

Parashat Mishpatim: Contextualizing Oppression

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Shemot 21:2	
כִּי תִקְנֶה עֶבֶד עֲבָדִי שֵׁשׁ שָׁנִים יַעֲבֹד וּבִשְׁבַעַת יֵצֵא לְחֶפְשִׁי חֲנָם:	When you acquire a male Hebrew slave, he shall serve six years; in the seventh year he shall go free, without payment.

1. Legislating Slavery

Mekhiltah D'Rabbi Yishmael, Nezikin 1:7	
<p>"כִּי תִקְנֶה עֶבֶד עֲבָדִי". בְּנִמְכָּר בְּבֵית דִּין עַל גְּנִיבָתוֹ הַכְּתוּב מְדַבֵּר, שִׁיָּהּ עוֹבְדוֹ וְעוֹבֵד אֶת הֶבֶן. אֵתָּה אוֹמֵר בְּנִמְכָּר בְּבֵית דִּין עַל גְּנִיבָתוֹ הַכְּתוּב מְדַבֵּר, שִׁיָּהּ עוֹבְדוֹ וְעוֹבֵד אֶת הֶבֶן, אוֹ אִינוֹ מְדַבֵּר אֲלָא בְּמוֹכֵר עֲצָמוֹ? כְּשֶׁהוּא אוֹמֵר (וִיקְרָא כֹהֵל) "וְכִי יִמּוֹךְ אַחִירָה עִמָּךְ וְנִמְכַּר לָךְ", הֲרִי מוֹכֵר עֲצָמוֹ אֲמֹר, וְמָה תִּלְמַד לֹמֵר "כִּי תִקְנֶה עֶבֶד עֲבָדִי"? בְּנִמְכָּר בְּבֵית דִּין עַל גְּנִיבָתוֹ הַכְּתוּב מְדַבֵּר, שִׁיָּהּ עוֹבְדוֹ וְעוֹבֵד אֶת הֶבֶן.</p>	<p>"If you buy a Hebrew slave": Scripture here speaks of one sold by Beit Din (to pay for what he has stolen), in which instance he serves both the father and the son. But perhaps it speaks of one who sells himself (because of poverty)? (This is not so, for it says, "And if your brother grows poor with you, and he is sold to you," which speaks of one who sells himself. How, then, am I to understand "If you buy a Hebrew man-servant"? As referring to one sold by Beit Din for theft, that he serves the master and his son.</p>

Ibn Ezra on Shemot 21:2	
<p>כִּי תִקְנֶה. אָמַר לָךְ כָּלֵל לִפְנֵי שְׂאֵחַל לְפָרֶשׁ, כִּי כָּל מִשְׁפָּט אוֹ מִצְוָה כָּל אֶחָד עוֹמֵד בְּפָנָי עֲצָמוֹ וְאֵם יִכְלֹנוּ לְמַצָּא טַעַם לָמָּה דְּבִק זֶה הַמִּשְׁפָּט אֶל זֶה, אוֹ זֹאת הַמִּצְוָה אֶל זֹאת, נִדְבֵּק בְּכָל יִכְלָתֵנוּ וְאִם לֹא יִכְלֹנוּ נִחְשֵׁב כִּי הַחֲסָרוֹן בָּא מִחֲסָר דַּעֲתֵינוּ, וְאִין לְאָדָם בְּעוֹלָם יוֹתֵר קָשָׁה עָלָיו מִהֵיכָּתוּב בְּרִשּׁוֹת אָדָם כְּמוֹהוּ, עַל כֵּן הִחֵל מִשְׁפָּט הָעֶבֶד...</p>	<p>כִּי תִקְנֶה. Before I begin to explain, let me give you a general rule. Each ordinance or commandment is an independent unit. If we are able to find a reason that two ordinances or commandments are connected to each other, then we will expend all of our efforts to connect them. If we are not able to do so, we will conclude that the reason this cannot be done is our intellectual deficiency. There is nothing in the world more difficult for a human being to bear than to be under the control of another person like himself. Scripture, therefore, began with the law of the slave...</p>

Ramban on Shemot 21:2	
<p>כִּי תִקְנֶה עֶבֶד עֲבָדִי הַתְּחִיל הַמִּשְׁפָּט הָרִאשׁוֹן בְּעֶבֶד עֲבָדִי, מִפְּנֵי שֶׁיֵּשׁ בְּשִׁלּוּחַ הָעֶבֶד בִּשְׁנָה הַשְּׁבִיעִית זְכוֹר לִיצִיאַת מִצְרַיִם הַנִּזְכָּר בַּדְּבָר</p>	<p>כִּי תִקְנֶה. God began the first ordinance with the subject of a Hebrew servant, because the liberation of the servant in the seventh year contains a remembrance of the departure from Egypt which is mentioned in the</p>

¹ All translations are from Sefaria, unless otherwise noted.

<p>הָרִאשׁוֹן, כְּמוֹ שֶׁאָמַר בּוֹ (דְּבָרִים טו טו) "וְזָכַרְתָּ כִּי עֶבֶד הָיִיתָ בְּאֶרֶץ מִצְרַיִם וַיִּפְדְּךָ ה' אֱלֹהֶיךָ עַל כֵּן אֶנֶכִּי מִצְוֶיךָ אֶת הַדְּבָר הַזֶּה הַיּוֹם". וַיֵּשׁ בָּהּ עוֹד זִכָּר לְמַעֲשֵׂה בְרֵאשִׁית כְּשֶׁבֶת, כִּי הַשָּׁנָה הַשְּׁבִיעִית לְעֶבֶד שִׁבְתּוֹן מִמְּלָאכָתָּ אֲדוֹנָיו כִּיּוֹם הַשְּׁבִיעִי. וַיֵּשׁ בָּהּ עוֹד שְׁבִיעִי בְּשָׁנִים שֶׁהוּא הַיּוֹבֵל, כִּי הַשְּׁבִיעִי נִבְחַר בִּיָּמִים וּבְשָׁנִים וּבְשִׁמְטוֹת, וְהַכֹּל לְעֵנִין אֶחָד, וְהוּא סוֹד יְמוֹת הָעוֹלָם מִבְּרֵאשִׁית (בְּרֵאשִׁית א א) עַד וַיִּכְלּוּ (שִׁם ב א). וְלִכֵּן הַמִּצְוָה הַזֹּאת רְאוּיָה לְהִקְדִּים אוֹתָהּ שֶׁהִיא נִכְבְּדָת מְאֹד, רוֹמֶזֶת דְּבָרִים גְּדוֹלִים בְּמַעֲשֵׂה בְרֵאשִׁית:</p>	<p>first commandment, just as He said on it, <i>And thou shalt remember that thou wast a bondman in the land of Egypt, and the Eternal thy God redeemed thee; therefore I command thee this thing today.</i> It also contains a remembrance of creation, just as the Sabbath does, for the seventh year signals to a servant a complete rest from his master's work, just as the seventh day of the week does. There is in addition a 'seventh' amongst the years, which is the jubilee, for seven is the chosen of the days [to be the Sabbath], and of the years [to be the Sabbatical year], and of the [seven] Sabbaticals [to be the jubilee]; and they all point to one subject, namely, the secret of the days of the world — from <i>bereshith (in the beginning)</i> till <i>vayechulu (and they were finished)</i>. Therefore, this commandment deserved to be mentioned first, because of its extreme importance, alluding as it does to great things in the process of creation....</p>
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Or Ha'Hayyim on Shemot 21:2	
<p>וְטַעַם שֶׁקָּרָא עֶבְרִי, כִּי חֹשׁ הַכְּתוּב לִיחֹס שֵׁם עֲבָדוֹת עַל יִשְׂרָאֵל, לָזֶה כִּנָּה אוֹתוֹ בְּשֵׁם זֶה. עוֹד רִמַּז כִּי שֵׁם עֲבָדוֹת עַל יִשְׂרָאֵל הוּא עוֹבֵר וְאִינוֹ קָבוֹעַ, מֵטַעַם כִּי לֹא הֵם עֲבָדִים...</p>	<p>The reason the Torah refers to the slave as עבדי instead of ישראלי, may be that the Torah is sensitive about combining the words עבד and ישראלי. The Torah also wants us to know that the term עבד when used as applicable to a Jew, denotes a temporary status only, seeing that all Jews are permanently God's servants...</p>

2. Contextualizing Oppression

Tomer Persico, <i>In God's Image</i> , 13-14
<p>The law not only emerges in parallel with and within a certain narrative, as we have seen; it also constitutes and sustains that narrative in turn. Nomos and narrative, law and story, are constantly amplifying and reinforcing each other. We may therefore learn not only about law from narrative, but also about narrative from law. Let us try to do so with respect to laws from antiquity, in order to understand from within these laws how their legislators understood themselves. In other words, we shall seek to understand, from their laws, how they conceived of their fellow human beings, and we shall do so by examining the legal status of the individual, which will serve us as a framework through which we may view their narrative and conceptions of humanity.</p>

Greg Epstein, <i>Tech Agnostic</i> , 160
<p>When we look back at the worst moral failures of ancient religion—say, child sacrifice, the subjugation of women, or the division of society into hierarchical in- and out-groups—it can help to keep context in mind. But the context doesn't excuse or erase oppression, just contextualizes it. We can lament and condemn ancient examples of dehumanization and remember that all ancient peoples were, like us, human. Gripped by grief while striving for joy, they built our complex world, where we would do best to keep in mind our own inner complexity even as we look for outward oppression. Not because the oppression isn't there; it is. But in order to replace it with anything worthwhile, we will need to do our own inner work as well.</p>

<p>Big Question: What lessons can we take from contextualizing the Torah's approach to slavery?</p>
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