

An underappreciated beauty of Jewish thought is its concern for subtly and precisely delineating the exact normative stature of a religious law. Not just *deoraita* vs. *derabbanan*, each with its respective subdivisions, but - to provide a partial categorization of “things one ought to do” - *bediavad*, *lekhatilah*, *mitzvah min hamuvchar*, *latzeit yedei shomayim*, *lifnim mishurat hadin*, *midat chassidut*, and so on. I emphasize that all of these are *legal* categories, even though not all of them are categories of *mandatory behavior*. The idea that actions can be *legal oughts* but not *mandatory*, let alone *enforceable*, is intellectually critical to Rabbinic Judaism.

There is similar subtlety with regard to “things one ought not to do”? Halakhah recognizes not only different categories of *issur*=formal prohibition but also categories such as *yesh alav tar’omet* = *cause for interpersonal complaint*, *naval birshut haTorah* = *disgusting but formally permitted*, *zila bei milta* = *legal but degrading to another*, *ein ruach chakhamim nocheh heimenu* = *the Sages are displeased with him*, *asah shelo kehogen* = *behaved improperly*, etc.

Devarim 27:11-26 (appended) contains a series of curses directed at those who perform a specified set of actions. Presumably one ought not to perform those actions – but what is the difference between a prohibition and a curse? What is the legal effect of declaring an action curseworthy? Furthermore, at least some of the actions cursed here seem to overlap with actions that are elsewhere straightforwardly prohibited.

Commentators have utilized a variety of strategies to deal with these apparent redundancies. One can use the curses as the *azhara*=formal “*don’t*” statements that midrash halakhah demands be present in Torah for all Biblically punishable actions (לא ענש הכתוב אלא אם כן הזהיר); one can seek to distinguish them, such as in Minchat Chinukh’s assertion that “before a blind man, you must not place a stumbling block” is a metaphor, but “cursed is the one who causes a blind person to err in the road” is literal; or one can find a case or reason that a particular prohibition required the extra reinforcement of a curse.

Meshekh Chokhmah here (appended and translated) takes the last approach with regard to “cursed is the one who ‘makes his parents light’”. He argues that since parental *kavod*=weightiness can be voluntarily foregone, children might violate it with impunity on the assumption that their parents would rather forgive them than subject them to Divine punishment.

The implication is that ‘making parents light’ is curseworthy even when no legal violation is present. Meshekh Chokhmah uses this to explain the story on Sanhedrin 84b in which Rav refuses to allow his child to bleed him medically “lest he err and wound him” – could not Rav simply have forgiven the accidental injury? Rather, even forgiveness does not remove a taint from the action, apparently even when the action is accidental. (My preferred explanation is that Rav might not have thought himself capable of fully and sincerely forgiving the injury.)

My textual difficulty with this is that Kiddushin 32a legitimates Rabbah bar Rav Huna testing his son’s temper, despite the risk that the son would fail, on the ground that he had “forgiven his dignity”. According to Meshekh Chokhmah, would that not still leave the son cursed?! So I’m not convinced that this specific interpretation is sustainable.

However, earlier on Kiddushin 32a the Talmud cites the Tanna Rabbi Yehudah as saying that “A curse should come upon a child who feeds his parent the poor tithe”. In the course of the sugya, this comes to mean – at least according to one position – that a child who feeds his parent the poor tithe ought to be cursed *even if he has already satisfied all financial obligations arising out of “honor your*

parents"! So Meshekh Chokmah has a precedent for seeing "cursedness" as a separate legal category in the context of parent-child relationships.

In the Talmudic case, the question is why this "cursed" action was not made illegal. In Meshekh Chokmah's case, the question is why the rule was made that parents can legally forgive their honor, if forgiveness cannot prevent cursedness. Each of these provides fruitful ground for considering both the value and the limitations of legal rhetoric in the context of a comprehensive system of human behavior.

Shabbat shalom!

Aryeh Klapper

דברים פרק כז, יא-כו

- ויצו משה את העם ביום ההוא לאמר:
אלה יעמדו לברך את העם על הר גרזים בעברכם את הירדן: שמעון ולוי ויהודה ויששכר ויוסף ובנימין;
ואלה יעמדו על הקללה בהר עיבל: ראובן גד ואשר וזבולן דן ונפתלי.
וענו הלויים ואמרו אל כל איש ישראל קול רם: ׀
ארור האיש אשר יעשה פסל ומסכה תועבת יקוק מעשה ידי חרש ושם בסתר - וענו כל העם ואמרו אמן: ׀
ארור מקלה אביו ואמו - ואמר כל העם אמן: ׀
ארור מסיג גבול רעהו - ואמר כל העם אמן: ׀
ארור משגה עור בדרך - ואמר כל העם אמן: ׀
ארור מטה משפט גר יתום ואלמנה - ואמר כל העם אמן: ׀
ארור שכב עם אשת אביו כי גלה כנף אביו - ואמר כל העם אמן: ׀
ארור שכב עם כל בהמה - ואמר כל העם אמן: ׀
ארור שכב עם אחתו בת אביו או בת אמו - ואמר כל העם אמן: ׀
ארור שכב עם חתנתו - ואמר כל העם אמן: ׀
ארור מכה רעהו בסתר - ואמר כל העם אמן: ׀
ארור לקח שחד להכות נפש דם נקי - ואמר כל העם אמן: ׀
ארור אשר לא יקים את דברי התורה הזאת לעשות אותם - ואמר כל העם אמן: פ

משך חכמה דברים פרק כז פסוק טז

- "ארור מקלה אביו ואמו" –
פירוש - מלשון קל,
שמקניט אביו ומצערו
מפני שידוע שאביו ימחול לו,
שחש על עונשו של בן יותר מהבן –
לכן אררו על זה,
ולכן
לא שביק רב לבריה למשקל מניה סילוא, דלמא חביל ביה (סנהדרין פד, ב)
ולמחול ליה! דקאי בארור.
וזה מכוון הירושלמי ריש פרק ר' אליעזר בנדרים (פרק ט הלכה א):
הכל מודים שאין מעמיד על כבוד אביו לאחר מיתה,
דבחי אביו אמר שלא איכפת ליה בנדר זה מה שאביו מצטער מניה, דבטח אביו ימחול לו, מה שאין כן לאחר מותו,
ולכן (שם שם):
הכל מודים שאין מעמיד בכבוד רבו דתנינן ומורא רבך כמורא שמים,

דר' אליעזר סבר דגם רב שמחל על כבודו אין מחול, כמו דסבר דנשיא גם כן אינו יכול למחול על כבודו, דלא קיבל הכוס מרבן גמליאל, יעויין קידושין דף לב, ב עיין שם, והבן דמסיק דרבו הוי כמו נשיא.

Meshekh Chokhmah Devarim 27:16

The etymology of this is *kal* = making light, meaning that he provokes his father and pains him because he knows that his father will forgive him, because he is more concerned that his son about his son's punishment – therefore Scripture curses him for this, and therefore

Rav did not allow his son to take blood from him, lest he wound him

Why did he simply not forgive him in advance!? Because his son would still be cursed.

And this is the intent of Yerushalmi Nedarim 9b

All concede that a son will not maintain oaths that impugn his father's honor after his father's death, because in his father's lifetime he said that he was unconcerned that this oath caused his father suffering, because he was convinced that his father would forgive him, but this would not apply after his father's death, and similarly there

All concede that a student will not maintain oaths that impugn his rav's honor, as the Mishnah teaches "and the awe of your rav should be like the awe of Heaven",

Because R. Eliezer holds that even a *rav* cannot effectively forgive his honor, just as he holds that a *nasi* cannot effectively forgive his honor, as on Kiddushin 32b R. Eliezer refused to accept a cup that was served to him by Rabban Gamliel – see there and understand that it concludes that your *rav* (in regard to you) is the equivalent of a *nasi* (for everyone else).