



Were It Not Written, It Would Not Have Been Thinkable: The Prohibition of Returning a Slave to His Master

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Our parashah presents a law regarding slavery that also criticise the phenomenon, teaches that slaves are not property, and teaches us that relationships define what occurs between people but not people's essence.

Among the many *halakhot* in our weekly *parashah* is one concerning slaves:

דברים כג, ט"ז – י"ז

לֹא-תִסְגִּיר עֶבֶד אֶל-אֲדֹנָיו אֲשֶׁר-יִנָּצֵל אֵלָיךְ מֵעַם אֲדֹנָיו: עִמָּךְ יָשֵׁב בְּקִרְבְּךָ בַּמָּקוֹם אֲשֶׁר-יִבְחָר בְּאַחַד
שְׁעָרֶיךָ בְּטוֹב לוֹ לֹא תוֹנֶנּוּ.

Devarim 23:16-17

You shall not turn over to his master a slave who seeks refuge with you from his master.
He shall live with you in any place he may choose among the settlements in your midst,
wherever he pleases; you must not ill-treat him.

In recognizing slavery as a legitimate circumstance, the Torah does not forbid the practice of keeping slaves (see for example Shemot 21), and guides a master's treatment of his slaves.

Thus, in a world where slavery is a familiar and accepted practice, it is surprising to discover a commandment that runs counter to that particular social order, as the Torah tells us: “You shall **not** turn over to his master a slave” (Devarim 23:16). Indeed, in the verses we have just read, there is a dimension that opposes the plain and simple justice of the system itself. The verses arouse discomfort as in them the slave is defined in terms of his relationship to “his master,” in other words, there is no objection regarding the very connection of slavery the binds a slave and his master, and yet there is a commandment not to return a slave to this very bond. It is this surprising internal contradiction that I would like to address.

The verses seemingly refer to a situation where a slave has fled from his master to another person, that *other* person being the one this verse addresses. In this circumstance, two commandments are to be found in this verse—the one a positive commandment “thou shalt” and the other a negative commandment “thou shalt not.” The negative commandment is to not hand over the slave to his master. Although there is perhaps in the implicit passivity of the commandment the creation of an injustice toward the slave’s master, the intended addressee is asked not to respond, in a certain sense even to ignore.

The word “*yinatzei*” (translated here as “who seeks refuge”) in the verse is not entirely clear; it is possible that it shows that in the act of escape there is a dimension of rescue, and perhaps it also implies that this lack of extradition means the safeguarding of this rescue.

The positive commandment is how the fugitive slave must be allowed to live following his flight: first as part of and an equal in society, “He shall live with you.” Secondly, in freedom: “in any place he may choose” (and here the comparison between the slave and God is apt, as both are awarded existence “In a place of [his] choosing”), and thirdly, in comfort and without others taking advantage of his weakness: “you must not ill-treat him.”

The interpretive tradition expands upon and specifies the parameters of the positive commandment:

ספרי דברים פרשת כי תצא, פסקה רנט

'בקרבך', ולא בספר. 'במקום אשר יבחר', במקום שפרנסתו יוצאה. 'באחד שעריך', ... כשהוא אומר 'באחד שעריך' שלא יהא גולה מעיר לעיר. 'בטוב לו', מנוה הרע לנוה היפה. 'לא תוננו', זו הונית דברים.

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“Among your settlements” (Devarim 23:17)—this implies that he shouldn’t wander from city to city. “Where ever he pleases” (Devarim 23:17)—that is, from a poor area to a fine area. “You must not ill-treat him” (Devarim 23:17)—with verbal oppression, in particular.

Enumerated in the Tannaitic reading, from the period of the Mishnah, is the way in which the fugitive slave must be accepted and the conditions of the life that he must be allowed to lead: he must be accepted in such a way that he will not live alone or on the margins of the community; he must be permitted to conduct his life in a permanent place, where he will find a living, and that will be better than the place he fled, and he must not be taken advantage of. This interpretation expands upon what is said in the verse itself and makes it more specific.

This elaboration though leaves us with the question at hand: how from a way of thinking that allows slavery, is one to understand the prohibition against the return of a runaway slave to his master?

Ridding the uncomfortable

In the interpretation of the verse's negative commandment, "You shall not turn over to his master a slave," the Tannaitic interpretation confines the case to specific circumstances only. Thus, there is another understanding of the case described in the verse, a situation in light of which the prohibition against returning a slave to his master is understandable:

ספרי דברים פרשת כי תצא, פסקה רנט

'לא תסגיר עבד אל אדניו', מיכן אמרו המוכר עבדו לגוים או לחוצה לארץ יצא בן חורים....

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"You shall not turn over to his master a slave" (Devarim 23:16). On this basis, they taught: One who sells his slave to gentiles or [to an owner] beyond the Land—the slave goes forth a free person.

The *midrash* offers an interpretation wherein at issue is not a runaway slave who has fled his master, but a slave who is transferred, sold, from one master to another from one slavery situation to another of a different kind. It is possible that at issue is a slave whose Jewish master sells him to a gentile, or alternatively, a slave whose master lives in the land of Israel and sells him to a master whose place of residence is outside of the Land.

The verse can tolerate these readings because it does not speak explicitly of flight—it is only hinted at by the word "*tasgir*" (turn over). Therefore, while one could understand the verse as dealing with *any* slave who runs away for *any* reason whatsoever, in fact, in the *midrash* we find a significant narrowing of the meaning of the *halakbah*.

Another interpretation arises in the *Sifrei* according to which the slave indeed ran away, however, he fled for reasons of *avodah zarah* (idol worship) to the camp of the *Shekhinah*, God. From this, the prohibition against turning him over becomes clear:

ספרי דברים פרשת כי תצא, פסקה רנט

דבר אחר — 'לא תסגיר עבד אל אדניו', בגוי שניצל מעבודה זרה הכתוב מדבר

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“You shall not turn over to his master a slave” (Devarim 23:16)—this verse concerns a gentile seeking refuge from idol worship.

Here once again we see the narrowing of the case in the verse through a definition of the circumstances.

Thus, all the Tannaitic readings that we have examined have narrowed the verse to situations where the slave was transferred from particular circumstances that are perceived as positive, to other circumstances that are perceived as negative. The prohibition against returning the slave is interpreted as deriving from these circumstances. Moreover, the Tannaitic interpretation suggests a definition for the word “*yinatzeḥ*,” and explains how the slave is rescued. It also offers an explanation for the demand not to intervene on behalf of the slave’s master, an explanation stemming from the values of the system itself: living in the land of Israel and living under the wings of the *Shekhinah*, God. Thus, by narrowing the definition of the verse, the inner conflict identified at the start is now resolved.

Listening to the discomfort

Another interpretive avenue is suggested precisely by preserving the discomfort that arises from these verses and confronting it. Rather than blurring the contradiction and looking for solutions to it, let’s try to listen to the voices that arise from between the lines and suggest three such “listens”:

Firstly, I would like to suggest that the verse in our *parashah* on the one hand exists within a space where slavery is deemed permissible and on the other hand expresses mixed, complex and critical feelings regarding the phenomenon.

Moreover, the verses reflect a viewpoint according to which people are not property, even if they are slaves. Support for this assertion can be found in the language of the verses which use the verb “*lehasgir*,” turn over, and not “*lehashiv*,” return, which is used in contexts of property also in this week’s *parashah*.

Thirdly, with this understanding of the verses, the pairing of the words “*me-im adonav*” (from his master) becomes clearer. It is possible that the verse seeks to suggest that the relationship between master and slave does not define the slave in a substantive way. He is a slave only when he is in the context of his “master,” whereas in different circumstances and in the context of other relationships he is not defined in this way, but as a free person. And perhaps this is true regarding relationships in general: they define the nature of the relationship between the partners of that but not the essence of the people involved in it.

And one last thought in conclusion:

These verses testify to a phenomenon that must be taken into consideration while reading and listening to the verses of the Bible: sometimes the verses subvert their own basic assumptions. Thus we are confronted with a surprising, complex and multifaceted Torah that challenges the reader at every turn and in every generation. This is a Torah that demands the attention and sensitivity of its readers as well as the constant search for hidden meanings, even those embedded between the words and the verses.