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חרות ואחריות

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"Taking Responsibility for Torah"

MONOTHEISM, MATNAT CHINAM, AND MENTSCHLICHKEIT

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The Torah makes clear that Canaanite culture was a moral disaster. This moral disaster was foreseen; G-d tells Avraham (Genesis 15:16) that he cannot have the Land immediately "because the sin of the Amorites is not complete UNTIL NOW" – plainly He anticipated that it would become complete at some point before Avraham's fourth generation, which would receive the land. How did G-d know?

We might say that G-d knows the future, including the decisions people will make, so He knew that the Amorites would sin more and more. This approach would enmesh us in medieval controversies about the relationship between Divine foreknowledge and human freedom. It seems preferable to say that Canaanite culture contained an inevitable and irresistible tendency toward moral disaster, so that G-d could **predict** its end.

Devarim 9:5-6 implicitly refers to this conversation between Avraham and G-d.

לֹא בְצִדְקָתְךָ וּבְיִשְׁרָ לְבָבְךָ אֶתָּה בָּא
לְרֶשֶׁת אֶת־אֶרֶץ
כִּי בְרִשְׁעוֹת הַגּוֹיִם הָאֵלֶּה הָיָה לְהִיךְ מוֹרִישָׁם מִפְּנֶיךָ
וְלִמְעַן הַקִּים אֶת־הַדָּבָר אֲשֶׁר נִשְׁבַּע ה' לְאַבְרָהָם לֵאמֹר:
וְלֵיָעֶקֶב:
יָדַעְתָּ כִּי לֹא בְצִדְקָתְךָ
הָיָה לְהִיךְ נִתְּנָה לְךָ אֶת־הָאֶרֶץ הַטּוֹבָה הַזֹּאת לְרִשְׁתָּהּ
כִּי עִם־קִשְׁה־עֲרָף אָתָּה:

*It is not owing to your righteousness and the integrity of your heart
that you have come to possess their land
rather it is owing to the wickedness of those nations
that Hashem your G-d is sweeping them from before you.
You must know that it is not owing to your righteousness
that Hashem your G-d is giving you this good land to possess it
because you are a stiff-necked people.*

In other words, the sin of the Amorites is now complete.

Will the fate of the Jews be any different? It seems at least possible. G-d makes clear that we do not **deserve** the land; but He does not say that we are **as bad as** the Canaanites. He constantly warns us against having pity on Canaanites lest they come to live among us and cause us to stray. Rabbi Samson Raphael Hirsch argues that these repeated warnings are necessary because pitilessness violates the fundamental norms of Jewishness, perhaps of the fundamental nature of Jews.

This creates a Scylla/Charybdis dilemma. We must be terribly careful lest we show pity where pity is forbidden; but what are we to do in a case of doubt? Unnecessary pitilessness is also terrible! Let's analyze this dilemma through the lens of a phrase from Devarim 7:2, *lo techaneim*.

Talmud Avodah Zarah offers three legal understandings of the phrase, each based on a separate etymology. The first is "Do not grant them an encampment/*chanayah* in the Land; the second is "Do not show them favor/*chen*," meaning do not speak favorably of them; the third is "Do not give them an unmotivated/*chinam* gift."

Lo techanem occurs just after commands to smite, utterly destroy, and never cut covenants, and just before the prohibition against intermarriage. To whom do these prohibitions apply? The Talmud reports a Tannaitic dispute as to whether the prohibition against intermarriage applies only to the Seven (Canaanite) Nations, or to all non-Jews. But for whatever reasons, that is not the binary in play for *lo techanem*. Even more interestingly, halakhists have felt free to apply the three laws generated by *lo techanem* to different sets of non-Jews. Let's focus in even further then, on the prohibition against giving *chinam* gifts.

The Tur cited this prohibition twice in his work. In Yoreh Deah Laws of Idolatry 151

אסור ליתן להם מתנת חנם

במה ד"א?

כשאינו מכיר

אבל אם מכיר, או שכינו – מותר

It is forbidden to give them chinam gifts

What context were these words said in?

Where he does not have a relationship with him.

But where he does have a relationship with him, or if he is his neighbor – it is permitted.

In Choshen Mishpat Laws of Gifts 249 he writes:

אסור ליתן מתנת חנם לעובד עבודת כוכבים

אבל מותר ליתן לגר תושב, שהרי מצוה להחיותו:

It is forbidden to give a chinam gift to an idolater,

but it is permitted to give one to a ger toshav, as he is commanded to sustain his life

The Yoreh Deah version has the practical effect of eliminating the prohibition. The rationale for the exceptions is that they turn the gift into a sale, because the giver expects the recipient to return the favor with interest. Why would one give presents to someone one has no relationship with? Who ever gives gifts without some expectation of reciprocity?

Shulchan Arukh YD 151 doesn't mention the neighbor, but adds a new permission, generalized from the Mishnah that mandates feeding the idolatrous poor: One may gift if doing so contains an element of *darkhei shalom*, the ways of peace, which can perhaps be codified as “whenever it is socially expected.”

These exceptions seem almost funny when one recalls how Rabbi Avraham Danzig sums up the purpose of *lo techanem* in his Chokhmah Adam:

והכל כדי שלא יתקרבו עמהם וילמדו ממעשיהם

All of this is so they don't become close with them and learn from their actions

Rabbi Danzig's summary reflects both the contextual *peshat* and the consensus of the tradition. Yet how does this make sense? Surely a prohibition intended to inhibit social intercourse would apply more strongly to friends and neighbors than to strangers! Surely the easiest way to inhibit such intercourse is to dispense with the social niceties (leaving aside that these niceties are plainly habits we have picked up from them! It seems more likely that they reflect a decision to be strict on the side of being *gomlei chasadim*, those who model selfless givers), rather than being strict on the side of avoiding Gentile influence.

Tur Choshen Mishpat introduces a new dichotomy among Gentiles: there are idolaters, and then there are *gerei toshav*, or resident aliens. Shulchan Arukh says the same thing. What if a person is neither?

Maimonides insists that the entire category of resident alien applies only when most Jews are living in Israel. This means that even Gentiles who fully carry out their halakhic responsibilities cannot become resident aliens. Such people are not idolaters either. May we give them *chinam* gifts? In other words: Does the prohibition apply only to idolaters, or does it apply to every undocumented Gentile?

This question seems to be answered definitively by Rashbo, Responsa 1:8.

ומה ששאל ממך הנער

בשולח אדם ירך לנכרי

איך יתישב עם מה שאמרו אסור לתת מתנת חנם?

ואמרת לו

דהוא דשולח ירך לנכרי לא לחנם אלא לגמול למה שקדם או בגוי

שאינו עובד עבודה זרה

יפה אמרת. . .

ואמרינן בפרק בתרא דעבודה זרה (דף ס"ז ב')

רב יהודה שדר קורבנא לאבידרנא ביום אידו.

אמר: ידענא ביה דלא פלח לעבודה זרה . . .

That which the lad asked of you

regarding the Talmudic case of a person who sends a haunch to a nonJew – How can this be squared with their statement that one may not give chinam gifts?

I said to him:

You have spoken well. . .

We say in the last Chapter of (Talmud) Avodah Zarah

Rav Yehudah sent a sacrifice to Avidrana on his birthday.

He said: I know of him that he does not worship idols.

Rashbo apparently held that that “resident alien” was just an example of a non-idolatrous Gentile. (Sefer HaChinnukh says the same things, but elsewhere contradicts himself.) Rav Yosef Caro apparently did not have access to this Rashbo, and therefore rules that the prohibition applies to Muslims, even though they are monotheists.

A slightly different framing appears in Meiri to Pesachim 21b:

כבר ביארנו במסכת עבודה זרה

שהגויים

ר"ל שהם מעובדי האלילים שאינם גזורים בגדר שום דת בעולם –

אין אנו מצווים להחיותם

ומאחר שכן, אף מה שאסור לנו – אין נותנין להם בחנם,

שהרי אנו גוזלין בכך גר תושב

שאנו מצווים להחיותו,

אחר שהוא מקיים שבע מצות של בני נח

We have already explained in Tractate Avodah Zarah that the Gentiles

meaning those who worship idols and are not bounded by the bounds of any world religion –

we are not obligated to sustain their lives

and therefore, even that which is prohibited to us, we may not give them chinam because by so doing we would be robbing the resident aliens,

whose lives we are obligated to sustain,

since they keep the Seven Noachide Commandments

According to Meiri, there might be no prohibition nowadays against giving nonkosher food away *chinam*, since according to Rambam there can be no resident aliens nowadays.

The positions of Rashbam and Meiri represent another example where we prefer to err on the side of humanity rather than on pitilessness, when we don't know which one halakhah requires of us. As Beit Yosef seems not to have had access to the relevant section of either of these rishonim, I think it is possible to rule like them against Shulchan Arukh, if a case ever came up that met the absolute *chinam* requirement.

Why should we resolve doubts in that direction? I suggest that what doomed the Canaanites was the convergence in their society of polytheism and moral and ethical breakdown. Preventing contagion from that virulent compound led the Torah to demand that we suppress our natural sympathies for them.

But where there is no danger of contagion from monotheists, however poor their characters, nor from ethical people who happen not to believe in Hashem, the reason for *lo techanem* appears defunct. Therefore, halakhah retreats to its default posture of treating everyone with lovingkindness. Perhaps that default posture – even if we too often overcome the default – is why the Torah does not see as inevitably tending toward moral collapse, however bad we may be at present.