



MISHNAS CHAYIM

משנת חיים

MISHNAH ON THE PARSHAH

פרשת כי תצא תש"ע פארשׂאס קי סײטזײ 5770

FOR THE BIRDS

In his advanced age, the Gaon R' Isser Zalman Meltzer continued to give his *shiur* (daily lecture). However, his strength was limited, and the mere activity of walking was no simple matter. He had to exert himself to arrive at the *yeshivah*, and he needed a cane to help him get there.

Nevertheless, he had a practice that baffled his students. Instead of taking the quicker, direct path to the *yeshivah*, he took a much longer, roundabout route. And when they questioned him about it and tried to dissuade him, R' Isser Zalman merely shrugged them off.

And so the *talmidim* realized that there was something bigger afoot here, that R' Isser Zalman – probably for reasons of humility – preferred to keep concealed. It was only after much time passed that the truth finally leaked out, and the mystery was solved.

Before presenting the conclusion, though, let us turn to an aspect of this week's *parshah*. R' Isser Zalman's conduct will be appreciated better in that light.

LOADING AND UNLOADING

Among the numerous *mitzvos* detailed in this week's *parshah*, we find two adjacent and related laws concerning the treatment of the animal of one's fellow:

לֹא תִרְאֶה אֶת חֲמוֹר אֶחִיד אוֹ שׂוֹרוֹ נִפְלִים בַּדֶּרֶךְ
וְהִתְעַלְמָתָּ מֵהֶם הֵקֵם תִּקְיָם עִמּוֹ :

“If you see your brother's donkey or ox stumbling on the way, do not disregard it; help him stand it up” (*Devarim* 24:4).

As the *mitzvah*-listers record (see *Sefer Hachinuch, mitzvos* 540, 541), this verse refers to the double

mitzvos known in the jargon of Chazal as *perikah* (unloading) and *te'inah* (loading). When we happen upon the struggling animal of our friend, whose load is too heavy, we are commanded to offer assistance in lightening the load. Similarly, when there is a need to pack up the animal, we are enjoined to help in the loading process.

We do find a curious difference between these two *mitzvos*, however, which emerges from a Mishnah in Bava Metzia. The Mishnah there (2:10) states:

מְצִנָּה מִן הַתּוֹרָה לְפָרוֹק, אֲבָל לֹא לְטַעוֹן.

“The *mitzvah* to unload is Biblically mandated, while the *mitzvah* to load is not.”

At first glance, the Mishnah's statement appears strange. As mentioned before (from the *Sefer Hachinuch*), Chazal understand that the above-quoted verse from our *parshah* referred to *both mitzvos*. Why does the Mishnah confer Biblical status only on *perikah*?

The Gemara in Bava Metzia (32a) clarifies the Mishnah's intent: Of course, both *mitzvos* are Biblically mandated. The Mishnah merely meant to convey that there is a particular stringency that applies to the *perikah* obligation over and above that of *te'inah*. That is, an individual must participate in the loading process only if the owner offers him payment for his efforts. *Perikah*, on the other hand, is obligatory even where no fee is involved.

What is the fundamental difference between the two? Why is it that one can charge for loading assistance, yet one must unload a top-heavy animal for free? The Gemara (*Ibid.* 32b) explains that there is an essential component in the latter scenario: *tza'ar ba'alei chaim* (distress caused to animals). Since

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the creature is experiencing the strain of overload, there is a particular urgency to relieve its burden.

While there is an ensuing debate in the Gemara and commentators concerning the factuality of this given reason, it is the position of many classic sages that this explanation holds. Such is the conclusion of the Radvaz, for instance, who explains that the mitzvah of *perikah* is, indeed, based on the idea of preventing *tza'ar ba'alei chaim* (*Metzudas David, mitzvah 487*).

BE KIND TO ANIMALS

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שְׁלַח תְּשַׁלַּח אֶת הָאִם – “You shall send away the mother bird” (*Devarim 22:7*). The mitzvah of *shiluach hakan* requires that one must send away the mother bird before taking the eggs of the nest for himself. The Rambam (*Moreh Nevuchim 3:48*) explains that the idea behind this mitzvah is to shield the mother bird from the anguish of witnessing her progeny being taken away.

(How the Rambam’s explanation squares with the Mishnah in *Berachos 5:3* is a topic raised and dealt with by the commentators; the issue was touched upon in the *Ki Seitzei 5769* issue of *Mishnas Chayim*.)

לֹא תִּהְיֶה בְּשׂוֹר וּבִדְמוֹת יַחְדָּו – “Do not plow with an ox and donkey together” (*Ibid. v.10*). Hitching an ox and a donkey to plow together causes distress of various forms: the donkey has difficulty keeping up with its more formidable partner (*Ibn Ezra*); the fact that the ox chews its cud – while the donkey does not – is a source of anguish to the donkey, who feels that the ox has what to eat, while he goes hungry (*Chizkuni*); and in general, animals

feel perturbed when forced to associate with other species (*Sefer Hachinuch, mitzvah 550*; as in, “Birds of a feather...”).

לֹא תִּהְיֶה שׂוֹר בְּדִישׁוֹ – “Do not muzzle an ox while it threshes” (*Ibid. 25:4*). When employed to work on the threshing floor, the ox – obviously – is exposed to much food. To restrain it from eating by applying a muzzle would cause it much anguish (*Radvaz, Metzudas David, mitzvah 514*).

Apparently, R’ Isser Zalman Meltzer took this lesson of the *parshah* to heart. For it was discovered that this was precisely his calculation in taking the longer route, despite his frail condition. It seems that there was a group of chickens who would gather to forage in front of the *yeshivah*. R’ Isser Zalman was afraid that they would be scared away by the tapping of his cane. He therefore took a roundabout path in order not to disrupt their peaceful congregation. Better to expend the extra exertion, he reasoned, than to disturb Hashem’s creatures (*Shimushah Shel Torah, p. 264*).

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