YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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STUDENT SUMMARIES OF SICHOT OF THE ROSHEI YESHIVA

**PARASHAT MISHPATIM**

### Sicha of HarAV Yaakov Medan

**The Significance of the Laws of Slavery for Our Times**

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**Introduction**

One of the central themes of our *parasha* is the laws of slavery. We tend to perceive this subject as very remote from us, as belonging to another age; however, the Torah has meaning for all generations, and so we must inquire what we can learn from this topic as well for our own times.

Before we begin, let us preface with one important fact: the laws of slavery apply only when the law of the Jubilee year is in effect. In essence, this means that slavery cannot be practiced if the system does not provide for the slaves’ ultimate freedom.

**A Hebrew Slave**

**"And he shall be sold for his theft"**

Our *parasha* tells us that those who are sold into slavery are thieves: "The thief shall make restitution; if he has nothing, he shall be sold for his theft" (*Shemot* 22:2). Not every thief is sold for his theft; from the plain sense of the verses, it would seem that only a thief who slaughters or sells the animal he has stolen is sold for his theft (21:37ff.). Only later is the law of a thief who still has the stolen object in his possession mentioned (22:3). It follows, then, that the one who is sold for his theft is precisely a professional thief, one who knows how to dispose of the evidence immediately after the theft. In our day, such a person would find himself in prison for no small number of years.

In light of this, it turns out that when we discuss the matter of a Hebrew slave, the appropriate comparison is not necessarily to a free man – as we tend to think – but to a man who is in prison as punishment for his theft. Slavery or prison: which is the preferred state?

Despite our natural aversion to slavery, it would seem that the halakhic system of Hebrew slaves has several advantages over the penal system of prisons:

1. First of all, the great majority of time in prisons is spent in utter idleness: the prisoners do nothing but sit and talk to each other – perhaps also teaching each other how to be better criminals. To put a man in prison is tantamount to saying: "Nothing good can come of you; let us at least get rid of the problem you pose for a few years." In contrast, a Hebrew slave must work. His master gives him a list of tasks, and he must perform them. He is useful; he helps things move forward and develop. Something comes of him.

2. Moreover, in prisons, all the criminals are together, whereas in a system of Hebrew slaves, criminals are scattered throughout society. Moreover, they spend their days in the company of ordinary people and as part of a normal, law-abiding family; doubtless this impacts their rehabilitation.

3. Finally, when a person is incarcerated, he is cut off from his family, sometimes for a very long time. Perhaps once every few weeks he can see and talk to them for half an hour, but clearly there is a disconnect from the family. In contrast, a Hebrew slave is not cut off from his family at all; on the contrary: "If he was married [when he became a slave], she shall go out with him [when he goes free]" (*Shemot* 21:3). This implies that the wife of a man who became a slave would join him there. Her entry into slavery does not occur for no reason or without anything in return: just as her husband is obligated to provide for her, and in return he is entitled to the fruits of her handiwork, so too if the master undertakes to maintain her, she is obligated to work for him. It is important to emphasize that she need not do so; she can decide to go off and not accept his support. But in most cases, it will pay for her to enter into slavery along with her husband.[[1]](#footnote-1) The children are also drawn into the story – for they too work for the master in return for their sustenance, perhaps with lighter tasks than their father. Thus, it turns out that the slave is not cut off from his family, and this has momentous implications.

**"And if your brother becomes poor"**

In addition to the case of a thief who is sold for his theft that is described in *Parashat Mishpatim*, *Parashat Behar* presents another case of a person who is sold into slavery: "And if your brother becomes poor with you and sells himself to you" (*Vayikra* 25:39). That is, a person who fell into financial straits and sold his field and his homestead. The contemporary parallel to this case is bankruptcy. Here, too, there are several advantages to being sold as a Hebrew slave over the modern institution of bankruptcy:

1. The slave is assured of basic economic security. He must work hard, for his master's struggle for survival is also not a simple matter, but at the end of the day, there is food for the slave, his wife, and his children.

2. As noted at the outset, a Hebrew slave goes free in the Jubilee year. Why? Because in the Jubilee year, the field and the homestead that he sold are returned to him, and he has the opportunity to start anew.

3. There are many homeless people in the world, and when natural disasters like storms strike, they may freeze to death. A Hebrew slave and his family have a home to live in – the master's house. They are not out on the street and their lives are not dependent on the weather; they have a roof over their heads and a warm, protected place in which to stay.

**Hebrew Slaves in Our Day**

As noted at the beginning of our discussion, it may be that in the wake of the societal development, the institution of slavery is not appropriate for our times despite all the advantages just mentioned. Nevertheless, there are many principles that may be learned from this system, and it is worthwhile to endeavor to implement them.

Thus, we can speak of a penal system that would bring prisoners to utilize their time rather than waste it, or of community service work that would make good use of their time, spread them out throughout law-abiding society rather than putting all of the offenders together, and also preserve the criminal's family unit intact.

Similarly, regarding people who go bankrupt – we can think about providing them with basic foodstuffs during the rehabilitation process, perhaps setting a time limit and returning assets in the future, and arranging shelter for those who lost their homes. Here too, not everything can be adopted as is, yet there are important principles to be learned from the *halakhot* of a Hebrew slave and implemented.

**A Canaanite Slave**

In addition to the Hebrew slave, the Torah refers to another form of slavery: the Canaanite, or non-Jewish, slave. Here, it is important to emphasize that we are not dealing with a free man who has become a slave, but with a captive of war. A non-Jewish slave is a person who has bought his life, in exchange for which he becomes a slave. When considering the laws of non-Jewish slaves, one must bear in mind the difference between these laws and the laws of other nations with regard to war captives.

In Harriet Beecher Stowe's *Uncle Tom's Cabin*, the author presents two types of slavery. The first is the slavery of the mine workers. These were people who lived in the mines from dawn to dusk, from their first day to their last. Because of the mine air, which was laden with dust and other noxious substances, they also only lived a few years. Similar situations of slavery existed elsewhere – sailors on ships, workers in the dye and processing industries, where the chemical-laden air caused their early deaths, and field slaves as well. All these are cases of mass, industrial slavery, where many people had to perform difficult labor.

The Torah does not recognize this type of slavery, but in fact vehemently opposes it. There is no slavery of the industrial variety in the Torah. The slavery in the Torah is of the second type presented by Stowe – "domestic" slavery, in which the slave continues to live with his family and is like a member of his master's household. Such a slave has a status similar to that of foreign workers in our say.

Domestic slaves might suffer from two problems: One is being subjected to a cruel master, but probably most masters were not like that. The other is the case of a master who went bankrupt or died; then, the slave would be sold to someone else, and in many cases his lot would worsen. The Torah relates to the practice of selling slaves from master to master, especially in the stories of *Bereishit*: Avimelekh gives Avraham "sheep and oxen, and menservants and women-servants" (*Bereishit* 20:14), but when Avraham then gives Avimelekh property in return, he gives him "sheep and oxen" (*Bereishit* 21:27) – but not manservants or womanservants. Similarly, in *Parashat Vayishlach*, Yaakov says to Esav: "And I have oxen, and donkeys and flocks, and manservants and womanservants" (*Bereishit* 32:6), but when he sends gifts to Esav, he only sends him animals. The patriarchs were willing to trade their animals, but not their servants.

Thus, it is clear that the Torah is categorically opposed to the possibility of selling a slave from master to master, and in this way it protects slaves from the ever-present danger of a deterioration in their status if the master goes bankrupt and is forced to sell them.

**Conclusion**

Unfortunately, even today, mass slavery still exists in some places. The coming generations will have to deal with issues regarding the treatment of slaves, the rehabilitation of those who are no longer slaves, and the treatment of prisoners and the homeless.

When we try to answer these questions, the biblical passages dealing with slaves should be kept in mind. With a thorough and careful study of the laws of Hebrew and Canaanite slaves, we can gain a clearer understanding of the principles involved in the rehabilitation of those who have fallen on hard times.

[This *sicha* was delivered by Harav Yaakov Medan on Shabbat *Parashat Mishpatim* 5782.]

(Edited by Sarah Rudolph)

1. An example of this principle, that a woman would go along with her husband in such situations, is already found in the story of the Garden of Eden: Adam is punished with expulsion from the Garden, but Chava is given a different punishment; she is not punished with expulsion. Yet, when Adam leaves the Garden, Chava accompanies him, and in effect she too is removed from the Garden.

This principle is also suggested by the passage concerning the obligation to give a gift to a liberated slave (*Devarim* 15:12-18). The passage describes the obligation to give a gift to a slave who wishes to be freed, and the mutilation of the ear of a slave who does not wish to be freed – and to this is added the statement: "And to your maidservant you shall do likewise" (*Devarim* 15:17). We do not find these details in the laws of a Hebrew maidservant, thus it is likely that the passage does not in fact refer to a Hebrew maidservant (as we would have thought), but to a woman who entered into slavery *along with* her husband who was sold. [↑](#footnote-ref-1)