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בס"ד

Parashat Niṣabim Part I

1. Introduction

Following completion of the substantive elements of covenant protocol, Moses turns to the climactic procedure of “cutting” the covenant between G-d and Israel. He begins with a brief introduction (Deut. 29:1-8) in which he reminds the people of the extraordinary benefactions G-d had bestowed upon them the past forty years. He challenges them with his skepticism as to whether they had internalized the meaning of it all, motivating them to be more appreciative of G-d’s good will toward them and to be diligent in observing His laws.

At the start of *Parashat Niṣabim* (29:9 ff.) Moses makes the point (possibly a formality of covenant protocol) that they are all assembled – the various classes of leaders and common men along with their wives and children – “before Hashem your G-d” for the covenant-contracting ceremony. (Wives and children were required to be present and not to be merely included through husbands and fathers.) It was also necessary for “your stranger within your camp, from your woodchopper to your water-drawer” to be present. To live within Israel, resident aliens were required to swear allegiance to the G-d-Israel covenant. Although not required to fulfill most ritual and religious statutes, they were required to abandon idolatry and abide by the Torah’s civil and criminal law.

The terms here employed for contracting the covenant include various forms of the root כ-ר-ת “cut” (28:69; 29:11, 13, 24) and לְעָבְרָךְ, “to have you pass through” (29:11). Such usage reflects the ancient practice of establishing a covenant by cutting an animal into two and having the contracting parties pass between the parts. When Abraham (then Abram) requested assurance from G-d that he would have progeny who

would inherit the land, G-d instructed him to bring certain animals and birds. Abram did so and cut each animal into two, placing the halves facing each other. When heavy darkness set in, “behold a smoking oven and a flaming torch passed between these parts. On that day Hashem cut (כָּרַת) a covenant with Abram saying, ‘to your descendants I grant this land’” (Gen. 15:17-18). Since in that case G-d was making a covenantal commitment, He had a symbolic representation of His presence pass through the parts confirming the messages He was transmitting.

In Jeremiah 34, when G-d chastised the people for having violated the covenant that they had recently made with Him, He referred to “the calf that they cut into two and passed between its parts” and “those who passed between the parts of the calf” (Jer. 34:18-19).

In our case, there is no explicit mention of cutting animals and some assume that it was not done, the “cutting” and “passing” terminology being vestigial from times past. However, we cannot be sure. In the Jeremiah 34 context, the first citation that relates of the people having contracted the covenant did not include any mention of cutting animals, although we subsequently discover that they did do so. That information was only included late in the chastisement statement in an “incidental” remark seemingly employed as an oratorical flourish but unquestionably indicating that it was done.

Interestingly, at no point in our context is an actual act specified that transacted the covenant, whatever the particular procedure may have been. It appears that no extraneous act was performed to accomplish that objective. Since the people had assembled that day for the purpose of contracting the covenant and no objection was raised throughout Moses’ recitation (and he did define his declarations of retribution for

violation of their responsibilities as an oath that they were acknowledging), it is considered that they assented.

2. “And Also with Those Not Here”

In addressing the assembly, Moses emphasized the inclusiveness of the enactment being established, stipulating that it encompassed everybody in the nation, “even those not here with us this day” (Deut. 29:14). Surely this assertion does not merely refer to the sick or those unable to attend the assembly for whatever reason; they were understood to be included even without a special proviso. The statement of inclusiveness appears intended to inform the Israelites that their future progeny was included in what was being transacted. This is a concept with enormous implications.

As offshoots of their parents, nurtured and formed by them, children are beneficiaries of their parents’ efforts and expected to value their sincere and considered decisions, particularly those made with the interest of the children in mind. This is especially the case here since G-d promised that faithfulness to the covenant would provide life and welfare and greatly benefit the children. This reflects the position that G-d’s laws are righteous, and inherently proper, that is, they are consistent with conscience and common sense and essentially focused on achieving His desire for righteousness and justice in human society (as stated in Deut. 10:12-13 and elsewhere). His laws are the admiration of the nations (Deut. 4:6-8). The children should deem it a privilege to be granted the responsibility to be part of the covenant.

Accordingly, the covenant officially recognizes that the intimate bond between parent and child naturally obligates the children to fulfill the responsibilities that ensue from their parents’ laudable decision to assent to it. When the child matures, he or she is deemed to have no valid reason to reject the covenant; one who does so is seriously erring and held accountable.

Thus, Israel is a corporate entity with the covenant extending through time, enabling establishment of a “nation” of G-d in the full sense of a nation, which necessarily requires the inclusion of children.

Earlier in his discourse, while speaking of the original national covenant established almost forty years before, Moses stated: “Not with our fathers did G-d ‘cut’ this covenant, but with us, we who are here today” (5:3). But the covenant established almost forty years before was, indeed, contracted with the fathers of the contemporary generation. Because the decree associated with the sin of the spies that occurred in the second year precluded that generation from entering the land, all Israelites in Moses’ present audience had been unborn or under twenty years of age at the time of establishment of the original national covenant.

Hence, many interpret the Deuteronomy 5 statement to mean, “Not with our fathers only, but also with us.” Others understand “fathers” to refer to Abraham, Isaac and Jacob; although G-d established covenants with them that included the promise of progeny, they were commitments to individuals and not comparable to the national covenant established at Horeb. In any event, Moses states that the Horeb covenant was contracted with the present generation, most of whom could not have then been present. Some have therefore interpreted this statement to be dependent on the concept of Israel being a corporate entity, as it is referred to in our Deuteronomy 29 context.

However, it seems that when some original participants in an event are present in an assembly, even if they are only a minority and even if they had been minors at the time of the event, Moses considered it an assembly of direct participants. This is seen at another point in his discourse when he differentiates between his present audience and their children. The former, he states, had experienced G-d’s miraculous intervention – the events associated with the redemption from Egypt and the Exodus – which the latter had not (Deut. 11:2-7) and therefore have a much greater responsibility. (The corporate entity concept plays no role in that case in which the subject is the generational distinction between the present assemblage and their children.) Since the great majority of the audience to which Moses made this statement was born after most of the great events he cites it appears that it is the direct experience of the minority that justifies the terms used. A group’s personal experience includes those events at which some of its present members – from whom everybody

could hear a firsthand account – had been in attendance. Although in that passage Moses does not explicitly mention the covenant, it may imply that only a generation that had experienced G-d's miraculous intervention could accept the covenant for its progeny.

3. Deuteronomy 29:18: Regarding the Rebellious Heart

Entering the covenant included a commitment to accept the oath (אָלָה) that carries the curse for violation; indeed, in the clauses that refer to “cutting” the covenant, אָלָה and בְּרִית (“covenant and oath”) are joined together as a unit (29:11, 13; see v. 20). The curses mentioned here seem to refer to those of the previous chapter.

During the ceremony Moses cautions the individual (as well as the clan and tribe) who privately refuses to make the commitment to Hashem and decides in his heart that he will go his own way. In the first part of verse 18 Moses states: וְהִנֵּה בְּשִׁמְעוֹ אֶת דְּבַרֵי הָאָלָה הַזֹּאת וְהִתְבַּרַךְ בְּלִבּוֹ לֵאמֹר שְׁלוֹם יִהְיֶה לִּי כִּי פִי בִשְׁרִירוֹת לְבִי אָלַךְ (“Upon hearing the terms of this oath he assures himself in his heart that ‘things will be well for me though I go in the willful ways of my heart’”). The last part of the verse reads לְמַעַן סְפוֹת הָרְנוּהָ אֶת הַצְּמִאָה. What do these latter words mean?

Targum Onqelos and Targum Jonathan, followed by Rashi, take לְמַעַן here as meaning “to the effect of” and interpret the clause to be Moses’ comment on the decision the sinner makes in his heart. Moses declares that such a violator will cause G-d to add (*sefot*) that individual’s unintentional transgressions (which He otherwise would have overlooked) to his intentional ones for retribution. Although not usually culpable, unintentional sins do reflect a negligent disposition and are sins that could be punished. Rashi explains that רְנוּהָ, meaning “moist,” here denotes “drunk,” and therefore refers to what is done unintentionally, while צְמִאָה, “thirsty,” refers to what is done in sobriety with conscious intent.

Rashbam, following the general outline of this approach, takes “moist” to refer to what a sinner did while satiated (not needy, therefore more sinful) and

“thirsty” to refer to a sinner’s violations from hardship (less serious). These appear to be forced interpretations.

The NJPS also takes *lema’an* in the sense of “to the effect of,” and views the clause as being Moses’ comments that what this rebel has decided to do would result in “the utter ruin of moist and dry alike” (סְפוֹת הָרְנוּהָ אֶת הַצְּמִאָה). The word אֶת has the meaning of “and” or “with,” while “moist” and “dry” could very well mean the “fertile” as well as the “arid.” Or they may stand for “righteous and wicked,” comprising a merism, meaning that the punishment of the sinners will cause all to be destroyed. “Moist and dry” as symbols for the righteous and wicked is in line with well-attested biblical imagery (Isa. 58:11; Jer. 17:6-8; Ezek. 19:12-13; Ps. 1:3-4). *Sefot* surely may mean “sweep away” or “destroy” and, as it happens, is used in such a manner with reference to righteous and wicked alike in Abraham’s questioning G-d’s intention to destroy Sodom and Gomorrah. He asks: הֲאֵף תְּסַפֶּה צְדִיק עִם רָשָׁע (“Will You sweep away righteous with wicked?” [Gen 18:23]).

However, is it likely that Moses opened a window on the sinner’s inner thinking only to have that individual inform us that he decided to sin and believes that things will nevertheless be well for him? Do we not expect such a statement to provide insight into his rationalization? Otherwise, why should such a declaration be quoted?

Some commentators – not necessarily connected to their translation of *lema’an* – do interpret the וְהִתְבַּרַךְ בְּלִבּוֹ clause as containing what may partially be the sinner’s rationalization. Judah Halevy (cited by Ibn Ezra), translated it literally, meaning, “he blesses himself in his heart,” pronouncing a protective “religious” utterance, as superstitious people do when they hear of a calamity and whisper, “Not upon me.” Such an individual may believe that through some mystical force or process his words will be invested with potency and counteract the effects of the oath of the covenant, saving him from any negative consequences. Viewing the sinner more rationally, the Ramban interprets his statement as meaning that by refusing to accept the oath he believes he will be exempt from associated retribution.

In any event, it seems unlikely that the *lema'an* in our context has the meaning of “to the effect of,” thereby introducing a statement in that verse (18) of major and widespread calamity (“to the utter ruin of moist and dry alike,” as the NJPS has it). The statement of retribution to the sinner appears to begin in the following verse: “Hashem will not forgive him, for then Hashem’s anger and passion will rage against that man and there shall settle upon him all the curse that is written in this book and Hashem shall blot out his name” (v. 19).

The widespread punishment and devastation that are depicted in the following verses (v. 20 ff.) move beyond that of the individual sinner of verse 18. They come about when the context changes to the tribe: the transgressing tribe will be singled out from the other tribes of Israel for retribution. This is in accordance with what is mentioned in verse 17: “... lest there be among you a man or woman or clan or tribe whose heart is turning away this day from Hashem.” Verses 21-27, which speak of intensification of the punishment, either continue to refer to the tribe mentioned in verse 20 or to the possibility that the whole nation will sin. Although the change from one category to another is not explicit, those verses are speaking to a group, especially as sinners are mentioned in plural in verses 24-25.

Thus, it does not appear likely that לְמַעַן סְפוֹת הַרְרָה אֵת הַצְּמִיחָה refers to retribution of widespread calamity that results from the individual sinner.

It appears preferable to take that clause, as some other commentators do, as the conclusion of Moses’ quotation of what the sinner says in his heart. Accordingly, *lema'an* should be translated in accordance with one of its other meanings: “in order,” “so that” or “because.”

Saadia interpreted the *lema'an* clause as describing the sinner elaborating on his determination to fulfill his cravings. He believes he will be fine when he follows the dictates of his heart, *lema'an*, so that with the “moist” (his indulgences) he will sweep away his “thirst” (his wants). He will fulfill his heart’s desires. However, the sinner would not then be revealing much more of his thinking with the continuation of his

statement. Furthermore, the symbolism is subjective and strained.

Ibn Janah (cited by Ibn Ezra) understood the *lema'an* clause as the sinner’s explanation as to why he believes it will be well with him when he follows his heart’s desires. It is, he tells himself, because ultimately the well-watered and the parched will be swept away together. He believes that the destiny of the righteous and wicked will be the same. He denies the reality of divine reward and punishment for the individual. Ibn Ezra rejects this interpretation because the sinner would not be able to say וְשָׁלוֹם יִהְיֶה לִי (“It will be well for me”) if he believes that in any event he ultimately will be swept away. It can only ultimately be well for any individual if G-d provides him or her a positive outcome. However, in Ibn Janah’s defense, we could interpret the sinner to mean that he doesn’t care for any higher level goal; he believes he can live life the way he chooses and not ultimately be accountable for his actions.

Ibn Ezra himself interpreted the sinner’s rationalization as based on the belief that the curses are directed to the nation, not the individual. Ultimately one fate will befall all the members of a region or nation. In addition, the sinner also believes that the many righteous people will save the individual wicked person, such as himself. He takes *sefot* as from the root “adding” (Isa. 30:1; Jer. 7:21), meaning that the watered will have abundant moisture (that is, merit) to provide for the parched.

Deciding between the various interpretations takes on added significance given that they reflect what surely have ever been some of the most serious rationalizations for evildoing. This would be Moses’ only example of the sinner explicitly elucidating his pernicious thought process.

Ibn Janah’s rendering of סְפוֹת הַרְרָה אֵת הַצְּמִיחָה as “the righteous and the wicked will be swept away,” receives support from the Abraham context. There, in addition to the fact that Abraham used a similar clause with a similar meaning – הֲאֵפִי תִסְפֶּה צְדִיקִים עִם רָשָׁע – (“Will You sweep away righteous with wicked?” [Gen 18:23]) – there are several other striking similarities with our passage, indicating literary linkage. Abraham was talking about the people of Sodom (and

Gomorrah). In our context, Moses' portrayal of the devastation that will result from transgression explicitly equates it with that of Sodom and Gomorrah (Deut. 29:22). The two devastations, unique in their descriptions, resemble each other. The distinctive word גְּפָרִית (sulfur) appears in both (Gen. 19:24; Deut. 29:22), the only two times the word is attested in the Torah. The Genesis passage has אֵשׁ ("fire") with the גְּפָרִית while our passage has שָׂרְפָה ("burnt") in the following phrase. The root הִפַּךְ (overturned) in various forms appears twice in both contexts (Gen. 19:21, 25; Deut. 29:22 twice).

It should also be noted that a little earlier in that Genesis section the word *lema'an* is used twice in connection with the reward that will ensue to

Abraham and his progeny for faithfulness to the path of Hashem (Gen. 18:19). Such faithfulness is there contrasted in adjacent narratives with the behavior of Sodom and was cited by Hashem in explaining why He chose not to conceal from Abraham (הַמְכַסֵּה אֵנִי (מֵאַבְרָהָם) the extraordinary devastation He was planning to visit upon Sodom and Gomorrah. In our passage, in an apparent correspondence of sorts, the devastation G-d would bring about for sinning is one that would be of an astonishing nature and is described thus: "The concealed matters (הַנְּסֻתָּוֹת) are to Hashem" (Deut. 29:28). (See our comments on the latter verse in our next study, *Parashat Niṣabim Part II*).

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