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בס"ד

Parashat Ki Tabo Part I The Last Four Passages in the Deuteronomy Law Compendium

The penultimate passage of *Parashat Ki Tese*, the prohibition to possess false weights and measures (Deut. 25:13-16), is the final case of the *mishpatim* subsection of the Deuteronomy law compendium. Before Moshe summarizes the mutual responsibilities of both sides of the G-d-Israel relationship and moves on to the concluding procedures of covenant reaffirmation (which he clearly is doing in accordance with ancient Near Eastern suzerain-vassal covenant format*), he presents three more passages of law. These comprise a coda to the law compendium and complete the “stipulations” section of covenant format.

First of these laws is the command regarding Amaleq, followed by two agriculture-related passages at the beginning of *Parashat Ki Tabo*. We will briefly discuss each of the final four passages with an eye toward discerning the role each plays in the closing segment of covenant stipulations.

1. Weights and Measures

Honest weights and measures, a requirement for the functioning of a just society, were especially critical in former times. Accurate specimens of the standard units of measure were not then readily available, exactitude was in any event well-nigh impossible to achieve and a great deal of commerce depended on privately-owned measuring apparatus with little protection against associated fraud. This ordinance’s demand of daily and universal relevance was a continual challenge to society and thus appropriate to be the conclusion of the *mishpatim*. Similarly, in Leviticus 19 – a law compendium also associated with the Decalogue and the Covenant – the call for just weights and measures is the final precept of the chapter (Lev. 19:35-36).

As fitting to the finale of a long series of laws, the passage is formulated in an expansive and poetic

manner. The individual is cautioned in second person not to have in his pouch “stone and stone, large and small” or in his home “*ephah* and *ephah*, large and small.” Stones were carried around by merchants and used with balance scales while the *ephah*, which denotes a relatively large dry measure volume, was ascertained with a vessel that generally was kept in homes. Dishonest dealers used a large measuring artifact when buying and a small one when selling. The statement of prohibitions is followed by commanding these laws in the positive: “A complete and righteous stone must you have, a complete and righteous *ephah* must you have.” In a rare flourish the passage closes with two motivational clauses, a positive and a negative: “in order that you may have length of days on the land that Hashem your G-d is giving you” and “for an abomination to Hashem your G-d are all those ...who do iniquity.”

The prohibition is stated as “you shall not have” alternate weights and measures, rather than merely being an injunction against the use of such devices, thus forbidding the very possession of such items. This is an example of the Torah legislating a “fence” around the law, serving to prevent the possibility of yielding to temptation and rationalization as well as precluding misuse by others who may have access to the measures.

2. Amaleq

The Amaleq passage makes clear that this people exhibited unholy and godless behavior in its attack upon Israel, behavior that was the antithesis of that which the Torah promotes. Thus, immediately upon completion of the “*misvot, huqim and mishpatim*,” Israel is commanded to “Remember what Amaleq did to you” (Deut. 25:17). When secure from enemies roundabout, Israel is to “blot out the name of Amaleq from under the heavens” (25:19). This nomadic

people – so far unattested outside of Scripture, whose geographic center appears to have been in the Negev and northern Sinai Peninsula – was a perennial enemy of Israel until subdued by Saul and David. The final blow was struck in the days of Hezekiah (1 Chronicles 4:41-43).

The phrases עָשָׂה לְךָ...בַּדֶּרֶךְ (did to you on the journey) followed by “מָה־רַךְ בַּדֶּרֶךְ” (made happen to you on the journey) indicate Amaleq was an aggressor, perhaps meaning, as NJPS translates, that they “surprised you on the march.” From Samuel’s prophecy אָשַׁר שָׁם לוֹ בַּדֶּרֶךְ (“that they placed for them on the journey,” 1 Sam. 15:2), it appears that Amaleq had set an ambush for Israel. In any event, our passage states that Amaleq attacked Israel’s rear (רַחֲמַיִם), the “stragglers” or the “crushed” (הַבְּנֵה־שְׁלִים אֲחֵרִיךָ) – the infirm, sick and elderly, who could not keep up with the camp – when Israel was “faint and weary.” Finally, Amaleq “feared not G-d.”

Even the heathen is expected to have a measure of “fear of G-d,” the term for the minimum standard of civilized behavior that G-d demands of every human being. In Scripture, “fear of G-d” consistently connotes being a decent, conscionable person committed to basic values and fairness. As Abraham said to Abimelekh, one who lacks it may kill a man in order to take his wife (Gen. 20:11). Joseph, while appearing to his accused brothers as a stranger, declared that instead of holding them all captive while one will return home to bring Benjamin, he will hold only one captive, allowing all the others to take food to their families, “for I fear G-d” (42:18). The midwives “feared G-d” and defied Pharaoh’s orders to kill the newborn boys (Ex. 1:17).

Amaleq represented a significant threat to Israel’s goals – in Balaam’s words it was רֵאשִׁית גּוֹיִם (Num. 24:20), “first of nations,” potentially influential – and it came to symbolize evil incarnate. Opposing Amaleq was conceived as supporting G-d’s most basic demands of man, which explains the placement of this command as the beginning of the coda following completion of the basic laws. The preceding passage’s concluding clause, that those who do iniquity are an abomination to G-d, is a perfect opening to the Amaleq passage.

The requirement to “blot out the name of Amaleq, do not forget” means that Israel must strive to terminate

any continuation of that nation as an entity with its distinctive culture. It applies to all those members of Amaleq who did not accept Israel’s terms for peace and are presumed to be hopelessly imbued with Amaleq’s evil character. Israel’s terms for peace require the enemy to accept a certain minimum standard of righteous behavior (Rambam, M.T. *Melakhim* 1:6). This passage sets a tone for Israel to oppose any evildoers who manifest Amaleq-like characteristics. In Psalm 83, Amaleq is described as one of the group that conspired to destroy Israel. They said, “Let us destroy them from being a nation, and Israel’s name will no longer be mentioned” (Ps. 83:5).

In Exodus, in the Torah’s other passage dealing with Israel’s interaction with Amaleq (Ex. 17:8-16), the battle is described as occurring shortly before the Lawgiving (at Rephidim, the station preceding Sinai). Although presented in an historical context, it appears to signal a responsibility that is introductory to the Lawgiving, a Biblical indication that the command to battle Amaleq is a fundamental responsibility to forever oppose evildoers of Amaleq’s ilk.

The last verses of that Exodus passage speak of Hashem instructing Moshe to “Write this as a remembrance in a document and place in Joshua’s ears, that I will thoroughly blot out the remembrance of Amalek from under the heavens” (v. 14). The passage concludes with Hashem taking an oath that He will be at war with Amaleq from generation to generation, that is, throughout the ages. This is in contrast to Deuteronomy’s statement that speaks only of Israel’s responsibility. Of course, if G-d is at war He could win His battle immediately, so what is the significance of an ongoing war for Him? Clearly, His oath signifies that Israel, His representative to carry out His will, is to be ever-vigilant against Amaleq and what that nation represents.

In addition, the Exodus passage’s quasi-magical description of the power of Moshe’s hand holding the rod of G-d that governs the ups-and-downs of the battle begs for an allegorical interpretation such as given it by the Mishnah (RH 3:8). Moshe’s lifting his hand represents the Israelites turning their hearts toward their father in Heaven. When they do so, they prevail; when they do not, they fail, a description of an ongoing situation concerning Israel (see our *Parashat Beshalah* study on this topic).

3. First Fruits

The penultimate passage of the law compendium (at the beginning of *Parashat Ki Tabo*) prescribes the bringing of first fruits to the sanctuary, a thanksgiving ceremony to actively acknowledge G-d's gifts. Previously, it had been referred to briefly among priestly perquisites (Deut. 18:4). The final law passage provides an additional dimension to the law concerning the triennial tithe for the poor, the basics of which had been described in 14:28-29. Both passages envision the Israelites settled in the Promised Land, each individual in possession of his estate, peaceful and fruitful, each giving from his produce for religious and charitable purposes. Both passages contain eloquent liturgical declarations for the landowner to recite. Since they depict both a materially and spiritually flourishing future, and each contains a concluding prayer with ever-relevant, appealing imagery, they were eminently suitable for closing the legal section.

The recitation that accompanies the first fruits renders this passage even more appropriate as a conclusion in that it contains a concise summary of the nation's formative history and serves as an introduction to articulation of the Covenant that follows. It begins with Yaaqob's difficulties in Aram (or those that brought him to Aram) and his having to descend to Egypt (אֶרֶץ מִצְרַיִם), where his family grew from a small clan into a full-fledged people. It gratefully acknowledges G-d's past providence and His fulfillment of the Covenant He established with the patriarchs, recognizing that Israel's land is a gift from Him. Invocation of the Covenant sets the stage for articulation of the covenantal formula and a summary of the mutual responsibilities that is to follow. Omission of the technical details concerning which first fruits and how much is to be brought – left for the Oral Law – serves to highlight the conceptual dimension.

In addition, the recitation contains a polemic against the pagan beliefs popular in the ancient Near East and the associated gods who ruled over limited domains as it leads the landowner to appreciate an important aspect of the monotheistic revolution. It proceeds from the recognition that Hashem is the source of the land's fertility to recognition that He is at work in Israel's history, guiding it from its beginnings through the centuries to the present moment. This parallels the

process underlying the transformation of the three annual festivals from agricultural celebrations to commemorations of Divine Providence in history. "This shift of the focus of a religious ceremony from exclusive attention to the role of God in nature to an emphasis on His role in history is one of the most important and original features of the Bible. Its effect on liturgy is this type of prescribed prayer, which leads the worshipper from the immediate experience to an understanding of the larger picture." (Tigay, *Commentary on Deut.*, p. 238).

One wonders that the historical digest does not include reference to the momentous event of the Lawgiving that occurred between the Exodus and entering the land. The explanation appears to be that in this context the landowner is celebrating G-d's having brought the nation to settle in the land and is expressing his personal gratitude for his portion and his prosperity. Accordingly, the emphasis in this recitation is on G-d's fulfillment of His promise and that is what must be highlighted.

4. Tithe for the Poor

The final passage of the coda adds a ritual requirement to the previously prescribed obligation for each landowner to give a tenth of his produce each third year to the poor (see Deut. 14:28-29); he must recite a "confession of compliance." Although the produce is dispensed and eaten "in your gates" (26:12), that is, throughout the country, for that is where the needy are, the recitation is to be "before Hashem Elokekha" (v. 13). This obviously means at the sanctuary, thus conferring upon the confession the elevated status of an oath. The farmer must officially recognize the importance of supporting the poor by declaring that "I have cleared out the *godesh* from the house and I have given to the Levite, to the stranger, to the widow and to the orphan, in accordance with Your command that You have commanded me; I did not violate Your commands nor did I forget" (v. 13).

Knowing that eventually he had to make such a declaration before G-d motivated the farmer to be conscientious in the fulfillment of an obligation that requires ongoing attention for an extended period of time, since each crop is harvested at a different time. That he is to refer to the tithe as "*godesh*" (sanctified) brings the point home ever more sharply; although the poor will eat their portions wherever they choose and

without the stringencies attached to traditional “*godesh*,” the landowner should view that which is designated for them as “holy,” albeit in accordance with an understanding of the term different from the standard definition.

In the next verse (14) the recitation calls for the farmer to profess having adhered to three particular laws (which we will soon discuss). He summarizes his compliance statement with, “I have obeyed the voice of Hashem my G-d and have done in accordance with all You have commanded me” (v. 14). Although these statements may primarily be directed to tithe regulations, they are structured as general formulations. This sets a general tone of compliance with all the statutes thus rendering these statements as fit expressions for the terminus of the law compendium. But why was it necessary for two consecutive verses of the recitation to each contain a statement, one similar to the other, of having fully complied with the law?

The passage is complex. The three laws the farmer is to state that he had obeyed are: not having eaten from the tithe while in mourning, not having cleared it out of the house while he was in a state of impurity and not having given of it to the deceased. All three refer to regulations that are not attested elsewhere in the Torah. It is especially surprising that the recitation formula indicates the farmer’s familiarity with them. Furthermore, the declarations of not having eaten from them in a state of mourning and not having given from them to the deceased speak of acts incompatible with the nature of the poor man’s tithe. For what right would the landowner have to consume or give to others that which the law designates for the indigent? These problems in *peshat* point to an Oral Law complementing and elaborating the written text.

The Mishnah understands this passage to be speaking on a broader plane, encompassing more than the poor man’s tithe. According to its interpretation, at the time when the tithe for the poor is removed from the home the relevant verse also requires removal from the home of all other *ma`aserot* and the various agricultural dues of previous years. That is the time to satisfy any overdue obligations and to clear out any excess that was not redeemed. Included is “*ma`aser sheni*,” the tithe the farmer separates in the first, second, fourth and fifth years of the seven-year cycle, from which he, his family and slaves eat when visiting

the sanctuary (Deut. 14:28-29). (The time set for this was the day before Passover of the relevant years.) The farmer’s declaration is seen as referring to these other obligations also (M. *Ma`aser Sheni* 5:6).

Isaac Sassoon, addressing the difficulty of two recitations in consecutive verses each attesting to having fully complied with the law, suggests that verse 13 comprises the recitation connected to the tithe for the poor while verse 14 begins a more comprehensive confession relevant to the other items (*Destination Torah* p. 319). Although it does not fully fit the Mishnah – which expands the halakha in a *midrashic* manner – it does significantly address the *peshat* problems in light of the Oral Law.

As regards the laws within the declaration, two of them appear to be a protest against known ancient Near Eastern idolatrous practices. One such custom called for mourners to partake of a meal together with the deceased, particularly newly deceased. Another required giving food to the deceased. Since these were religious practices, their adherents may have used holy substances of the nature of *ma`aser sheni* produce for these purposes. They may also have possibly rationalized that it was even acceptable to use the poor man’s tithe for such a purpose.

The final verse of the passage closes the law compendium with a beautiful prayer that the individual recites. It expresses appreciation for the basic covenant elements that Hashem has fulfilled and calls upon Him to continue caring for Israel. Portrayal of the nation as acknowledging that its welfare is dependent upon its relationship with Him is an appropriate prelude to the summary of the covenantal responsibilities that immediately follows.**

Endnotes

* See our study *The G-d-Israel Covenant: On Meaning and Format*.

** Clearly, in the two last passages (which are a couplet) the theme of appreciation for G-d’s gift of the land and its produce is most prominent. Reflecting this, the standard verbal phrase denoting “G-d’s giving,” employing the same root in one form or another, is unusually common in these fifteen verses, appearing seven times: נתן לך, נתן לך, לתת לנו, ויתן לנו, נתתה לי, נתתה לנו, נתתה לנו.