

## CENTER FOR MODERN TORAH LEADERSHIP

Center for Modern Torah Leadership



חרות ואחריות

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"Taking Responsibility for Torah"

### HOW DID CHAZAL INTERPRET TORAH LAWS THEY FOUND TROUBLING?

Rabbi Aryeh Klapper, Dean

Dear Rabbi Klapper:

*My rebbe in yeshiva two years ago emphasized over and over again the importance of "being mevatel our will before His." His practical point was that we had to accept halakhab as it was, rather than evaluating it against any external moral or ethical standard. That's what Chazal did with the Torah, and it's what we must try to do with the Tradition they bequeathed to us.*

*I was convinced.*

*Your shiur last week therefore was earthshaking to me. You argued – I think it's fair to say you demonstrated – that Chazal **derived** some of their halakbic interpretations from external moral and ethical standards. (Where **those** moral standards were derived from, you didn't say. Maybe aggada? Intuition? Natural law?) You argued that developing a conscience was essential for properly learning Torah. My head and soul are still spinning.*

*You raised tentatively the possibility that Chazal sometimes went further. Maybe when they couldn't find a way to square halakhab with ethics, they would interpret that halakhab so that it happened as rarely as possible. Maybe they used ethics not just as a way of understanding halakhab, but even as a way of limiting it.*

*I know you said in the shiur that you couldn't prove this. You also spent a lot of time **disproving** Professor Halbertal's more extreme claim that Chazal used interpretations they knew were not "latent in the text" in order to ensure that the Ben Sorer Umored **never** happened. But even granting your other points – and I can't see any way not to grant them – this possibility still jangled me. So I'd appreciate it very much if you'd answer one more question, and I apologize if it seems disrespectful. Has any posek before you raised this possibility, let alone held of it?*

Dear Ben:

Thank you so much for writing!

Chazal teach us that the evil inclination is both in front of and behind us. The yetzer hora in front of us incites us to reject what we know to be the obvious and true interpretation of His Will, while the yetzer hora behind us tempts to unquestioningly accept an obvious but false interpretation as His Will. It's really hard to accurately resist both at the same time, but that is our task.

I'm very, very glad to hear that you're still thinking about and processing the Torah I taught. Certainly you should not accept anything just because I said it, and certainly we should strive to be mevatel our will before His. The question is how we can correctly identify His Will.

Your question came at exactly the right time, because preparing for this week's Dvar Torah, I came across a relevant discussion from R. Dovid Tzvi Hoffman's commentary to Shemot 21:5-6

(<http://mg.alhatorah.org/Full/Shemot/21.5#e0n6>). Rabbi Hoffman, author of Shu"t Melamed l'Hoil, was perhaps the foremost posek in Western Europe in the early twentieth century.

Rabbi Hoffman notes that the laws of the Pierced Slave, in both Shemot and Devarim 15:16, open with a description of the slave's psychological motive for rejecting freedom. These descriptions could most easily be taken as **דבר הכתוב ברהוה**, as conventional illustrations rather than as legal requirements. This is especially so because the descriptions differ in at least two important ways. In Shemot, the slave loves his own wife and family, whereas in Devarim he loves the master's household; and only Devarim mentions that he has prospered with you. At the least, they should be taken as alternative sufficient motives.

Chazal, however, rule that **all** of these motives must be present **exactly** in order to allow piercing. They also interpret the sections **literalistically**, e.g. they understand "כי טוב לו עמך" = because it is good for him **with** you" to mean that the master must also have prospered. What, Rabbi Hoffman asks, motivated these rulings, which he believes are not the simplest explanation of the verses?

His response builds off a fascinating citation from Ibn Ezra:

*Rabbi Avraham ibn Ezra correctly notes (in his Shorter Commentary):*

*“The ma’atikim (recorders?) of Torah say that a Hebrew Slave may not be pierced if any of the conditions is lacking, such as love of his master and his master’s house, and his own wife and children, and that it be good for him with his master.*

*They say the same regarding the Straying and Rebellious Son.*

*What they say is correct.”*

Why does Ibn Ezra compare the interpretation of this section to that of the Straying and Rebellious Son?

Rabbi Hoffman answers: Because just as the interpretations there are intended to make the Straying and Rebellious son rare (according to at least one Tannaitic position non-existent), so too the interpretations here are intended to make the Pierced Slave rare.

But why did they want to make these Torah laws apply only in rare cases?

*If we were to ask: What brought our Sages of blessed memory to adopt a literalist interpretation of this or that chapter, for example ours or that of the Straying and Rebellious Son?*

*The answer is clear – they saw something astounding – counterintuitive – in a Jew would be punished with a shameful sign such as a pierced ear,*

*or a son being sentenced to execution because of a life of dissipation and disobedience to his parents’ words, and therefore they sought to narrow the application of these laws to as few cases as possible.*

*This follows the principle “Ein lekha bo ela chiddusho” (RAK: in Midrash Halakhab, roughly translatable as “Counterintuitive laws cannot be used as paradigms”). (You will find something similar later on regarding the Hebrew Maidservant.)*

The Sages sought to limit the application of these laws because they found them ethically baffling. I don’t think you could ask for a clearer statement by a posek of my tentative proposal above.

Rabbi Hoffman then ties in another sugya discussed in my shiur.

*Indeed, everyone knows the famous statement of Rabbi Tarfon and Rabbi Akiva:*

*“Had we been on the Sanhedrin, no person would ever have been executed.”*

He then explains how these interpretations are justified:

*Our Sages of blessed memory did not arrogate to themselves the authority to nullify a commandment from among the Torah’s commandments that seems to them*

*astounding or incomprehensible, but at the same time they utilized to the fullest the privilege that the Torah granted them to explain its mitzvot on the basis of the well-founded assumption that their interpretations align ideally with the intention of the Giver of the Torah.*

Finally, Rabbi Hoffman addresses a potential challenge to his view.

*But maybe it would be more correct to say, that this explanation of our verses was transmitted to our Sages in the transmission from Sinai?*

*That could be, but there is no necessity for saying so, because we have found in many places that the Sages disagree with each other about the explanation of Scripture, and the Talmud provides the reasoning for each conflicting opinion. If so, it is clear that these opinions were not received as a tradition. And since in the sources under discussion it is not said explicitly that the interpretation is from Sinai, and since we do find in Chazal numerous independent interpretations, it is also possible that here as well we have an interpretation that came from them (and not from Sinai). **Certainly they had no cause for interpreting this section literalistically other than the one we brought above.***

Let me say, perhaps characteristically, that I have difficulty with that last sentence. I would prefer to say that Chazal’s motive for minimizing the application of the Pierced Slave was their shock that the Torah would permit any Jew to reject freedom for reasons other than desperation. I also want to think a lot more about whether the analogy Ibn Ezra draws to Chazal’s interpretation of the Straying and Rebellious Son is compelling, and also whether Ibn Ezra intends as far-reaching a point as Rabbi Hoffman makes.

But your question was whether any posek had made the suggestion that Chazal interpreted Torah laws in ways that limited their application because of ethical concerns. The answer to that I think is plainly yes.

You also noted that your teachers had said that we should relate to Chazal the way that Chazal related to Torah. If one accepts the analogy, which is not obvious, I would caution that our authority to interpret Chazal’s words, individually and communally, must be based on a well-founded assumption that our interpretations align ideally with the intentions of their authors.