

WEEKLY PARSHAH EXPLORATION WITH RABBI ARYEH KLAPPER - VAYAKHEL

One of the classic intra-Jewish sectarian debates is whether or not one may allow a useful fire to burn in one's house over Shabbat, with the Prushim=Pharisees=Rabbinic Jews saying yes, and the Sadducees saying no. The interpretative issue is whether to translate "tevaaru" in 31:3 as "do not light a fire" rather than "do not allow a flame to burn". Legally, the practices of lighting Shabbat candles and of eating cholent are both in part demonstrations of loyalty to the Perushi position.

Ibn Ezra records, in amusing emotional detail, a controversy he has with a Karaite (whom he calls a Sadducee) about this verse. He takes the devil's advocate position that lighting fires should only be permitted on Shabbat day, "*beyom haShabbat*", and challenges the Karaite to disprove him. The Karaite fails to do so (over a period of months, with many back-and-forths). Ibn Ezra concludes that "I have mentioned all this, because an intelligent person can explain Scripture in many ways, which is why we need with regard to all commandments the Kabbalah, Masoret, and Torah Shebe'al Peh¹, as I said when beginning this book". The contextual implication is that one need not disprove the Sadducee position regarding fire on Shabbat; if the Rabbinic position is possible, it is necessary, at least as a matter of law.

The challenge to this approach, of course, is that Rabbinic tradition itself contains much controversy, so why should we believe that its positions stem from an original infallible Authority, rather than from the same kinds of interpretative choices in current dispute? There is a range of responses to this challenge, many stemming from Rambam's assertion that the term *Halakhah leMosheh miSinai* refers to a broad interpretative substratum that is never subject to controversy. The most difficult problem to solve is not how one know where Tradition comes from, but rather why one can have faith that it has been accurately transmitted. Granting Divine origin, and Mosaic perfection, wouldn't misunderstanding have crept in the moment Mosheh transmitted his knowledge? Was this not the reason Mosheh resisted Yitro's suggestion that authority be diffused?

¹ I don't know the specific referent of each of these three terms for Ibn Ezra, or even whether they refer to separate aspects of tradition.

Rambam, in his Introduction to Mishneh Torah, argues that Mosheh set up a near-perfect pedagogic system, with repetition and reinforcement at every level, so that at least for one generation the Oral Torah could be preserved pristine. Netziv, however, in the attached commentary, acknowledges the inevitability of misunderstanding, commenting wryly that “even in that generation of knowledge, there must have been a few *amei haaretz*, let alone women²”.

Netziv goes further. He suggests that Mosheh, and later Yehoshua, was well aware of these misunderstandings, but where they tended to legal stringency, he did not seek to uproot them. In other words, from the very beginning there was a practical popular tradition alongside the intellectual tradition, which differed substantively from it. This is what my teacher Dr. Hayyim Soloveitchik has famously called “mimetic Judaism”, but the key here is that the mimetic tradition was tolerated when it was stricter, rather than when it was more lenient.

This point, if I can make a brief editorial aside, is often misunderstood today. Dr. Soloveitchik, as I understand him, argues that there is a particular historical reason that the intellectual tradition today tends to stringency, namely the diminishing power of affective religious experience in the halakhic community. He does not argue that intellectual traditions are inherently or necessarily more stringent than mimetic traditions. In the long run, I contend, those who wish to make significant changes toward “leniency” are better off supporting the primacy of the intellectual over the mimetic. This is, I think, particularly true with regard to issues of women’s place in ritual, and it is perhaps time that advocates of such changes acknowledged this.

Netziv is aware that this particular mimetic tradition turned noxious, as it eventually generated the Sadducee position that denied the legitimacy of the intellectual position. Was Mosheh then wrong to permit it? Netziv might have adopted the approach, perhaps following the midrash cited by Rashi on “*naaseh Adam*”,² that mistakes are inevitable, and one cannot tell which current mistakes will cause real problems in the future.

² This is not the place to discuss Netziv’s attitude toward women’s learning and intellectual capacity; a good place to start are the various contemporary discussions of the depiction of Netziv’s wife Rayna Batya in his nephew’s autobiographical *Mekor Barukh*.

Instead, I suggest, he argues that Shabbat is a uniquely subjective mitzvah, which Moshe was commanded to explain in a fashion that gave experiential discretion even to those with limited intellectual comprehension. Therefore, in this case the category “misunderstanding” may be inapplicable. Verses 35:1-3 represent Mosheh’s explanation of Shabbat in broad categories to those incapable of more precise comprehension, and their subsequent understandings were personally legitimate. Possibly the Sadducee position represented one such understanding. Netziv even argues that it was true intellectually with regard to the construction of the Mishkan.

The question then is why, over time, it became urgently necessary to oppose that understanding. Perhaps the answer is simply because the mimetic tradition began to see itself as exclusively valid, and delegitimated the intellectual tradition. Another possibility is that the Sadducee position in the end turned out not to be a stringency, but rather, after the first generation, became a felt burden that diminished the positive mitzvah of enjoying Shabbat, and diminished rather than increased the feeling of holiness.

Netziv, however, seems to me to suggest that the legitimacy of subjective interpretation only applied to the first generation, and thereafter the very same text is properly appropriated for the exclusive use of the intellectual tradition. Nonetheless, it seems likely to me that Netziv preserves the value of experiential discretion with specific regard to Shabbat, and that, accordingly, Halakhic rulings with regard to such issues as oneg Shabbat, uvda d’chol, and other issues of “Shabbasdikness” should be made with great deference to mimesis and with a deep appreciation of subjectivity taking precedence over the desire for consistent rules.

Shabbat shalom

שמות פרק לה:א-ג

ויקהל משה את כל עדת בני ישראל ויאמר אלהם:
"אלה הדברים אשר צוה ה' לעשות אתם:

ששת ימים תעשה מלאכה, וביום השביעי יהיה לכם קדש שבת שבתון לה' - כל העשה בו מלאכה יומת.
לא תבערו אש בכל משבתיכם ביום השבת: פ

העמק דבר להנצי"ב

"ויקהל משה את כל עדת בני ישראל" -

היינו האנשים והנשים, כמש"כ הרמב"ן.

ולא שהודיעם עתה אזהרה שאמר ה' "אך את שבתותי תשמורו" וגו', דזה ודאי אמר בכלל כל אשר דבר ה' אליו.

וכן פרשה הסמוכה "זה הדבר אשר צוה ה' לאמר קחו מאתכם וגו'" א"א לומר שזהו ידיעה ראשונה מכל מעשה המשכן, דא"כ היאך שייך לומר "את המשכן את אהליו" וכל הענין בעוד לא ידעו דבר מהו כ"ז!?!
אלא ודאי מיד אחר שירד מהר סיני דבר להם כל הפרשיות של משפטים תרומה תצוה תשא עד מעשה העגל - אכן, לא היו נאמרים בהקהל, אלא מי שהוא ראוי לשמוע ולהבין.

אבל, ודאי היו כמה ע"ה אפילו בדור דעה הלז, וכש"כ נשים, והמה שמעו מהלומדים בדרך כלל ענין הפרשיות.

עתה, הקהיל את כל העדה, האנשים והנשים, והזהירם על השבת נוסף על פ' "אך את שבתותי תשמורו", והיינו שנכלל בלשון ה' שאמר למשה "ואתה דבר אל בני ישראל וגו'", וכיארנו שם שדייק ה' בלשון "ואתה".
שהוא בעצמו ישגיח ויזהיר לכל אדם ע"ז,

ע"כ הקהיל ביחוד לענין פ' זו.

ע"כ נפל בזו הפ' דעות ב"א ע"ה שאינן כהלכה, ולא הניאן משה רבינו ממחשבתם והבנתם, כאשר יבואר.
ומ"מ אחר שהיא כתובה בתורה, ידענו שהיא מגוף התורה וראוי לדורשה על כל קוץ וקוץ:

"אלה הדברים וגו'" - מה שכבר פירשתי לכם הדברים שצוה לעשות אותם, תדעו אשר "ששת ימים וגו":

"ששת ימים תעשה מלאכה" -

לעיל בפ' תשא כתיב "יעשה מלאכה",

וא"כ משמעו על עושי המלאכה, שמהם יעשה המלאכה,

אבל כאן כתיב "תעשה",

וקאי על המלאכה, בלשון נקבה,

וא"כ ניתן להבין שאפילו להתחיל במלאכה ויגמר מעצמו בש"ק, דמותר ע"פ ד"ת, מכ"מ במעשה

המשכן אסור, שאין כבוד המשכן שיתחלל קדושת שבת על ידה אפילו בלי עבירה,

וכיב"ז כתבו התוס' ב"ק דפ"א א' דלהכי אסור לקבור מת בשבת ע"י עובד כוכבים, משום

שמגונה למת שנעשה איסור שבת בקבורתו אפילו ע"י עובד כוכבים:

"יהיה לכם קדש" -

ינהגו בו קדושה, כל א' לפי ערכו.

ומכאן הנהיגו ע"ה בו קדושה שלא לדבר בו שקר,

כדאיתא בדמאי פ"ה: "הלוקח פירות ממי שא"נ על המעשרות ושכח לעשרן - שואלו בשבת ואוכל על

פיו",

ופי' בירושל' "מפני שאימת שבת עליו"

ופי' הר"ב שמתיראים לעבור עבירה ולשקר בשבת יותר מבחול,

[ולא כהר"ש שם שהשבת קובעת למעשר],

והיינו מפני שהיא קודש,

וכמו דאיתא בסנהדרין דכ"ו דישראל נזהרים בקדושת שביעית דשם קודש חמירי על ע"ה,

וכמ"כ מבינים דלעשות עבירה בו ה"ז חילול קדושתה.
עוד הבינו שכל מעשה שנעשה בה אפי' בהיתר אסור בהנאה,
וכמבואר ברבה במדבר פי"ד ופכ"ג דמש"ה החרים יהושע את יריחו, לפי שכבשה בשבת וכתוב "כי
קודש היא לכם" - והרי קיי"ל דמעשה שבת אפילו בעבירה מותר מה"ת!?! אלא ע"ה הבינו כך עוד
בימי יהושע, ולא הניאן מלחשוב כך:

(ג)

"לא תבערו אש וגו'" -

לפי הפשט יש להבין דגם זה המקרא שייך ביחוד למעשה המשכן,
שלא רק שאסור להתחיל במלאכת המשכן שתהא נגמרת מאליו בשבת, כמש"כ לעיל,
אלא אפילו אש הבער למלאכת מיני מתכות יהי נכבה בשבת.
כ"ז יש להבין לפי הענין.
אבל אחר שכתוב בתורה, יש לדרוש מפ' זו גם לדורות. וכפי עומק הדין, וכבר נדרש אזהרה זו ללאו
או לחלק:

Exodus 35:1-3 (translation follows Netziv's commentary)

Mosheh assembled the entire community of the Children of Israel and said to them:

"Those things which Hashem commanded that they be done –
Six days work can be done, but on the seventh day, it will be a holy day for each of you, a Shabbat Shabbaton of Hashem – anyone who does *melakhah* on it must be executed.
You must not burn a fire in all of your encampments on the Shabbat day."

Netziv

"Mosheh assembled the entire community of the Children of Israel" –

This means both men and women, as Nachmanides wrote.

It does not mean that he first told them now of the DON'T in Exodus 31:13 "But my Shabbat you must keep", as that was certainly included in (34:32's statement that he told them) "everything which Hashem had said to him".

The same is true of 35:4: "This is the thing which Hashem commanded, saying "Take from your possessions etc." – one cannot say that this is the first time they are informed of the construction of the Mishkan, as if so, how can it say (35:11) "The Mishkan, it's tent" and the whole subject, when they have no idea what any of this refers to!?

Rather, it is definitely the case that Mosheh told them all the parshiyot of Mishpatim, Terumah, Tetzaveh, and Ki Tissa up to the episode of the Golden Calf, immediately after descending from Sinai.

But - those parshiyot were not said to the assembled community, but rather (to) those who were fit to listen and comprehend,

However – certainly there were some *amei haaretz* (ignorami) even in that Generation of Knowledge, let alone (among the) women, and they heard from the "learners" in general the content of the parshiyot.

Now, he assembled the entire congregation, men and women, and cautioned them regarding the Shabbat over and above 31:13 "But my Shabbat you must keep";

this was because the language Hashem spoke to Mosheh (in 31:13) included "and you (singular) must speak to the Children of Israel", and we explained there that Hashem specifically said "and you (singular)" so that he personally would oversee and caution every person about this.

This is why he assembled them specifically for the matter of this parashah.

Therefore this parashah was particularly subject to being misunderstood by *amei haaretz* in ways contrary to Halakhah, but Mosheh did not coerce them to move away from their thoughts and comprehension, as will be explained.

Regardless, once it is written in the Torah, we know that it is of the very body of Torah and it is fitting to interpret every crown on every letter within it.

"Those things . . ." –

Above, in Parashat Ki Yissa (31:15), it writes "*yei'aseh melakhah*",

which refers to the doers of *melakhah*, from whose efforts the *melakhah* is done, but here it writes "*tei'aseh*",

which refers to the *melakhah* itself, since it is feminine, from which we can derive that even beginning the *melakhah* before Shabbat so that it is completed by itself on Shabbat, which is permitted according to Torah law, was nonetheless forbidden with regard to the construction of the *mishkan*, as it would be incompatible with the honor of the *mishkan* for the holiness of Shabbat to be desecrated through it, even when no sin is involved.

Tosafot wrote similarly on Bava Kamma 81a that the reason it is forbidden to have nonJews bury the Jewish dead on Shabbat is that it disgraces the dead to be buried via a prohibited Shabbat act, even if the act is done by nonJews (to whom the Shabbat prohibitions do not apply).

"will be a holy day for each of you" –

Meaning that they should treat it as holy, each according to his level.

On this basis the *amei haaretz* have the practice of treating it as holy by not speaking untruths during it,

as we learn in Mishnah Demai 4:1: “One who buys fruits from someone who lacks legal credibility with regard to tithing, and then forgot to tithe them (before Shabbat) – may ask the seller about them on Shabbat, and eat them on the basis of his assurance”, and the Talmud Yerushalmi explains that one may believe the otherwise noncredible seller “because the awe of Shabbat is upon him”, and R. Ovadiah MiBartenura explains that they are more terrified of transgressing by lying on Shabbat than during the week, (as opposed to RASHI there who explains that Shabbat has a technical effect on tithing), because it is holy, as we find on Sanhedrin 26 that “Jews are careful about the holiness of the Sabbatical Year because the title of holiness is taken with great seriousness by *amei haaretz*, and they similarly see it as a desecration of holiness to sin during it. Their comprehension also is that one may not benefit from any action that is done during Shabbat, even when the action is permitted, as Bamidbar Rabbah 14 and 23 explain that this is why Yehoshua was compelled to utterly destroy Yericho, because he conquered it on Shabbat, regarding which Torah writes “for it is holy to you” – but we hold that products of Shabbat, even via prohibited actions, are Biblically permitted (although Rabbinically forbidden)!? Rather the *amei haaretz* already understood this to be forbidden as far back as Yehoshua, and he did not prevent them from thinking this.

“Do not burn a fire . . .” –

According to the peshat, we can understand that this verse too applies only to the construction of the *mishkan*,

meaning that it is not only forbidden to begin *melakhah* before Shabbat for the construction of the *mishkan* that will be completed by itself on Shabbat, as I wrote above, but rather that even fires burning for various metalworking *melakhot* must be put out over Shabbat.

All this one can understand from the context.

However, once it is written in the Torah, we can also derive permanent legal truths from this, according to the depth of the Law, and this DON'T has already been interpreted either to lessen the punishment for lighting a fire on Shabbat, or else to teach us that each category of *melakhah* on Shabbat is legally distinct.