YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Before Sinai: Jewish Values and Jewish Law**

**By Rav Dr. Judah Goldberg**

**Shiur #41:**

**Pursuit of the Ethical Life (12)**

**The Jewish People and *Tzedaka U-Mishpat***

**Part II:**

***Tzedaka, Mishpat, Chessed,* and *Rachamim***

This *shiur* continues our survey of *tzedaka u-mishpat* as goals for the Jewish people in the teachings of our Sages. Specifically, we will carefully analyze an extended *midrash* that couples *tzedaka u-mishpat* with the traits of *chessed* (kindness) and *rachamim* (compassion or mercy), as well as echoes in other rabbinic sources.

**Avraham’s Jewels and God’s Jewels**

In a beautiful, intricate, homiletic passage, the Sages weave together many of the Biblical references we saw in the previous *shiur*:

“And Hashem, your God, will maintain for you the covenant and the kindness (***chessed***)” (*Devarim* 7:12) — R. Shimon ben Chalafta said: “To what can this be compared? To a king who married a matron, who brought along two jewels; so, too, the king reciprocated with two jewels. The matron then lost hers; so the king took his back. Some time later, [the matron] got up and rectified herself and returned those two jewels; so the king returned his. The king said, ‘Let these and those make a crown, and let them be placed on the matron’s head.’

“So do you find: **Avraham** gave two jewels to his progeny, as it says, ‘For I have known him that he will command his children and his household after him [that they may keep the way of God to perform ***tzedaka u-mishpat***]’ (*Bereishit* 18:19); so, too, did the Holy One, blessed be He, reciprocate with two jewels, ***chessed*** and ***rachamim***, as it says, ‘And Hashem, your God, will maintain for you the covenant and the ***chessed***,’ and it says, ‘And [God] will grant you ***rachamim***and have compassion for you and multiply you, etc.’ (*Devarim* 13:18).

“The Jewish people lost their [jewels], as it says, ‘You turned ***mishpat*** into poison and the fruit of ***tzedaka*** into wormwood’ (*Amos* 6:12); so the Holy One, blessed be He, took back his, as it says, ‘For I have withdrawn My peace from this nation, so says God, the ***chessed*** and the ***rachamim***’ (*Yirmeyahu* 16:5).

“The Jewish people got up and rectified themselves and brought back those same two jewels — how do we know? For so it says, ‘Zion will be redeemed through ***mishpat***, and her captives through ***tzedaka***’ (1:27). So, too, the Holy One, blessed be He, brought back His — how do we know? For so it says, ‘For the mountains may be uprooted and the hills be thrust aside [but My ***chessed*** will not be uprooted from you and the covenant of My peace will not be thrust aside, said God, He Who has compassion on you]’ (*Yeshayahu* 54:10).

“And once the Jewish people bring back their [jewels] and God offers his, the Holy One, blessed be He, says, ‘Let these and those form a crown, and they will all be placed upon the head of the Jewish people,’ as it says, ‘And I will betroth you forever; and I will betroth you with ***tzedek*** and with ***mishpat*** and with ***chessed*** and with ***rachamim***; and I will betroth you with loyalty, and you will **know God’** (*Hoshea* 2:21-22).” (*Devarim Rabba* 3:9)

Let us analyze this *midrash* piece by piece.

First, the *midrash* likens the Jewish people to a bride who enters marriage with two heirlooms, *tzedaka* and *mishpat*. In other words, these traits do not emerge from the Jews’ “marriage” to God at Sinai[[1]](#footnote-1) but predate it. Apparently, they belong to the Jewish people independently, as a “family” inheritance from Avraham![[2]](#footnote-2)

*Bereishit* 18:19, cited by the midrash, specifically supports this understanding. The source of *tzedaka u-mishpat* there is not God, but Avraham, as R. Yoel Bin Nun so beautifully explains:

The concept of election, since Avraham, is bound up with the concept of command and of keeping the way of God: “For I have [chosen] him that he will command his children and his household after him that they may keep the way of God to perform ***tzedaka u-mishpat*** etc.” But the commander here is not God, but Avraham. Therefore, **the original source of authority in Israel is autonomy[[3]](#footnote-3)**and not heteronomy; in clear contrast to the prophecy of Moshe, where the commander is God. (“[*Nevuat Ha-tefilla shel Avraham*](http://files8.design-editor.com/92/9266067/UploadedFiles/95552BF7-02F4-827A-EE1B-92E2920E12FB.pdf),” *Pirkei Ha-Avot*, 82-83)

Avraham is not commanded to pursue *tzedaka u-mishpat*. Rather, he embraces them on his own and is subsequently chosen for them. When his children absorb those same values, it is not out of allegiance to God’s commands, but out of obedience to family tradition. This stands in stark contrast to *berit Sinai*, in which “mitzva,” Divine command, is the central organizing principle.

***Chessed* and *Rachamim* in *Berit Avot***

According to the midrash, God complements the Jews’ dowry with two jewels of his own. Here, the *midrash* offers a novel interpretation of two verses about *chessed* and *rachamim*, respectively. While their simple meaning is that God **extends** *chessed*[[4]](#footnote-4) and *rachamim* to the Jewish people, as promised to their forefathers, the *midrash* reads the verses as saying that God **imbues** our forefather’s progeny with *chessed* and *rachamim*.[[5]](#footnote-5) *Tzedaka* and *mishpat* are traits that we inherit from Avraham, but *chessed* and *rachamim* are traits that are bestowed upon us by God.[[6]](#footnote-6)

These same homiletic interpretations appear elsewhere, regarding King David’s decision to distance the Gibeonites:[[7]](#footnote-7)

The Holy One, blessed be He, gave three wonderful gifts to the Jewish people: They are compassionate *(****rachamanin****)*, they are self-conscious, and they are doers of kindness (*gomelei* ***chassadim***). Compassionate — from where? “And He will grant you ***rachamim***” … Doers of kindness — from where? “And Hashem, your God, will maintain for you the covenant and the ***chessed***.” (*Yerushalmi Kiddushin* 4:1)[[8]](#footnote-8)

Here, too, *chessed* and *rachamim* are identified as gifts from God. As such, we might imagine that they are not at all connected to our lineage and our collective historical narrative, in contrast to *tzedaka u-mishpat*, but belong instead to a set of abstract values that Judaism advocates. However, a variation on this homiletic teaching suggests that these qualities, too, are connected to *berit Avot*. The *Gemara* tells the story of Shabbetai bar Marinus, who seeks assistance as a newcomer to the Babylonian Jewish community but is rebuffed:

He said: “These [people] must descend from the *eirev rav* [non-Jews who joined the Exodus from Egypt; see *Shemot* 12:38], for it says, ‘And [God] will grant you ***rachamim*** and have compassion for you… as He promised your forefathers.’[[9]](#footnote-9) Whoever has compassion for humanity, it is known that he is a descendant of **Avraham**; but whoever does not have compassion for humanity, it is known that he is not a descendant of **Avraham**. (*Beitza* 32b)

Shabbetai bar Marinus, of course, is not expressing ethnic prejudice or slurring all converts, and the proof is his specific reference to the *eirev rav*. This was a group that, according to the Sages, technically converted but never fully absorbed Jewish values.[[10]](#footnote-10) In other words, we may suggest, they committed to the laws of *berit Sinai* but did not integrate into Jewish heritage and culture. When Shabbetai bar Marinus finds Jews who lack empathy, he associates them with this group. He questions their descent from Avraham, not genetically but philosophically.

Thus, the Maharsha notes, the Gemara “specifies in this statement ‘descendant of **Avraham’** instead of ‘our forefathers’” — as the original verse speaks of — “because regarding **Avraham**, the trait of ***tzedaka*** is explicit: ‘For I have known him in order that he will command his children, etc.’” What is at stake is not genealogy but *berit Avot*.

From these texts we learn that *chessed* and *rachamim*, too, become part of Avraham’s legacy; those who lack these traits cannot be counted among his descendants. Indeed, though *Parashat Vayera* only identifies Avraham explicitly with *tzedaka u-mishpat*, *Torah She-be’al Peh* attributes *chessed* and *rachamim* to him as well.

Regarding *rachamim*, the Mishna points to Avraham’s behavior in *Parashat Vayera* as a model and, hence, the standard. After explaining that one who has injured another must not only pay damages but also ask for forgiveness, it continues:

How do we know that if [the aggrieved] does not forgive [the perpetrator], he is considered cruel? For it says, “**Avraham** prayed to God for Avimelekh, and God healed Avimelekh etc.” (*Bereishit* 20:17). (*Bava Kama* 92a)

The Meiri explains:

For you already know that the trait of compassion (***rachmanut***) is attributed to our forefather **Avraham**; and anyone who does not follow his habits in this is called “cruel.”

*Parashat Vayera* provides not just inspiration, but expectations. It sets a bar for what it means to “act like a Jew.” One who falls below that standard may not violate a discrete prohibition, but he or she forsakes the family tradition.

The term c*hessed*, too, is associated with Avraham, as *Kalla Rabbati* highlights in a variation on a passage that we cited earlier:

Rava expounded: “Whoever has these three traits, it is known that he is a descendant of **Avraham**: compassionate, self-conscious, and doers of kindness…”

Doers of kindness, as it says, “Give truth to Ya’akov, ***chessed*** to **Avraham**” (*Mikha* 7:20).[[11]](#footnote-11) (10 [Vilna ed.])

Admittedly, this text diverges widely from the version we saw earlier and all of the parallels in the Talmud and other rabbinic sources. It identifies these three unique traits specifically as markers of Avraham’s legacy; as such, it cites alternative verses that relate to Avraham (and, in contrast to the Mishna, fails to find a source about Avraham and *rachamim*). In that context, though, it provides the missing link of *chessed*, too, as a component of *berit Avot*. Moreover, Rava ties these three celebrated traits directly to the legacy of Avraham. In other words, they are not just random characteristics of Jews, but specifically components of *berit Avot*’s ethical vision.

**The Crown of *Berit Avot***

R. Shimon ben Chalafta’s parable closes with *Hoshea* 2:21, which integrates all four elements: *tzedek*/ *tzedaka*, *mishpat*, *chessed*, and *rachamim*. According to the *midrash*’s schema, *chessed* and *rachamim* are gifts that God “promised to your forefathers” that complement their own *tzedaka u-mishpat*, and together all four make up the signature crown of *berit Avot*. One whose crown is incomplete or altogether missing may, like the *eirev rav*, be a participant in *berit Sinai*, but he or she is not identifying, or identifiable, as a descendant of Avraham.

Similarly, the Gibeonites, who had converted but nonetheless did not embody the hallmarks of Jewish heritage — compassion, self-consciousness, and kindness — were excluded by King David from marriage into the Jewish community. The Rambam, as we previously encountered, combines the stories about the Gibeonites and about the Babylonian Jews (similar to *Kalla Rabbati*) in the following ruling:

Anyone who exhibits brazenness or callousness, and despises others and does not extend to them ***chessed***, we should be extremely concerned that he may be a Gibeonite, for the mark of Israel, the holy nation, [is that they are] self-conscious, compassionate, and doers of kindness. (*Hilkhot Issurei Bia* 19:17).

A striking absence of the hallmark features of Jews is a basis for doubting one’s lineage. It is not only a reason to ostracize the Gibeonites in the past, but also to distance an “*eirev rav*” character in the present.[[12]](#footnote-12)

Lastly, with *Chazal*’s insight in hand, we can return to *Tanakh* and search for traces of *berit Avot* more broadly. For example, *Hoshea* 12:7, *Mikha* 6:8, *Zekharya* 7:9, and *Tehillim* 101:1 all combine *mishpat* with *chessed*.[[13]](#footnote-13) Radak notes the echo of *berit Avot* in his commentary on almost all of these verses, as well as on others. [[14]](#footnote-14)

**A Covenant with Avraham?**

Finally, in at least one instance, the Sages explicitly identify kindness as part of a living covenant with Avraham. The Gemara records that Yehuda bar Nachmani was once asked to offer a blessing for the comforters in a house of mourning. He responded:

Our brethren, doers of kindness (*gomelei* ***chassadim***) who descend from doers of kindness, **who uphold the covenant of our forefather, Avraham**, as it says, “For I have known him that he will command his children and his household after him, etc.” (*Ketubot* 8b).

Commenting on the words “covenant of Avraham,” Rashi cites an example of Avraham’s kindness, from which the Maharshal concludes that Rashi’s text must not have included the prooftext of *Bereishit* 18:19. Without it, however, we are left with a void. As R. Aharon Leib Steinman comments on Rashi, “It is not clear why this is called a ‘covenant,’ as we do not find that a covenant was forged around the extension of kindness” (*Ayelet Ha-shachar*).

Other medieval figures, such as *Shibbolei Ha-leket* (*Hilkhot Semachot*, 24), do quote the Gemara along with *Bereishit* 18:19; multiple manuscripts and early printings also support the inclusion of this prooftext.[[15]](#footnote-15) If we follow this version, understand that *berit Avot* contains bilateral obligations, and view *Bereishit* 18:19 as central to the election of Avraham and the formation of a covenant with him, then R. Steinman’s question disappears. Moreover, this passage emerges as a succinct formulation of one of our major theses: **When Jews perform acts of kindness, they are not only fulfilling obligations of *berit Sinai;* they also “uphold the covenant of Avraham,” as described in *Bereishit* 18:19!**

While this brief account of Yehuda bar Nachmani’s blessing could ostensibly be marginalized, a contemporary halakhic decisor bases a ruling upon it. A Jew, in the wake of being circumcised as an adult, donated money towards causes about which “God forged a covenant with Avraham.” R. Yitzchak Zilberstein was asked: Which causes can the money be applied to, besides circumcision? R. Zilberstein answers that the money can support institutions of *chessed*, as this *gemara* makes clear that *chessed*, too, is the subject of a covenant with Avraham (*Chashukei Chemed*, *Ketubot* 8b).[[16]](#footnote-16)

**Summary and Conclusion**

In this *shiur* and the previous one, we have surveyed the representations of *tzedaka u-mishpat* as expectations of the Jewish people in *Torah She-bikhtav* and *Torah She-be’al Peh*. Overall, the ways in which the prophets and our Sages relate to *tzedaka u-mishpat* corroborate our working hypotheses:

1. The values of *tzedaka u-mishpat* predate the Jewish people’s contractual relationship with God at Sinai and continue to be sources of responsibility afterwards. The prophets appeal to them repeatedly, and our Sages follow suit.
2. If living by the values of *tzedaka u-mishpat*, as well as *chessed* and *rachamim*, is to “uphold the covenant of Avraham,” then flouting them is an abrogation of *berit Avot*. At the extreme, rejection of these values results in alienation from *berit Avot —* for the Gibeonites, through formal ostracization from the community; and for common Jews, through the doubt such behavior casts upon one’s lineage.

However, at the same time that this rich source material helps validate our thesis, I submit that it presents a certain irony. *Tzedaka u-mishpat*, I believe, were never meant to be learned primarily through the sources of the Law, Written or Oral! Torah embodies God’s revelation and command at Sinai. *Tzedaka u-mishpat*, on the other hand, emanate from Avraham’s command to “his children and his household after him.” They are meant to be passed down from parents to children, not as rules to be assiduously followed but as family heirlooms to be safeguarded and treasured. Their true locus is not the *beit midrash* (real or virtual), but the Jewish home, whether a private house or the House of David.

Perhaps, then, it is not mere happenstance that the twin terms of *tzedaka u-mishpat*, ubiquitous in *Nevi’im*, are conspicuously absent from the bulk of *Torat Moshe* (the five books of Moshe), appearing only one other time (aside from *Parashat Vayera*), at its tail end (see *Devarim* 33:21): *Sefer Bereishit* describes *berit Avot*, but the rest of Torah is dedicated primarily to the enunciation of *berit Sinai*.

Similarly, we can understand why the traces of *berit Avot* in the halakhic tradition are so elusive. Halakha obviously reflects and builds upon the principles of *tzedaka u-mishpat*, but the transmission of these raw values was never intended to rely upon the teachings of the Law’s scholars. For the most part, we have demonstrated *berit Avot* by pointing to gaps in the Halakhic record — phenomena that are not sufficiently accounted for by any formal legal framework. *Berit Avot*, then, makes up Judaism’s “dark matter” — nearly invisible to the halakhic eye, but undeniably powerful in the force it exerts.

When necessary, though, *berit Avot* gets called out from the shadows. *Tzedaka u-mishpat* reappear in *Nevi’im*, I think, because their natural transmission has so badly broken down. Only when the Jewish people and their leaders seem to forget their guiding ethos and stray from their overall mission do the prophets need to explicitly reanchor them in the traditions of their forefathers; and the messages still resonate. The prophets remind us that *Parashat Vayera* precedes, chronologically and axiologically, *Sefer Vayikra*, and they push us to rediscover and invest in our core identity as children of Avraham prior to preoccupying ourselves with the details of ritual. They seek to bring us back to our roots, reminding us of where we came from and for what we were chosen in the first place.[[17]](#footnote-17)

Bridging the generations, then, forms an integral part of our prophets’ mission. Indeed, in some sense, it is the final vision with which God closes all of *Nevi’im*:

Behold, I am sending you Eliya the prophet… and he will return the hearts of the fathers to their children, and the hearts of the children to their fathers. (*Malakhi* 3:23-24).

**Questions or Comments?**

Please email me directly with your feedback at [judahlgoldberg@gmail.com](mailto:judahlgoldberg@gmail.com)!

1. See *Shiur* #4. [↑](#footnote-ref-1)
2. However, compare to *Shemot Rabba* 15:23, 30:20. [↑](#footnote-ref-2)
3. Bold in original. [↑](#footnote-ref-3)
4. Compare, for instance, to *Tehillim* 106:45. [↑](#footnote-ref-4)
5. Similarly, see *Bava Batra* 10a regarding *Yirmeyahu* 16:5 and *Yerushalmi Sanhedrin* 10:1 regarding *Yeshayahu* 54:10. [↑](#footnote-ref-5)
6. Admittedly, I struggle to understand why *tzedaka* is considered natural to Avraham, but *chessed* is a gift. Though *Sukka* 49b distinguishes between the two, Avraham’s personal pampering of his guests in *Parashat Vayera* would seem to qualify as *chessed*, rather than *tzedaka*. [↑](#footnote-ref-6)
7. See *Shiur* #14. [↑](#footnote-ref-7)
8. Also see *Yerushalmi Sanhedrin* 6:7, *Midrash Shmuel* 28:7, and *Midrash Tehillim* 1:10. This passage also appears in the *Talmud Bavli* (*Yevamot* 79a), but with notable changes: as a prooftext for “doers of kindness,” the *Talmud Bavli* cites *Bereishit* 18:19; fittingly, it does not refer to these traits as “gifts,” but as “marks.” Also see *Devarim Rabba* 3:4, which cites *Devarim* 7:12 but refers to “wonderful traits;" and *Bamidbar Rabba* 8:4, which refers to “gifts” but cites both verses. [↑](#footnote-ref-8)
9. This is Rashi’s version of the text, as noted by R. Yeshaya Pick Berlin in his marginal gloss to the Gemara*.* [↑](#footnote-ref-9)
10. See, for example, *Shemot Rabba* 42:6; *Bamidbar Rabba* 15:24; and Rambam, *Hilkhot Issurei Bia* 13:18. [↑](#footnote-ref-10)
11. Also see Rashi. [↑](#footnote-ref-11)
12. The Rambam’s formulation in *Hilkhot Mattenot Aniyyim* is more extreme: “Anyone who is callous and does not have compassion, there is concern about his lineage, for callousness is only found among non-Jews” (10:2). Also see *Shiurim* #14 and #34. [↑](#footnote-ref-12)
13. Also see *Yeshayahu* 16:5. [↑](#footnote-ref-13)
14. See his commentaries on *Yechezkel* 16:7; *Zekharya* 7:5; *Malakhi* 2:6; and *Tehillim* 5:9, 110:4, in addition to all of the citations in the previous *shiur* and above. [↑](#footnote-ref-14)
15. See *Dikdukei Soferim Ha-Shalem* of Mekhon Ha-Talmud Ha-Yisraeli Ha-shalem. [↑](#footnote-ref-15)
16. Coincidentally, I finished preparing this *shiur* as the State of Israel prepared for the funeral and burial of Zachary Baumel, hy”d on April 4, 2019, nearly thirty-seven years after his disappearance in battle. Yehuda bar Nachmani’s blessing seemed particularly resonant, including its closing: “Our brethren, may the Master of reward (*gemul*) grant you your reward. Blessed are you, He Who grants reward.” [↑](#footnote-ref-16)
17. Also see *Yeshayahu* 51:1-2. [↑](#footnote-ref-17)