

A great advance in modern conceptual understanding of Biblical narrative, which I learned from Meir Sternberg's monumental **The Poetics of Biblical Narrative**, is the idea that Chumash deliberately leaves gaps for readers to fill. This leaves the text available for multiple interpretations and blurs the line between reader and writer, and as I like to say in many contexts, means that midrash is an essential element of pshat. The understanding that these gaps are deliberate does, however, pose a theological challenge in that it undermines the idea of historicity, as prima facie two interpretations that factually conflict cannot both be factually true. In this regard note that Talmud Gittin 6b is willing to say "These and those are the words of the living G-d (or living words of G-d)" about narrative in the case of Pilegsh b'Givah, but defends this not on the grounds of multiple truth but rather by constructing a narrative in which the relevant factual interpretations do not factually conflict.

When it comes to law, however, the idea that gaps are deliberate has a harder time gaining traction. Ordinary law is all about predictability and accountability, both of which militate against deliberate ambiguity. Jose Faur's compelling argument that Torah is a constitution rather than a code is relevant here – constitutions often describe values rather than practices so that they can remain relevant across eras – but not sufficient, as constitutions do try to identify their values as precisely as possible, whereas the Torah as law seems to leave gaps and worse, create contradictions, at every level of abstraction.

Many of the contradictions can be explained away by source criticism of course, and some others by lower criticism/emendation. What I want to suggest, however, is that even if one cheerfully uses critical tools to their maximum, legal sections in the Torah will remain frustratingly vague and maddeningly contradictory and redundant. It may be that using critical tools to peel away such problems is like peeling an onion; one is left with nothing. And that should lead one to question whether "explaining away" the problems, rather than exploiting them, is the correct approach even, or perhaps especially, if one is concerned with original intent.

As an example, let's look at Vayikra 25:35-38, whose unitary authorship to my knowledge is as yet unquestioned.

#### ויקרא פרק כה

(לה) וכי ימוך אחיך ומטה ידו עמך והחזקת בו גר ותושב וחי עמך:

(לו) אל תקח מאתו נשך ותרבית ויראת מאל-היך וחי אחיך עמך:

(לז) את כספך לא תתן לו בנשך ובמרבית לא תתן אכלך:

(לח) אני יקוק אל-היכם אשר הוצאתי אתכם מארץ מצרים לתת לכם את ארץ כנען להיות לכם

לאל-הים: Ⓚ

Should your brother become poor, and his hand totter with you (*imakh*);

You must grasp him, the alien and the settler and he-who-lives/he will live (*vochai*) with you.

Do not take from him neshekh and tarbit, and you must be in fear of your G-d, and your brother will live (*vechay*) with you.

Your money you must not give him with neshekh, and with marbit you must not give your food.

I am Hashem your G-d Who took you out of the land of Egypt in order to give you the land of Canaan in order to become to you the G-d.

I want to leave aside basic translation issues, such as the precise definitions of *neshekh* and *tarbit*, as they almost certainly reflect lack of knowledge rather than multivalence. Possibly the same is true of the question of whether *vochai* in verse 35 is a noun or a

verb. The extended and detailed Divine autograph at the end might be boilerplate. I am still left offhand with questions: such as

- 1) Why does verse 35 first describe a “brother” becoming poor, and then speak of the obligation to grasp a list of non-brothers?
- 2) What is accomplished by repeating “imakh” three times in the opening two verses?
- 3) What is the difference between the prohibition in verse 36 and that in verse 37?
- 4). Why is *veyareita meilokehah* interposed in verse 36?

My contention then is that we should consider the possibility that the redundancies and contradictions that scholars identify across legal texts in Torah, and often view as evidence of multiple authorship, can be seen instead as expansions of the gaps opened within each legal text, and that accordingly something like Midrash Halakhah must be pshat, but not in the sense that the text has a single original meaning. This would of course have interesting implications for any theology of Halakhah.

Shabbat shalom

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