



**Parashat Mishpatim:
Eved Ivri in the Torah
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The laws of the *eved ivri*, the Hebrew slave, are presented in three separate sources in the Torah: Shemot 21:1-6 (this week's parasha, Parashat Mishpatim), Devarim 15:12-18 (Parashat Re'eh) and in Vayikra 25:39-55 (Parashat Behar). Each of these three presentations is unique from the other two. The laws codified in Parashat Mishpatim and Parashat Re'eh are similar to each other but very different from the laws presented in Parashat Behar. An example of a difference between these three sections is the mechanism described by the Torah for the release of an *eved ivri* from servitude. In parashat Mishpatim the Torah tells us:

If thou buy a Hebrew servant, **six years he shall serve**; and in the seventh he shall go free for nothing (Shemot 21:2).

In Parashat Re'eh the Torah teaches this same law in a slightly different way:

If thy brother, a Hebrew man, or a Hebrew woman, be sold unto thee, **he shall serve thee six years**; and in the seventh year thou shalt let him go free from thee (Devarim 15:12).

However, in the Parashat Behar the Torah makes no mention of the six year time limit on slavery. Instead we are taught:

And if thy brother be waxen poor with thee, and sell himself unto thee, thou shalt not make him to serve as a bondservant. As a hired servant, and as a settler, he shall be with thee; **he shall serve with thee unto the fiftieth year of jubilee cycle** (Vayikra 25:39-40).

In Parashat Mishpatim and Parashat Re'eh the *eved ivri* is set free after six years of servitude, whereas, in Parashat Behar there is no mention of a six year time limit and the *eved ivri* is expected to work until the end of the fifty year of the Jubilee cycle. Furthermore, the laws of the Canaanite maidservant and *retzia* (the ceremony performed for an *eved ivri* who doesn't want to leave the servitude of his master after six years) are taught in Parashat Mishpatim and Parashat Re'eh but are absent from Parashat Behar. The law that a master must give his slave of his property upon release is taught only in Parashat Re'eh.

The Torah often teaches a particular law in more than one place and the differences between the relevant sources need to be resolved. The apparent contradiction in the *eved ivri* laws is addressed by a distinction made by Chazal in Kiddushin 14b and codified by the Rambam in his first halacha of Hilchot Avadim, the laws concerning slavery and slaves. There, HaRambam makes a distinction between two different types of Hebrew slaves and each of two different slaves is attributed to a

different source in the Torah:

The *eved ivri* described in the Torah is a Jew who is either sold by Bet Din against his will or willingly sells himself into slavery. A robber who can't afford to pay back what he stole is sold into slavery by Bet Din...as it is written: 'If thy brother, a Hebrew man, or a Hebrew woman, be sold unto thee...' (Devarim 15:12). Regarding one who sells himself into slavery, the Torah gives permission for a severely impoverished person to sell himself as it says: 'And if thy brother be waxen poor with thee, and sell himself unto thee...' (Vayikra 25:39).

This distinction made by Chazal attempts to explain why the Torah presents the law of *eved ivri* one way in Parashat Re'eh and Parashat Mishpatim and a different way in Parashat Behar. The differentiation between two different types of slaves implies that the multiple presentations of the *eved ivri* laws are not contradictory but complementary since they are describing different types of *eved ivri* type servitude. The laws associated with a slave who is sold by Bet Din are found in Parashat Mishpatim and Parashat Re'eh and the laws associated with a slave who sells his or herself into slavery are found in Parashat Behar. The verses quoted by HaRambam when he codifies the distinction between these two types of slaves reflect this duality. When bringing a verse from the Torah to source the type of slave who is sold into slavery by Bet Din, he takes a verse from Parashat Re'eh. When HaRambam brings a verse from the Torah as a source for the type of slave who sells his or herself into slavery, he takes a verse from Parashat Behar.

HaRambam goes on to describe the different laws that govern each of these slaves. HaRambam enumerates five laws specific to a slave sold by Bet Din that do not apply to an individual who sells his or herself into slavery. These five laws are: 1) The slave can only be sold for a maximum period of six years, 2) if after six years the slave wants to stay as a slave to his master he must perform the ceremony of *retzia*, 3) the slave can be given a Canaanite maidservant by his master, 4) the slave cannot be sold to a gentile, and 5) the master must give his slave property upon the slave's release from slavery (3:12).

Chazal's distinction between two different types of slaves partially explains why the Torah saw it necessary to record different versions of the *eved ivri* laws. However, it does not explain why the Torah saw fit that a slave sold by Bet Din should be governed by unique laws distinct from a slave who sells his or herself into slavery. Additionally, it is not evident how Chazal came to this seemingly arbitrary distinction. How does the Torah indicate that the laws of Parashiyot Mishpatim and Re'eh should be specifically applied to a slave sold by Bet Din and that the laws of Parashat Behar should be applied to an individual who sells his or herself into slavery?

Rav Mordechai Breuer, in his introduction to his book *Pirkei Moadot*, addresses the question of the multiple *eved ivri* sections in the Torah and provides an alternative understanding of the repetition. Rav Breuer explains that each of the three sections is unique and necessary, however this article will only focus on the distinction that he makes between Parashiyot Mishpatim and Re'eh on the one hand and Parashat Behar on the other¹:

The laws described in Parashat Re'eh are different from the laws described in Parashat Behar, not just in their details but also in their objective. The reason for freeing a slave is clearly stated in Parashat Behar: 'For unto Me the children of Israel are servants; they are My servants whom I brought forth out of the land of Egypt...' (Vayikra 25:55). In other words, Bnei Yisrael are not allowed to be sold as slaves because from the day that they left Egypt because they are servants

¹ This categorization is reasonable, because as we said, the presentations of *eved ivri* in Parshiyot Mishpatim and Re'eh are similar.

of Hashem and they cannot also be servants of man. In Parashat Re'eh, an entirely different reason is given: 'And thou shalt remember that thou wast a bondman in the land of Egypt, and the Lord thy God redeemed thee; therefore I command thee this thing today' (Devarim 15:15). Meaning, that since the master of the slave was once a slave himself in Egypt, he understands what it means to be a slave and he must treat his slave in that manner that Hashem treated him, eventually freeing his slave like Hashem freed him.

According to Rav Breuer the multiple sections of the Torah presenting the laws of *eved ivri* are necessary to capture the multifarious nature of those laws. Rav Breuer claims that the Torah presents the laws of *eved ivri* in two separate ways because each presentation is directed at a different audience. The Mishpatim/Re'eh presentation is directed at the slave owner and the Behar presentation is intended for the slave himself. Rav Breuer argues that whenever an individual is in servitude, two distinct motivations guarantee his eventual redemption. Firstly, all Jews are servants of Hashem and therefore, may never be enslaved by a man indefinitely. The Torah requires that all slaves be liberated from slavery every fifty years to remind us that the Torah does not recognize permanent human servitude. Secondly, the Torah requires that all owners of slaves free their slaves after seven years of work just like Hashem freed the Jewish people from their slavery in Egypt. This obligation does not derive from any inalienable right of the slave to be free, but is a halachic obligation on the slave owner to treat his slave in a conscientious way. Additionally, the slave owner must perform the *retzia* ceremony if his slave does not want to leave after six years. The owner is permitted to give a Canaanite maidservant to his slave, and is prohibited against selling his slave to a gentile. Lastly, when the owner sends his slave into freedom, he must send him off with gifts just like when Hashem took Bnei Yisrael out of Egypt with riches.

Rav Breuer claims that this understanding of the various *eved ivri* sections of the Torah can explain a difficult passage in HaRambam's Hilchot Avadim: "An individual who sells his or her self to a gentile...is only set free at the fiftieth Jubilee year" (2:6). According to HaRambam, a Jew who is sold as a slave to a Jewish master is only worked for six years whereas a Jew who is sold to a gentile master is worked until the fiftieth year of the Jubilee cycle. How could it be that the Torah permits a gentile master to subjugate a Jewish slave longer than any Jewish master? If we apply Rav Breuer's explanation of the Torah's *eved ivri* sections, this question goes away. The obligation to free slaves every fifty years is described in Parashat Behar and derives from the Torah's general attitude toward the servitude of the Jewish individual. This attitude is applicable and relevant whether the Jew is in the service of another Jew or in the service of a gentile. The obligation to free slaves after six years is described in Parashat Mishpatim and Parashat Re'eh and derives from the compassion expected by Hashem of the Jewish slave masters whom Hashem took out of Egypt. Therefore, since gentiles were not a part of the Jewish exodus from Egypt, they are not obligated to free their Jewish slaves every six years like Jewish slave masters.

Rav Breuer's approach to these sections of the Torah is characteristic of his general approach toward seemingly repetitive passages. This methodology of treating each section as an independent literary unit, called *shitat habichinot*, is a powerful way to explain the motivation and relevance of passages in the Torah that appear to be repetitive or contradictory. HaRambam's approach to these sections, based on the Chazal in Kiddushin, is halachic in nature and fundamentally dissimilar from the literary approach taken by Rav Breuer. However, in my opinion, Rav Breuer's approach can offer insight into what motives Chazal's legal distinction.

Earlier we asked: why should a slave sold by Bet Din be afforded five unique laws that are denied to the slave who sells his or herself into slavery? We can suggest that different laws are necessary because these two ways of arriving at servitude imply two distinct manifestations of the

institution of *eved ivri*. When the legal system condemns a robber to slavery so that he can repay the debt incurred by his theft, *eved ivri* servitude takes the form of a punishment or reprimand. When an individual elects to sell his or herself into slavery, the slavery functions as an escape from the financial pressures and responsibilities of living as a free individual. In the context of *eved ivri* as a form of punishment, the Torah puts forth laws to enforce the humane treatment of such a slave to ensure that no abuses are suffered by the slave at the hands of his master. Towards this end, the Torah directs the sections of Parashat Mishpatim and Parashat Re'eh at the slave master and requires that he free his slave after six years (unless the *retzia* ceremony is performed), that he provide his slave with a Canaanite maidservant, that he send away his slave with gifts and that he not sell his slave to a gentile master. On the other hand, when an individual willingly sells his or herself into slavery, the Torah is less concerned with the abuses the slave might endure at the hands of his master and is more concerned with an attitude of indifference and the shirking of responsibility on the part of the slave. The Torah's message to those who choose to sell themselves into slavery is that as servants of Hashem, full subjugation to another man cannot be permanent. Hence, in Parashat Mishpatim and Parashaht Re'eh, which address the laws of a slave who is sold into slavery, the text is directed at the slave owner so that he doesn't mistreat his slave. However, Parashat Behar, which addresses the laws of a slave who sells his or herself into slavery, is directed at the slave so that he or she understands that servitude is temporary.

In summation, we have used the distinction made by Chazal and codified by HaRambam along with Rav Breuer's reading of the *eved ivri* sections in the Torah to suggest that the Torah harbors two concerns regarding the institution of slavery. One concern is that slave owners will be abusive and cruel to their slaves, so the Torah gives us strict laws to ensure that such mistreatment will not happen. The second and opposite concern is that the institution of slavery will become overly attractive to individuals in dire straits and will tempt people to sell themselves as a shirking of social responsibility. Toward this concern the Torah reminds us that Hashem took us out of Egypt to be slaves of Hashem and not slaves of men and such servitude can never be permanent.