

Lesson 33 – Perek 23 - Slavery

Background:

The laws we learned in the previous two lessons are straightforward and easy to comprehend. Everyone with common sense can appreciate the need to protect or poor and to prevent harm to animals. However, some laws are more difficult for us to understand such as slavery, Ben Sorer uMoreh, עיר מקלט, and some of the war regulations. In order to better appreciate these laws it is helpful to read the law codes of other societies in the ancient Near East. The most famous of these is the Hammurabi Code.

Activity:

1. Ask students to discuss some of the laws in the Mishpatim section that they do not understand or that do not seem ethical. You may want to refresh their memories by listing a few different laws. See if anyone has any ideas about why certain laws might seem strange to us but actually do make sense upon closer analysis. Make sure to spend a few minutes discussing laws of slavery. The American experience has taught us well about the evils of slavery – yet the Torah allows it. Any ideas?

2. Introduce students to the Hammurabi code. Discuss its discovery, where and when it was written, what it contains, and why it is significant.

In 1901, French archaeologists discovered an eight foot tall black pillar in the city Susa in modern Iran. The pillar is inscribed with 4000 lines of cuneiform script in the Akkadian language which modern scholars have been able to translate. The text is a copy of a list of about 300 laws promulgated by King Hammurabi of Babylon around 1800BCE. Some identify Hammurabi with Amraphel mentioned in Beresheet 14:1 (not similarity of consonants). This is significant because we now have a list of laws that predates Matan Torah. By comparing these laws with those of the Torah we can better appreciate what the Torah changed and improved. A complete text of the code can easily be found on the web (just search for Hammurabi in Google).

3. Have students fill out this worksheet in class. They may need some hints to find the parallel pesukim.

Parallel Laws Between Hammurabi and Debarim
For each citation from the Hammurabi Code below, look for a parallel law in the Mishpatim section of Sefer Debarim. Indicate in which ways the laws are similar or different.
Death Penalty
3. If a citizen commits perjury before the city assembly in a case involving the death penalty, then the sentence is death.
14. If a citizen kidnaps and sells a member of another citizen's household into slavery, then the sentence is death.
Monetary Law
94. If bankers use a light scale to measure the grain or the silver that they lend and a heavy scale to measure the grain or the silver that they collect then they shall forfeit their investment.
Slavery
15. If a citizen helps state slaves or household slaves to escape then the sentence is death.
16. If a citizen harbors slaves who have run away from the state or from a household, and if the citizen disobeys a court order to extradite them, then the sentence is death.
17. If anyone finds runaway male or female slaves in the open country and bring them to their masters, the master of the slaves shall pay him two shekels of silver.
18. If the slave will not give the name of the master, the finder shall bring him to the palace; a further investigation must follow, and the slave shall be returned to his master.
19. If he hold the slaves in his house, and they are caught there, he shall be put to death.
20. If the slave that he caught runs away from him, then he shall swear to the owners of the slave, and he is free of all blame.
282. If a slave say to his master: "You are not my master," if they convict him his master shall cut off his ear.
Vicarious Punishment
229. If a builder builds a house for some one, and does not construct it properly, and the house which he built fall in and kill its owner, then that builder shall be put to death.
230. If it kill the son of the owner the son of that builder shall be put to death.

Parallel Laws Between Hammurabi and Debarim

Death Penalty

3. If a citizen commits perjury before the city assembly in a case involving the death penalty, then the sentence is death.

דברים פרק יט

(יט) כי יקום עד חמס באיש לענות בו סרה: (יז) ועמדו שני האנשים אשר להם הריב לפני ידוד לפני הכהנים והשפטים אשר יהיו בימים ההם: (יח) ודרשו השפטים היטב והנה עד שקר העד שקר ענה באחיו: (יט) ועשיתם לו כאשר זמם לעשות לאחיו ובערת הרע מקרבך: (כ) והנשואים ישמעו ויראו ולא יספו לעשות עוד כדבר הרע הזה בקרבך: (כא) ולא תחוס עיניך נפש בנפש עין בעין שו בשו יד ביד רגל ברגל:

14. If a citizen kidnaps and sells a member of another citizen's household into slavery, then the sentence is death.

דברים פרק כד:

כי ימצא איש גיב נפש מאחיו מבני ישראל והתעמר בו ומכרו וימת הגיב והוא ובערת הרע מקרבך:

Monetary Law

94. If bankers use a light scale to measure the grain or the silver that they lend and a heavy scale to measure the grain or the silver that they collect then they shall forfeit their investment.

דברים פרק כה

(יג) לא יהיה לך בכיסך אבן ואבן גדולה וקטנה:
(יד) לא יהיה לך בביתך איפה ואיפה גדולה וקטנה:
(טו) אבן שלמה וצדק יהיה לך איפה שלמה וצדק יהיה לך למען יאריכו ימין על האדמה אשר ידוד אלהיך נתן לך:

Slavery

15. If a citizen helps state slaves or household slaves to escape then the sentence is death.

16. If a citizen harbors slaves who have run away from the state or from a household, and if the citizen disobeys a court order to extradite them, then the sentence is death.

17. If anyone finds runaway male or female slaves in the open country and bring them to their masters, the master of the slaves shall pay him two shekels of silver.

18. If the slave will not give the name of the master, the finder shall bring him to the palace; a further investigation must follow, and the slave shall be returned to his master.

19. If he hold the slaves in his house, and they are caught there, he shall be put to death.

20. If the slave that he caught runs away from him, then he shall swear to the owners of the slave, and he is free of all blame.

דברים פרק כז

(יז) לא תסגיר עבד אל אדניו אשר ינצל אליך מעם אדניו:
(יז) עמן ישב בקרבך במקום אשר יבחר באחד שעריך בטוב לו לא תוננו:

282. If a slave say to his master: "You are not my master," if they convict him his master shall cut off his ear.

דברים פרק טו

(יז) והיה כי יאמר אליך לא אצא מעמך כי אהבך ואת ביתך כי טוב לו עמך:
(יז) ולקחת את המרצע ונתתה באזנו ובדלת והיה לך עבד עולם ואף לאמתך תעשה כן:

Vicarious Punishment

229 If a builder builds a house for someone, and does not construct it properly, and the house which he built fall in and kill its owner, then that builder shall be put to death.

230. If it kill the son of the owner the son of that builder shall be put to death.

דברים פרק כז

(יז) לא יומתו אבות על בנים ובנים לא יומתו על אבות איש בחטאו יומתו:

4. Go through each example and discuss the similarities and differences.

The two parallels relating to the death penalty show much similarity between these two law codes. The Torah requires two witnesses, while Hammurabi only one, and the Torah elaborates more but the basic law is the same. The second law is the same almost word for word. However, these two similarities are not representative of a general similarity between the two law codes regarding the death penalty. The Hammurabi code awards the death penalty even in many cases of theft – which has no parallel in the Torah. The Hammurabi code also differs significantly from the Torah in its use of trial by ordeal (the suspect is thrown into the river and if he/she survives then he/she is innocent) and various types of corporeal punishment. The Hammurabi code also assumes a society of three classes (aristocrats, middle class, and slaves) and legislates different laws for each class. The Torah very rarely uses ordeal or corporeal punishment and emphasizes one law for all.

The Hammurabi codes provides a penalty for using false measures. The Torah, however, goes beyond this and gives a categorical prohibition to even own false measures so that one will never be tempted to use them.

The laws concerning slavery are significantly different. The Hammurabi code requires that a runaway slave be returned to the master and if anyone helps a slave hide in his house then that person is put to death. The Torah requires exactly the opposite. One is prohibited from returning a runaway slave and must instead be given shelter within the city. Next, the Hammurabi code requires that a slave's ear be cut off if he denies being a slave. The Torah, on the other hand, requires piercing the ear (certainly less gruesome) if the slave insists on remaining a slave after his term. Again these laws are exactly the opposite. Babylonian law punishes the slave for trying to be free; the Torah punishes him for deciding to remain a slave. The Tosefta brings out this point in explaining why the ear is pierced in this case:

תוספתא מסכת בבא קמא פרק ז הלכה ה

ורצע אדניו את אזנו במרצע וכי מה נשתנה און לרצע מכל איברין לפי ששמעה מהר סיני כי לי בני ישראל עבדים ופרק ממנו עול שמים והמליך עליו עול בשר ודם לפיכך אמ' הכת' תבוא און ותרצע שלא שמרה מה ששמעה.

All Jews are slaves to God and so we have nobody else has the right to enslave a Jew. (The Torah's laws about treatment of non-Jewish slaves are also a great improvement over other laws codes – but that is not directly relevant here.) Basically, the Torah is against slavery. It encourages slaves to run away and discourages them from remaining slaves. But if the Torah is against slavery, then why allow it in the first place?

We must remember that in ancient society, where there was no welfare system or bankruptcy laws like we have today, if a person became very poor it could be beneficial to the person to sell himself into slavery so that he could repay debt and have his basic needs taken care of by his master – at least temporarily. We see that Sefer Debarim thinks of slavery as a temporary measure to help a person get back on his feet because after his six year term as slave, the master must provide him with a severance package to help him get started on his own (see 15:12-18). The Torah is against slavery but also recognizes that in the structure of ancient society, slavery was necessary in certain cases. Instead of abolishing slavery right away, which would cause harm to some very poor people who could benefit from it, the Torah instead redefines the status of a slave to be more like a worker. He is not hired for life, he gets severance pay, he must be treated well, and can not be returned if he escapes.

The final comparison relating to vicarious punishment will be discussed in the next lesson.

Additional Discussion:

It has taken the civilized world a very long time to catch up with the advanced ethics of the Torah. As recently as 1850, U.S. Congress passed the Fugitive Slave Law. Only four congressmen voted against the measure. The law stated that in future any federal marshal who did not arrest an alleged runaway slave could be fined \$1,000. People suspected of being a runaway slave could be arrested without warrant and turned over to a claimant on nothing more than his sworn testimony of ownership. A suspected black slave could not ask for a jury trial nor testify on his or her behalf. Any person aiding a runaway slave by providing shelter, food or any other form of assistance was liable to six months' imprisonment and a \$1,000 fine. Those officers capturing a fugitive slave were entitled to a fee and this encouraged some officers to kidnap free black people and sell them to slave-owners.

Even today, some people don't recognize that "all men are created equal" and in the image of God. They justify exploitation of certain groups of people based on race or nationality or use derogatory language to dehumanize others. Discuss examples from current events.