

CENTER FOR MODERN TORAH LEADERSHIP



Yavneh and Yericho: A Tale of Two Cities

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Rabbi Norman Lamm z”l liked to say that “Halakhah is a floor, not a ceiling”. His bon mot was a rejection of the idea that halakhah contains the entirety of Jewish and human obligation. This idea was once astonishingly prevalent in Yeshiva University circles, although I think it is rarely heard today except in the context of Rav Aharon Lichtenstein’s tautologous suggestion that all Jewish and human obligations are halakhah. Ramban wrote that Halakhah is not a solid floor. Because a legal system cannot account for all the details of life, one can be a *naval birshut haTorah*, a disgusting person acting under the authority of Halakhah, and fall through into spiritual cellars or dungeons.

Architectural metaphors generally carry connotations of fixedness and objectivity. Floor and ceiling remain the same distance from each other, and for every person. We might need more dynamic analogies to express the ways in which human beings can subjectively alter the relationship between halakhic and other obligations.

The simplest method is to take an oath that has halakhic force. An oath of *nezirut*, for instance. We can say that the additional prohibitions against consuming alcohol and becoming *tamei* raise the floor, and also lower certain ceilings; for example, a *nazir* cannot participate in a *chevra kadisha*. Do *nazirs* and *kobanim* really live within a more constricted range of spiritual possibilities? Imagining the *nazir* as having more elbow room but less headroom doesn’t seem to really capture the experience. However, I think this framing can usefully force us to consider whether the reverse case exists. Can human decisions lower halakhic floors, and raise spiritual ceilings? How should we evaluate decisions that do both simultaneously? Can our commitments affect other people’s spiritual range?

The case that interests me this week is the commitment that the spies make to Rachav HaZonah in Yericho. Their dialogue takes place in Yehoshua 2:9-14, **after** she has already hidden them and misdirected the authorities searching for them.

ותאמר אליה הנשים:
 "יְדַעְתִּי
 כִּי־נָתַן יְקֻנְךָ לָכֶם אֶת־הָאָרֶץ

וְכִי־נִפְלְאָה אִימְתְּכֶם עָלֵינוּ
 וְכִי נִמְגְוָה כָּל־יִשְׂרָאֵל הָאָרֶץ מִפְּנֵיכֶם.
 כִּי שָׁמַעְנוּ
 אֵת אֲשֶׁר־הוֹבִישׁ יְקֻנְךָ אֶת־מִי ים־סוּף מִפְּנֵיכֶם בְּצִאתְכֶם מִמִּצְרָיִם
 וְאֲשֶׁר עָשִׂיתֶם לְשֵׁנֵי מֶלְכֵי הָאֲמֹרִי אֲשֶׁר בְּעֶבֶר הַיַּרְדֵּן
 לְסִיתָן וּלְעוֹג אֲשֶׁר הִתְרַמְתֶּם אֹתָם:
 וּנְשַׁמְעוּ וַיִּמְסוּ לְבָבָם וְלֹא־קִוְיָה עוֹד רֵיחַ בְּאִישׁ מִפְּנֵיכֶם
 כִּי יְקֻנְךָ אֶל־הַיָּם הוּא אֶל־הַיָּם בְּשָׂמַיִם מִמֶּעַל וְעַל־הָאָרֶץ מִתַּחַת:
 וְעַתָּה
 הִשְׁכַּעְנוּ־נָא לִי בְּיְקֻנְךָ
 כִּי־עָשִׂיתִי עִמָּכֶם חֶסֶד
 וְעָשִׂיתֶם גַּם־אִתָּם עִם־בֵּית אָבִי חֶסֶד
 וְנִתְתַּם לִי אֹזֶת אֲמֹת:
 וְהִחַיְתֶם אֶת־אָבִי וְאֶת־אִמִּי וְאֶת־אֶחָיו וְאֶת־אֶחָיוֹתָיו וְאֵת כָּל־אֲשֶׁר לָהֶם
 וְהִצַּלְתֶּם אֶת־נַפְשֹׁתֵינוּ מִמָּוֶת."
 וַיֹּאמְרוּ לָהּ הַנְּשִׁים:
 "נִפְשָׁנוּ תַחְתִּיכֶם לְמוֹת אִם לֹא תִזְדוּ אֶת־דְּבַרְנוּ וְהָיָה
 וְהָיָה בְּתֵיתְךָ יְקֻנְךָ לְנוּ אֶת־הָאָרֶץ
 וְעָשִׂינוּ עִמָּךְ חֶסֶד וְאֲמֹת.
 She said to the men:
 “I have come to know
 that Hashem has given you the land
 and that your terror has fallen upon us
 and that all the inhabitants of the land tremble before you,
 because we have heard that Hashem swept away the waters of
 the Reed Sea from before you
 and what you did to the two Kings of the Amorites across the
 Yarden
 to Sichon and Og, that you devastated them;
 we heard, and our hearts melted away, and no man could any
 longer sustain his spirit because of you
 because Hashem your G-d, He is the God in the heavens above,
 and on the land below.
 Now -
 swear to me, please, by Hashem
 that/because I have done *chesed* to you
 and you also will do *chesed* with my father’s house
 and you will give me a true sign,
 You will give life to my father and my mother and my brothers
 and my sisters and all who are theirs
 and you will preserve our souls from death.

The men said to her:
“Our souls in your steads to death
if you do not tell of our matters
then it will be that when Hashem gives us the land
we will do *chesed* and *emet* with you.

Rachav’s speech calls to mind the opening verses of Parshat Yitro, where Yitro similarly reports having heard all that G-d did for the Jews in Mitzrayim, and Az Yashir, which predicts the psychological impact she reports. Apparently the 39 year delay in the Jews’ arrival has not diminished G-d’s image of power, or it has been revived by the total defeat inflicted on Sichon and Og.

What genre are we dealing with here? It’s easy to read this as a conversion narrative, as we usually understand Yitro. Rachav recognizes that G-d is One above and below, and that G-d has a special relationship with the Jewish people, and so she asks to join them.

Rachav also asks for the lives of her biological family and perhaps their loved ones as well, and with apologies to Malbim, there is no basis in the text for saying that any of these would convert. This is an excellent precedent for contemporary beit din practice, which recognizes not just the reality but the value of converts maintaining (healthy) emotional ties with their biological families. We saw last week as well that Yitro planned to return to his *eretz* and *moledet* (although possibly his leaving out *el beit avi* was significant, and on the other hand some commentaries assume that his motive for returning was to proselytize his family).

However, what gave the spies the authority to grant her request? Wasn’t there a specific Divine command to spare no (unconverted) Canaanite? Note that Rachav says “please”, and nothing in her language suggests an ultimatum. She makes the request only after lying about them to the searchers, so that she may no longer be able to expose them without risking herself. There is no quid pro quo here.

But Rachav does emphasize that saving them would be THE RIGHT THING TO DO. Radak notes that she described herself as having done *chesed* to them because they had as yet done nothing for her; a commentary that AlHatorah identified only as “from the Sages of France” makes her appeal explicit:

– וראוי לכם לעשות כן כי עשיתי עמכם חסד –

It is **fitting** for you to do so **because** I have done *chesed* with you

Abgravanel understands Rachav as arguing that since she had saved two of them, they had a moral obligation to save that extended beyond her as an individual. But that would seem to grant her only one relative. Hoil Mosheh, by contrast, notes that the spies promise to do both *chesed* and *emet* for her; *emet* required them to reciprocate by saving her, but saving her family was an act of *chesed*, like G-d saving not only Lot but Lot’s family from Sodom for the sake of Avraham. What justified a voluntary *chesed* in defiance of a Divine command? If such a *chesed* is legitimate, does it have any necessary limits? Ralbag (=Gersonides) reads Rachav facing the spies as parallel to Rabban Yochanan ben Zakkai facing Vespasian before the Destruction of the Second Temple. She has their goodwill – but how far will that goodwill extend? Is her family (=Yavneh and its sages) the most she can save, or should she ask for her entire nation? If she asks for too much, she will probably lose everything. She reasons that her moral claim is on the spies as individuals, because the G-d of Israel can bring them victory whether or not their mission is successful, and therefore it would be utterly improper (לא יאות להם בשום פנים) for the spies to commit to permitting another large nation to remain in their land. So she makes the same decision as Rabban Yochanan, and likely also wonders for the rest of her life whether that decision beatifies or damns her.

Ralbag’s psychological reconstruction suggests that had Rachav felt she had a moral claim on the Jewish nation, she might well have asked for her entire people to be spared, and the spies might have acceded, if that could be done without impeding the conquest.

One might think that “leave no soul alive” (=לא תחיה כל נשמה) set the halakhic floor for the Conquest. But Rachav’s active recognition of the legitimacy and inevitability of the Jewish return to Israel gave her the moral right to demand that the spies raise the halakhic floor by taking an oath to save her family.

The spies’ oath raised the halakhic floor to the level of the moral floor. But it seems likely that Rachav’s demand did not raise the moral floor – she merely enabled the spies to correctly perceive its level. They were halakhically obligated once they took the oath, but they were morally obligated to take the oath. In fact, they were obligated to take the oath even before she made any demand, because without such an oath, halakhah was setting its ceiling below the moral floor.