating how things should be for the *eved*, rather they are stated within the context of the *eved* observing that things are good for him, and therefore he would like to stay in service longer. Hence, the narrative context of these words disqualifies them from acting as a source for a mitzvah, (the equation of the *eved* to the master with regards to working conditions), for a mitzvah is not a narrative; it is an imperative. We should note that *Tosafot* make this comment in each and every place where the Gemara mentions this *drashah*.<sup>5</sup>

## Pshat Establishes the Context for the Midrash

Here, there is room to ask an important question: The *halachot* which we learn from the word “עֶמֶךָ” do derive from *pshuto shel mikra*. In terms of *pshat*, this word means nothing more than simply “with you.” Rather, the *halachot* are derived specifically through *midrash*

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2 That *pasuk* describes the *eved* expressing his wish to stay on in the service of his master.

3 [By the *Torat Kohanim*, the *midrash halachah* on *Chumash Vayikra*.]

4 [I.e., our *pasuk* in *Parshat Behar*.]

5 *Ketuvot* 43a (s.v. *lo*), *Kiddushin* 15a (s.v. *ki*), *Bava Kama* 87b (s.v. *v'katav*).

*halachah* which sees this word as redundant, as *Tosafot* themselves pointed out. This being the case, why should the question of whether the *pasuk* is written as a *tzivui* or *sippur* affect the question of whether we can expound its words through *midrash halachah*? *Tzivui* and *sippur* are *pshat considerations*, and the *midrash* should not be affected by them. It should only be affected by midrash considerations, such as “Is this word redundant?” And indeed, the word “עמך” is equally redundant in the *pasuk* “כִּי טוֹב לוֹ עִמָּךְ” as it is in our *pasuk*!<sup>6</sup> A redundancy is a redundancy, regardless of the context in which it appears; therefore, we might say, let the midrash expound the word, wherever it may be!

The *Tosafot* are teaching us that this is not the case. Rather, the **essential nature of the *pasuk* as defined by *pshuto shel mikra* will establish the parameters regarding what lessons can be derived from it through *midrash halachah*.** If the *pasuk* is written in the *signon* (form) of *Tzivui*, the midrash will be allowed to derive *halachot* beyond those stated by the *pshat* alone. This is purely an increase in quantity. However, if the *signon* of the *pasuk* is *sippur*, *midrash halachah* will not be allowed to raise the halachic level of the *pasuk* to that of *tzivui*.

## The Geonim: Harmony

It is most interesting to consider the position of the **Geonim** on this matter, as cited in the *peirush* of the **Meiri** to *Masechet Kiddushin* (20a). While on the one hand, their *girsah* (text) of the Gemara leads them to a differing practical conclusion than that of *Tosafot*, on the other hand, we will see that, in terms of our principle, they are in full agreement with *Tosafot*.

*Meiri* writes:

*The master is obligated to treat the eved as equal to himself in terms of food and drink, as it says, “כִּי טוֹב לוֹ עִמָּךְ,”*<sup>7</sup> (which teaches that he must be) equal to you in matters of food and drink, that you not be eating good quality bread while he sits on straw (and eats coarse bread). From here they (Chazal) said (Kiddushin 20a) “Whoever acquires an eved acquires for himself a master.”

*It appears to the Geonim that this matter is a mitzvah upon the master, and is a matter of ethical and proper conduct taught to him by the Torah. However, if he did not act in this way, the eved is not able to force him (to do so) legally ... and one who wishes to avoid this obligation can stipulate as such prior to the eved entering his household, and this is not considered as stipulating something that is in contravention of the words of Torah, since the entire matter is really one of added piety (midat chassidut).*

We see that the Geonim disagree with *Tosafot* on two points:

- ▷ According to the *Geonim*, the source for this *drashah* is in fact the (narrative) *pasuk* in *Devarim* where the Torah describes the favorable conditions enjoyed by the *eved*.

<sup>6</sup> Seeing that it features twice in each of those *pesukim*.

<sup>7</sup> [I.e. the *pasuk* in *Parshat Re'eh*, which *Tosafot* contended is not the source for this halachah!]

- ▷ Additionally, the *Geonim* state that treating the *eved* in a manner equal to the master is not an actual obligation, but rather a matter of *midat chassidut*.

Having said that, we see that in terms of principle, the *Geonim* are in full agreement with *Tosafot*, and in fact the points on which they argue with *Tosafot* actually define each other. Since, in their opinion, the source for this *drashah* is a *pasuk* that is written in the form of *sippur* (the Torah describing the favorable conditions enjoyed by the *eved*), it cannot therefore represent an actual halachic obligation; rather, it is a mitzvah on the level of *midat chassidut*.

We see from here that although the midrash and *pshat* differ greatly in terms of methodology, constituting two very different ways of looking at the words of the Torah, nonetheless, the *pshat* can influence the midrash in terms of establishing the *signon* of the *pasuk*, which will then have implications for the category of teaching that can be derived through midrash.