

חמודי שי על התורה והמועדים

Chamudei Shai on the Torah and Holidays

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Topics discussed

Ki Seitzei

I

- ▶ The Torah's safeguards against the Yetzer Hara
- ▶ The *Yefas To'ar*: permitting while restraining
- ▶ The *Ben Sorer U'Moreh*: a mitzvah unlikely to ever be implemented
- ▶ A law meant to prevent its own application
- ▶ Preventing desire leading to disaster
- ▶ Building safeguards around the Torah

II

- ▶ *Vehisalamta*: The dignity of Torah
- ▶ When the Torah commands us to look away
- ▶ Is the exemption a personal right that one

Parashas Ki Seitzei

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I

The Torah's safeguards against the Yetzer Hara

Parashas Ki Seitzei opens with several seemingly separate topics: the *yefas to'ar*, the beautiful captive woman; the man with two wives, one beloved and one hated, whose firstborn son is born to the unloved wife; the prohibition against denying that firstborn his rights; and the *ben sorer u'moreh*, the wayward and rebellious son. Chazal understand these sections as part of one connected sequence.

וְרָאִיתָ בַּשִּׁבְיָה אִשָּׁת יִפְתָּת־תָּאֵר וְחִשְׁקָתָּ בָּהּ וְלָקַחְתָּ לָּךְ לְאִשָּׁה .

"And you see among the captives a woman of beautiful appearance, and you desire her, and you take her for yourself as a wife" (Devarim 21:11)

Rashi, citing Chazal, explains:

"לא דברה תורה אלא כנגד יצר הרע שאם אין הקב"ה מתירה ישאנה באיסור, אבל אם נשאה סופו להיות שונאה שנאמר אחריו כי תהיין לאיש וגו', וסופו להוליד ממנה בן סורר ומורה לכך נסמכו פרשיות הללו"

"The Torah is speaking only to counter the evil inclination... if he marries her, he will ultimately come to despise her, as it says afterwards, 'If a man has two wives' (v. 15), and ultimately, he will father through her a

may choose to waive?

- ***Kavod versus bizayon***
- ***Whose honor is it?***
- ***The broken Luchos***
- ***Two understandings of Lifnim Mishuras Hadin***

wayward and rebellious son. For this reason, these passages are juxtaposed."

Rashi reads the sequence as a chain of cause and effect: the soldier who marries the captive woman will eventually hate her, and from that hated union will emerge the *ben sorer u'moreh*. The Torah deliberately placed these passages together to signal that one *aveirah* leads to another. Torah is relating human weakness, a momentary lack of restraint amidst the pressures of war, to devastating long-term consequences.

The Yefas To'ar: permitting while restraining

Chazal stated: לא דברה תורה אלא כנגד יצר הרע, meaning that the Torah, so to speak, takes into account human struggle and does not demand what is beyond reach in a moment of overwhelming temptation. Rashi explains that this concession is immediately surrounded by a process that weakens the attraction: The woman is brought into the home, her appearance is altered to make her unattractive, and she mourns for a full month before any permanent relationship may proceed (Rashi, Devarim 21:12-13).

The *Kli Yakar* describes this as a *tachbula* (תַּחבּוּלָה), a calculated strategy. The Torah does not simply permit; it slows the momentum, changes the setting, and allows time for the initial intensity to settle. "The main purpose of this strategy (*tachbula*) is that he will be in a house of mourning and thus remind his desire of the day of death, and Gehenim is thereby set before him. Thus, when she comes weeping and mourning for her father and mother, it is as though he is sitting in a house of mourning..." Only if the desire remains after this entire process does the Torah allow the marriage to proceed (*Kli Yakar*, Devarim 21:11). The *Kli Yakar* also connects the outcome to *ben sorer u'moreh*: "Eventually you will have unworthy children from her, namely a *ben sorer u'moreh*."

The Ben Sorer U'Moreh: a mitzvah unlikely to ever be implemented

At the other end stands the *ben sorer u'moreh*. The Mishnah limits the law to a very brief stage of the child's development: after the first signs of maturity, *shtei se'aaros*, but before full physical growth (*Sanhedrin* 68b). The Gemara narrows this period further to no more than a three-month period. (*Sanhedrin* 69a; Rambam, *Hilchos Mamrim* 7:6). And if he reaches physical maturity before the three months are up, he is exempt.

Even within that narrow window, the law applies only if many precise conditions are met: the son must eat a specified amount of meat and drink wine, both purchased with stolen money, in a particular manner; he must do so after being warned and then repeat the behavior before witnesses; and both parents must bring him to court together (*Sanhedrin* 71a). Rabbi Yehudah restricts it further, requiring the parents to be similar in voice, appearance, and height, based on "אִינְנוּ שְׁמַע בְּקֶלְנוּ" (*Sanhedrin* 71a).

Because these restrictions are so numerous, the Gemara notes a view that a *ben sorer u'moreh* "never existed and never will exist," and that the parashah was written solely for study and moral instruction (*Sanhedrin* 71a). Although Rabbi Yonasan says he once encountered a case of *ben sorer u'moreh*, the predominant view is that the Torah defined it so narrowly that it could never occur in practice.

A law meant to prevent its own application

The *Kli Yakar* (Devarim 21:18) explains that this passage was not intended for practical application, but rather to serve as a warning and deterrent. He writes:

"Perhaps the reason is that a *ben sorer u'moreh* never existed and never will exist, and the passage was written only so that children would hear, take warning, and not behave in this manner. When the Torah says, 'And all Israel shall hear,' it means that they will hear this passage and the judgment prescribed in it, and children will thereby be deterred from rebelling against the authority of their father and mother. For this reason, the Torah does not say, 'and they shall not act presumptuously again,' because the word 'again' implies that the act has already occurred and will not be repeated. That is not applicable here, for there never was a *ben*

sorer u'moreh; such a case never occurred. This passage was written only to instill awe and fear in children...."

The Mishnah also teaches that the *ben sorer u'moreh* is judged על שם סופו, based on where his path will ultimately lead (*Mishnah Sanhedrin* 8:5). Rashi in our parasha, explains on the basis of the Gemara (*Sanhedrin* 72a): "The wayward and rebellious son is put to death because of what he will ultimately become. The Torah has penetrated the course of his future thinking: in the end he will exhaust his father's wealth, seek to satisfy his cravings and find no means to do so, and then he will stand at the crossroads and rob people. Therefore, the Torah said: Let him die innocent rather than die guilty."

Preventing desire from leading to disaster

The *yefas to'ar* and the *ben sorer u'moreh* mark opposite ends of one progression: the first captures an adult moment of intense desire, while the second, a result of the first, reflects the early formation of a young person's path. In both cases, the Torah intervenes before the pattern becomes much harder to undo.

With the *yefas to'ar*, the Torah creates delay, changes the setting, and allows the initial intensity to cool. With the *ben sorer u'moreh*, it narrows the law so severely that it functions not as a reality but as a deterrent, impressing on the young person the danger of letting destructive habits take root. The case of the hated wife shows that unstable beginnings within a home can shape the next generation in an adverse manner.

Building safeguards around the Torah

The shared principle is that the Torah does not merely respond to failure; it tries to prevent failure from developing. At times, it

does this through delay and reframing; at other times, by defining a negative phenomenon so narrowly that it serves as a warning rather than an actual reality.

Chazal later applied this preventive approach through *gezeiros* and *takanos* (rabbinic decrees and enactments), establishing safeguards that keep a person distant from transgression. Though these enactments are not Torah law itself, they reflect the same wisdom: added boundaries help prevent a possible violation of the Torah.

Ultimately, these *parashiyos* show that the Torah seeks not only to restrain destructive behavior but to guide a person away from it before it takes hold.



II

Vehisalamta: The Dignity of Torah

The Torah commands in Parashas Ki Seitzei:

לֹא-תִרְאֶה אֶת-שׁוֹר אֲחִיךָ אוֹ אֶת-שֵׂי נִדְחִים וְהִתְעַלְמָתָם
הָשִׁב תְּשִׁיבָם לְאֲחִיךָ.

"You shall not see your brother's ox or sheep straying and ignore them; you shall surely return them to your brother" (Devarim 22:1).

A few *pesukim* later, the Torah states even more explicitly:

וְכֵן תַּעֲשֶׂה לְכָל-אֲבֹדַת אֲחִיךָ אֲשֶׁר-תִּאֲבֹד מִמֶּנּוּ וּמִצֹּאתָהּ לֹא
תִּוְכַל לְהִתְעַלֵּם.

"And so shall you do with every lost item of your brother's that he loses and you find; you may not ignore it" (Devarim 22:3).

When the Torah commands us to look away

At first glance, the word *vehisalamta*, "and ignore them," in the first pasuk is surprising. The Torah is commanding precisely the opposite. One may not look

away from another person's lost property. Chazal therefore discern an additional teaching within this unusual wording: פעמים שאתה מתעלם ופעמים שאי אתה מתעלם "There are times when you may look away, and there are times when you may not look away."

Among the exceptions identified by the Gemara (*Baba Metzia* 30a) is *zaken v'eino lefi kevodo*, an elderly or distinguished person for whom handling and returning this particular object would be inconsistent with his dignity. The Gemara explains that the exemption applies only if he would refrain from retrieving such an object even if it belonged to him (*Baba Metzia* 30a-b).

Is the exemption a personal right that one may choose to waive?

This gives rise to a deeper question. The Torah exempts the distinguished person because returning the object is beneath his dignity. But what if he does not care about his dignity? May he waive that exemption and personally return the object? Here the Rishonim disagree.

The Rambam (*Hilchos Gezeila v'Aveida* 11:17) rules that although such a person is exempt, one who wishes to follow *derech hatov vehayashar*, "the good and upright path," and act *lifnim mishuras hadin* should return the lost object even though doing so is beneath his dignity. The Mechaber (*Choshen Mishpat*, 263:1) follows this position. According to the Rambam, therefore, *vehisalamta* grants the *talmid chacham* an exception. It protects his dignity, but it does not prohibit him from relinquishing that protection. Indeed, his willingness to lower himself for the benefit of another person may itself represent a higher moral path.

The Rosh (*Siman* 272) takes a different position, followed by the Rema. According to this view, when returning the object is genuinely beneath the person's dignity, he should not personally return it. Even if he wishes to act *lifnim mishuras hadin*, he should not do so by degrading himself. If he wishes,

he may instead compensate the owner with his own funds.

The Rosh's view requires explanation: Chazal teach: רב שמחל על כבודו כבודו מחול. "When a Rav waives the honor due to him, his honor is waived." If a *talmid chacham* may relinquish his honor, why in this case, may he not simply say, "I do not insist upon my dignity, and I wish to return the lost object"?

Kavod versus bizayon

The Rivash, citing the Raavad, provides a distinction that may explain the position of the Rosh. There is a difference between *kavod*, honor, and *bizayon*, degradation or disgrace. A *talmid chacham* may waive the honor that others would ordinarily be required to show him. He may decline a particular privilege or allow others not to accord him the formal respect appropriate to his position. But *bizayon* is different. According to the Rivash and Raavad, a Rav cannot authorize his own degradation. There is a difference between humility and humiliation.

Why is that so? If the honor belongs to him, should not the right to waive it also belong to him? Perhaps the answer lies in understanding the source of the *talmid chacham's* dignity.

Whose honor is it?

I would humbly offer the following explanation. The special honor accorded to a *talmid chacham* is not merely honor bestowed upon an accomplished individual. It is the honor of the Torah that he has acquired and that has become part of him. Chazal make this comparison remarkably explicit. Rava declares:

כמה טפשאי שאר אינשי דקיימי מקמי ספר תורה ולא קיימי מקמי גברא רבה.

"How foolish are those people who rise before a Sefer Torah but do not rise before a great Torah scholar" (*Makkos* 22b).

The Torah scholar (*talmid chacham*) is compared to the Sefer Torah itself. We honor him because Torah resides within him. In this sense, the *talmid chacham* may be compared to an Aron, a vessel that carries Torah. He has labored to acquire Torah and has made it part of his being, but the Torah contained within him is not his private possession. It remains Toras Hashem, Hashem's Torah, given as the inheritance of all Klal Yisrael.

Accordingly, there are two different forms of waiver. A *talmid chacham* can say, "I waive my honor." But he cannot necessarily say, "I waive the Torah's honor." His personal honor belongs to him. The honor of the Torah that he represents, does not.

This may explain the position of the Rosh, as understood through the Rivash and Raavad. When an activity is merely less dignified than would ordinarily be expected of a *talmid chacham*, he might be capable of overlooking his personal status. But when the act constitutes an actual *bizayon* for someone who carries the dignity of Torah, the matter is no longer merely personal. His humility cannot come at the expense of Torah's dignity.

The broken Luchos

Another teaching of Rav Yosef may illuminate this idea even further:

אשר שברת ושמתם בארון, מלמד שהלוחות ושברי לוחות מונחין בארון. מכאן לתלמיד חכם ששכח תלמודו מחמת אונסו שאין נוהגין בו מנהג בזיון. (מנחות צט א)

"Which you broke, and you shall place them in the Ark" teaches that both the Luchos and the broken pieces of the *Luchos* were kept in the Ark. From here we learn that a *talmid Chacham* who forgot his learning due to circumstances beyond his control must not be treated disrespectfully" (*Menachos* 99a).

From the fact that both the whole Luchos and the broken fragments were placed in the Aron, Chazal derive that a *talmid chacham* who has forgotten his learning through circumstances beyond his control

must nevertheless not be treated with degradation (*Menachos* 99a).

The comparison is profound. The broken Luchos no longer displayed the words of Torah as they once had, yet they remained holy and remained within the Aron. Similarly, the *talmid chacham* who has forgotten his Torah does not lose the dignity that Torah implanted within him.

It is especially poignant that this teaching is attributed to Rav Yosef. The Gemara elsewhere relates that Rav Yosef himself became ill and forgot his learning, until his student Abaye restored it to him by reviewing the Torah that he had originally learned from Rav Yosef (*Nedarim* 41a).

This suggests that the relationship between a *talmid chacham* and Torah reaches deeper than the information he presently remembers. Torah leaves an imprint upon the person. Even when his memory fails, the remnants of the Torah he carried retain their sanctity. The *talmid chacham* is therefore more than the owner of knowledge. He has become a bearer of Torah.

Two understandings of *Lifnim Mishuras Hadin*

We can now appreciate the depth of the disagreement between the Rambam and

the Rosh. According to the Rambam, a *talmid chacham* who willingly sets aside his dignity in order to return another person's property embodies *derech hatov vehayashar*, the good and upright path. His humility itself may enhance the honor of Torah by demonstrating the kindness and concern for others that Torah produces.

According to the Rosh, however, as understood through the Rivash and Raavad, there is a boundary that even humility may not cross. When an act objectively constitutes *bizayon* to the Torah that the *talmid chacham* carries within him, he cannot treat that dignity as his private possession.

Both approaches recognize that Torah transforms the individual. The difference may lie in determining how that transformation expresses itself. According to the Rambam, Torah's greatness may sometimes be revealed precisely when its scholar lowers himself to assist another person. According to the Rosh, however, there are circumstances in which the Torah requires its bearer not to lower himself, because the dignity being protected is no longer his alone. A *talmid chacham* may waive his own *kavod*. He cannot necessarily waive the *kavod* of the Torah that he carries within him.

ב-י-ל-א ואמו Maharaḥ Tzintz

PEARLS FROM THE TEACHINGS OF THE GAON FROM PLOTZK

In what “wrapping” should we present our prayers before the Creator?

Toward the end of our parashah, several *pesukim* teach us the proper way for a wealthy person to treat a poor person:

וְאִם אִישׁ עֲנִי הוּא, לֹא תִשָּׁכַב בְּעֵבְטוֹ. הָשֵׁב תְּשִׁיב לוֹ אֶת הָעֵבֹט כְּבוֹד הַשָּׁמַיִם, וְשָׁכַב בְּשִׁלְמָתוֹ וּבִרְכָּהּ, וְלָךְ תִּהְיֶה צְדָקָה לְפָנֶי ה' אֱלֹהֶיךָ. לֹא תַעֲשֶׂק שִׁכְרִיר עֲנִי וְאֶבְיוֹן מֵאֲחִידָה אוֹ מִגֵּרָה אֲשֶׁר בְּאַרְצְךָ בְּשַׁעְרֶיהָ. בְּיוֹמוֹ תִּתֵּן שְׂכָרוֹ וְלֹא תָבוֹא עָלָיו הַשָּׁמַיִם, כִּי עֲנִי הוּא...

“If he is a poor man, you shall not sleep with his pledge. You shall surely return the pledge to him when the sun sets, so that he may sleep in his garment and bless you; and it shall be considered righteousness for you before Hashem your G-d. You shall not oppress a hired worker who is poor and destitute, whether one of your brothers or one of your

converts who is in your land, within your gates. On that day you shall give him his wages, and the sun shall not set upon him, for he is poor..." (Devarim 24:12-15).

Rabbeinu, the Maharal Tzintz, derives a fundamental principle from this passage, connecting proper conduct toward the poor with the acceptance of our prayers by the One Who dwells on high.

The expression **וְלֹא תָבוֹא**, "and it shall not come," appears three times in Tanach:

1. In our parashah (24:15): **וְלֹא תָבוֹא עָלָיו הַשֶּׁמֶשׁ**, "and the sun shall not set upon him."
2. In Yechezkel (24:16): **וְלֹא תָבוֹא דְמָעָתְךָ**, "and your tears shall not come."
3. In Yirmiyahu (5:12): **וְלֹא תָבוֹא עָלֵינוּ רָעָה**, "and no evil shall come upon us."

The fact that the same expression appears in all three pesukim indicates that there is a connection between them. Rabbeinu explains that connection as follows:

Part I: The connection between **וְלֹא תָבוֹא עָלָיו הַשֶּׁמֶשׁ "the sun shall not set upon him" and **וְלֹא תָבוֹא דְמָעָתְךָ** "your tears shall not come."**

The Gemara in *Berachos* teaches:

וְאֵף עַל פִּי שִׁשְׁעָרֵי תַפְלָה נִנְעָלוּ, שִׁעְרֵי דְמָעָה לֹא נִנְעָלוּ, שְׁנֵאמַר: שְׁמַעַה תַּפְלָתִי ה' וְשִׁוְעָתִי הִיא זִינָה, אֶל דְּמָעָתִי אֵל תִּתְּרֵשׁ.

"Even though the gates of prayer have been locked, the gates of tears have not been locked, as it is stated: 'Hear my prayer, Hashem, and listen to my cry; do not remain silent at my tears'" (*Berachos* 32b; *Tehillim* 39:13).

This means that even in our time, when the gates of prayer have been closed, there remains a force capable of bringing about the acceptance of prayer: the power of tears. When a person prays and sheds tears, his prayer is accepted.

There is, however, a power even greater than that of tears: the power of the poor person's prayer. The Zohar says (translated into Lashon Kodesh):

תַּפְלָה לְעָנִי כִּי יִעֲטוּף... אחת שבכל התפילות שבגללם מתעטפים לפני המלך. ולא נכנסים עד שנכנסת תפילת העני... והיא התפילה שעוטפת כל התפילות הקודמות עד שתיכנס התפילה שלו. משום כך הקדים דוד את העני לכולן.

"A prayer of the poor man when he wraps himself..." This is the prayer through which all the prayers are wrapped before the King. They do not enter until the prayer of the poor man enters. It is the prayer that wraps all the preceding prayers until his prayer enters. For this reason, David placed the poor man before them all" (*Zohar* I, 23b).

Rabbeinu explains that the poor person's prayer serves as a wrapping and garment for all the other prayers; therefore, all the other prayers, even prayers accompanied by tears, wait until the poor person's prayer enters before the King. When his prayer enters, they wrap and clothe themselves within it. Only through this garment and wrapping can they enter before the King.

For this reason, when a person robs the poor, even if he prays with tears, his prayer is not accepted. Since he has harmed the poor person, his prayer cannot wrap itself in the poor person's prayer, and it has no means of coming before the King.

This is alluded to by the connection between the two *pesukim*. If a person, G-d forbid, violates the Torah's command, **וְלֹא תָבוֹא עָלָיו הַשֶּׁמֶשׁ**, "and the sun shall not set upon him," by withholding the poor person's garment as security and failing to return it at night, then measure for measure, **וְלֹא תָבוֹא דִמְעָתָהּ**, "and your tears shall not come," will be fulfilled in him. Just as he withheld the poor person's garment, his own tearful prayer will not be clothed in its garment, namely, the poor person's prayer, and it will therefore be unable to come before Hashem. This is the principle in its negative form. We will now see its positive counterpart.

Part II: The connection between **וְלֹא תָבוֹא עָלָיו הַשֶּׁמֶשׁ "the sun shall not set upon him" and **וְלֹא תָבוֹא עָלֵינוּ רָעָה** "no evil shall come upon us"**

From the negative, we can learn the power of the positive. If the prayer of one who fails to treat the poor properly is not accepted, then the prayer of one who fulfills the Torah's command, treats the poor properly, gives him tzedakah, and supports him will be accepted, measure for measure. Since he has acted kindly toward the poor person, his prayer is worthy of being clothed in the poor person's prayer and entering before the King.

This is what the *pesukim* allude to. By fulfilling the mitzvah and message of **וְלֹא תָבוֹא עָלָיו הַשֶּׁמֶשׁ**, "the sun shall not set upon him," the prayer of the person who assists the poor will be accepted. Consequently, **וְלֹא תָבוֹא עָלֵינוּ רָעָה**, "no evil shall come upon us," because his prayer will be accepted favorably.

The greatest *segulah* for having our prayers accepted is giving tzedakah to the poor!



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