

Introduction to Bible (Fall 2014)

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Class #1 (Aug. 28): Introduction

P’ Vayeishev (37:2):

אֵלֶּה תְּלֻדֹת יַעֲקֹב, יוֹסֵף בֶּן-שִׁבְעָה-עָשָׂרָה שָׁנָה הָיָה רָעָה אֶת-אֶחָיו בְּצֹאן, וְהוּא נָעַר אֶת-בְּנֵי בְלָהָה
וְאֶת-בְּנֵי זִלְפָּה, נָשִׁי אָבִיו; וַיָּבֵא יוֹסֵף אֶת-דִּבְתָּם רָעָה, אֶל-אֲבִיהֶם.

What do we have to think about when considering the Peshat in this posuk?

Definition of Peshat: What do I need to know in order for the posuk to make sense? What information am I missing that I need to understand the text? What as opposed to why.

Problem in the verse: I don't understand what the posuk is saying? Who is Yosef complaining about?
Two possibilities: 1) All the brothers, 2) or the sons of Bilha and Zilpa?

If we were writing creatively or analytically, it would be expected that we would write clearly. But sometimes in literature vague references are made and the reader is expected to determine what the principle of the subject is about.

Rashi gives a third possibility: the complaint was specifically about Bnei Leah.

Narrow definition of Peshat: determine the problems that absolutely can't be ignored. Why need to understand the Medresh Rashi quotes, understand why Rashi needed to use it, and consider other questions that come up in the posuk. Many of these questions will go beyond the narrow definition we used today.

Class #2 (Sept. 4): Rashi #1 - Use of Chazal in Peshat

Rashi:

את דבתם רעה - כל רעה שהיה רואה באחיו בני לאה היה מגיד לאביו, שהיו אוכלין אבר מן החי, ומזלזלין בבני השפחות לקרותן עבדים, וחשודים על העריות. ובשלשתן לקה. על אבר מן החי (לעיל פסוק_לא) וישחטו שעיר עזים במכירתו, ולא אכלוהו חי. ועל דבה שספר עליהם שקורין לאחיהם עבדים, (תהלים_ק"ז) לעבד נמכר יוסף. ועל העריות שספר עליהם, (להלן_לט"ז) ותשא אשת אדוני וגו':

Medresh Bereishis Rabbah 74

ויבא יוסף את דבתם וגו' ר' מאיר א' חשודים בניך על אבר מן החי, ר' יהודה א' מזלזלים הם בבני השפחות וקורין אותן עבדים, ר' שמעון א' תולים עיניהם בבנות הארץ, ר' יהודה בר' סימון א' על תליתיהון פלס ומאזני משפט לי"י (משלי_ט"א), אמר לו הקב"ה אתה אמרת חשודים הם על אבר מן החי, חייך אפילו בעת הקלקלה שוחטים הם וישחטו שעיר עזים (בראשית_ל"א), אתה אמרת מזלזלים בבני שפחות וקורין אותם עבדים לעבד נמכר יוסף (תהלים_ק"ז), אתה אמרת תולים עיניהם בבנות הארץ אני מגרה בך את הדוב ותשא אשת אדוני וגו' (בראשית_לט"ז).

We noted that if someone were to ask, What did Yosef actually complain about, we could answer that the Torah simply doesn't tell us and that information isn't important. Chazal, however, do talk about.

Bereishis Rabbah - 3 opinions in Tannaim of what Yosef complained about:

- 1) Brothers were eating Ever Min HaChai
- 2) Ogling at the girls of the land
- 3) Mistreating the Bnei HaShfachos and calling them Avadim.

What is the argument about?

First possibility: One could say Mesorah. There is a Machlokes about what the Mesorah says actually happened. Why should there not be traditions about the narrative? If this is the case, there is not

necessity to say this in the Posuk. It isn't an explanation of the text, it is a Mesorah that goes beyond the text.

Second possibility: The Midrash has nothing to do with the Posuk, because the Midrash isn't about what we are discussing. The Midrash is something else. **Rambam** in Moreh Nevuchim: Chazal made Midrashim that don't seem to fit very well with the posuk as these Midrashim are ways in which Chazal teach us Philosophical/Mussar ideals.

Third possibility: There is a difference between Peshat and Derash. However, the Derash is not disconnected from the Posuk. In some way, the Derash has something to do with what the Posuk is actually saying. What that some way is needs to be defined. **Midrash may not be Peshat, but the Midrash of the Midrash may often be relevant to the Peshat.**

Difference between Aggadeta and Halacha: You don't infer Halachik conclusions from Aggadeta.

(1) No Halachik Implications - Geonim - *When Chazal talk about Aggadah, they are not interested in Halachik conclusions. For instance, if I wrote an article in Halacha, you would assume that I am serious about it. But if I am writing a poem and the poem alludes to certain halachik realities, someone could say, this guy is a Lamdan and needs to be precise about everything. This is not necessarily the case. Since my goal is to write poetry, I don't need to be precise with the halachik implications of my statements.*

Another example: should one assume that when R. Soloveitchik writes a philosophic discourse, he is using the same analysis that he would use in a Halachik context, or that he is making a certain point and doesn't want to touch on Halachik complexities.

(2) Depends on Book - *Or maybe we can draw conclusions from Aggadah in the Bavli, but not from the Medresh. (Often the Baalei Tosafos draw Halachik conclusions from Aggadah in Talmud Bavli, as the entirety of Talmud Bavli is a cohesive unit, Halacha and Aggadah together, or because we will use Aggadah when we have no other source to go to)*

We have three proposals from Tannaim. They seem to be disagreeing with each other. The Medresh then says, R' Yehuda ben Simon says, for all three things Yosef was punished.

We can infer from this that all three views are acceptable. Often later generations want to justify all sides of an argument. Common sense - if you want to learn and are able to make a synthesis, why not.

The other inference is that according to R' Simon, Yosef is accusing Bnei Rachel and Bnei Leah, based on the fact that one of the accusations is that they were Mezalzel Bnei HaSfachos.

—> Thus Rashi says, since one of the accusations was against Bnei Rachel and Leah and there is a synthesis between the opinions, the accusations were meted out only against Bnei Rachel and Leah.

What is really happening in the Midrash? Were there various traditions that the tannaim were mentioning, are they giving Mussar, or is there something in the Posuk that is actually pointing towards these issues?

From the word BaTzon we can infer Ever Min HaChai. Why is the Posuk mentioning Btzion, just said haya Roeh. The posuk wants to communicate something but doesn't want to say it explicitly. The Medresh will make the implicit explicit.

Since the Posuk specifies the Bnei HaSfachos, it could be that his complaint was connected to them as well.

The word Na'ar implies immaturity. Yosef was displeased by his brother's behaviour towards local women. (For those who do not find this to be so convincing: way back, there was a show called Leave it to Beaver. Younger brother and older brother dynamic.)

All these points are within Mefarshim.

Another Mehalech: Maharal - the accusations are not based on the Posuk here, rather they are based on the punishments. From the end of the story we can often infer things about the beginning of the story. If A wrongs B and then B shoots A's head off, we can assume that B interprets the wrongdoing as a severe manner. This is an indirect way of operating, and requires us to think about how much Midah Kneged Midah is a feature of Biblical narrative.

Let's discuss Rashi - once Rashi has used the Midrash to explain Peshat we have to understand how the Medresh solves peshat problems. Rashi claims that he is explaining Peshat. Some mefarshim explain that Rashi doesn't always explain Pshat; just in this sugiya he is. But many of the classical Mefarshei Rashi take the view that Rashi explains Peshat throughout his work, as he himself understood Peshat.

In the 20th century, Nechama Leibowitz insisted that everything in Rashi is Peshat. The Lubavitcher Rebbe also purported such an approach.

If we operate based on this approach, due to both their stature and the opinions of earlier Mefarshei Rashi, that means that when Rashi quotes a Midrash, Rashi is not simply repeating the Medresh; Rashi is repeating it because the Medresh helps deal with Peshat problems.

If that is so, then we have to say what we said earlier. Something in the Posuk is forcing Rashi to talk. That comes back to the points that we suggested above.

Interestingly, Rashi also quotes R' Simon. Why? Balabatish: even if Rashi is a Pashtan, he quotes an extra line. We won't say this! If the trigger are certain words and allusions, then R' Simon doesn't need to be quoted, unless we say that Rashi is just quoting the rest of the Midrash because he has mentioned it already.

R. Soloveitchik liked certain Rishonim more than others - those who wrote tersely and you could be medayeik off of.

R. Chaim Solovetchik at the end of his book on Yayin Nesech: There are certain authors, Rishonim, who are fully themselves in one work rather than another work. Best of Rashi is Chumash and Shas, not Teshuvos. Best of Rambam is the Yad (R. Chaim Brisker didn't like certain Teshuvos of the Rambam, because it wasn't demonstrative of the true genius of the Rambam.) One kind of work is the paradigm of the writer's unique quality.

One other question about this Posuk. Two formulations:

Frum way: Is it possible that the sons of Yaakov did these terrible things?! Impossible. Could Yosef have accused his brothers?

Common sense way: Look, even if we aren't so Frum and don't believe that Yosef and his brothers were perfect, there is no doubt that Chazak were Frum. To say that Chazal are casually throwing around these accusations boggles the mind.

How do we create a plausible explanation to deal with these problems?

In real life, sometimes there are misunderstandings. It looked like the brothers were doing something wrong, but they weren't really.

- (1) Could also be that Bnei HaShfachos weren't mistreated but Yosef wanted to stand up for them to show that he was protecting his brothers.
- (2) They weren't ogling but Yosef thought they were
- (3) Author of Mishne LeMelech wrote Sefer called Parashat Derachim. He says that there was a misunderstanding based on a Halachik dispute. Did Bnei Yaakov have a din of Bnei Yisroel or Bnei Noach? Shechita is a matir for Jews. If an animal is shechted properly but does not die (ie. twitching) according to Halacha the animal is mutar. By Bnei Noach, the animal is still alive. The animal needs to be really dead. Another approach: there is a din of Ben Pakua - an embryo inside the mother. You shecht the mother, technically you sheathed the child as well. The fetus that emerges is edible according to Halacha and does not require shechita, even if it is alive — if they are Jews it is mutar.

If the Mishnah leMelech was correct, Ikar Chasar Min HaSefer. It is clever, but it is not Peshat in the Midrash.

Ramban:

את דבתם רעה - כל רעה שהיה רואה באחיו בני לאה היה מגיד לאביו, לשון רש"י. ואם כן למה לא הצילוהו בני השפחות, והוא אוהב אותם ומקרבן ומגיד לאביו על האחים בבזיונם. ואם נאמר שייראו מן האחים, והנה הם ד', וראובן עמהם, ויוסף עצמו, ותגבר ידם עליהם, ואף כי לא יבאו עמהם במלחמה. ועוד, כי נראה בכתוב כי כולם הסכימו במכירתו. אבל לדעת רבותינו בבראשית רבה (פד ז) על כולם היה מוציא הדבה:

Ramban disagrees that Yosef complained about Bnei Leah. If he complained about them, how was it that he was sold into slavery? The rest of the brothers could have saved him if they were still in his favour.

Could answer that other things may have estranged him. (In any case, why would we assume that Yosef was Mezalzel the Bnei HaShfachos?)

Apocrypha

Written by Jews in the Second temple period. We don't know who wrote it. Like talking Jewish Week from years ago and reading sermon - don't know who for sure wrote it and where they are coming from.

Testaments of the Patriarchs - Three brothers seem to be particularly opposed to Yosef. Shimon, Dan, and Gad.

Dan and Gad are descended from Bilha and Zilpa. There is no reason to assume that these brothers were chosen specifically. Though these are the brothers that were mentioned.

Testaments of the 12 Patriarchs - Testament of Gad, Chapters 1-2

1. The record of the testament of Gad, what things he spoke unto his sons, in the hundred and twenty-seventh year of his life, saying: *I was the seventh son born to Jacob, and I was valiant in keeping the flocks. I guarded at night the flock; and whenever the lion came, or wolf, or leopard, or bear, or any wild beast against the fold, I pursued it, and with my hand seizing its foot, and whirling it round, I stunned it, and hurled it over two furlongs, and so killed it. Now Joseph was feeding the flock with us for about thirty days, and being tender, he fell sick by reason of the heat. And he returned to Hebron to his father, who made him lie down near him, because he loved him. And Joseph told our father that the sons of Zilpah and Bilhah were slaying the best of the beasts, and devouring them without the knowledge of Judah and Reuben. For he saw that I delivered a lamb out of the mouth of the bear, and I put the bear to death; and the lamb I slew, being grieved concerning it that it could not live, and we ate it, and he told our father.* And I was angry with Joseph for that thing until the day that he was sold into Egypt. And the spirit of hatred was in me, and I wished not either to see Joseph or to hear him. And he rebuked us to our faces for having eaten of the flock without Judah. And whatsoever things he told our father, he believed him.

2. I confess now my sin, my children, that oftentimes I wished to kill him, because I hated him to the death, and there were in no wise in me bowels of mercy towards him. Moreover, I hated him yet more because of his dreams; and I would have devoured him out of the land of the living, even as a calf devours the grass from the earth. Therefore I and Judah sold him to the Ishmaelites for thirty pieces of gold, and ten of them we hid, and showed the twenty to our brethren: and so through my covetousness I was fully bent on his destruction. And the God of my fathers delivered him from my hands, that I should not work iniquity in Israel.

- Yosef complained that Gad had embezzled an animal. Sounds like Ever Min HaChai in a certain sense: could be that this story also comes from the word B'Tzon. One possibility is to understand Batzon to refer to mistreating the flock, or it could refer to Eiver Min haChai. It is clear here that there was a misunderstanding.

Why does this idea appear in an outside text? Could be that Chazal didn't adopt this view, or that the view is legitimate, yet it wasn't recorded in Bereishis Rabbah.

Medresh Lekach Tov, Bereishis Perek 37

ויבא יוסף את דבתם רעה אל אביהם. שהיה אומר לו כי בני בלהה ובני זלפה משחיתים את הצאן, ר' יהודה אומר את דבתם של בני לאה, שהיו קורין לבני השפחות עבדים. ר' שמעון אומר על כולן הוא אומר, ויבא יוסף את דבתם רעה, שהיו תולין עיניהם בבנות הארץ. לפיכך נתגרה בו אשת פוטיפר, שנאמר ותשא אשת אדוניו את עיניה (בראשית לטז):

Compiled 9th-10th century, hundreds of years after standard Midrashim, comes from the Balkans. Copies of the Testament of the 12 Tribes was not popular in the catholic western church. It flourished in the Balkan Greek orthodox areas.

The Midrash says, Yosef complained that the brothers were stealing the flock.

- Was this an old Rabbinic tradition, or the compiler of the Midrashim liked what he saw in the Testament of the 12 tribes and included it in his text...

One final point:

(לב) וישלחו את כתנת הפסים ויביאו אל אביהם ויאמרו זאת מצאנו הקרנא הכתנת בנה הוא אם לא:

Seforno:

(לב) וישלחו את כתונת הפסים. העבירוה בשלח כדי שתהיה נראית קרועה על ידי חיות רעות: After Yosef is sold, the coat is covered in blood, and the coat is sent to their father. They say to him, do you recognize if this is your son's cloak.

Problem - you send and you speak? If I am in your presence I bring. If I send it, I'm not there to ask the questions.

Could say, they send it with a messenger and there was a verbal message as well. It is not such a big problem.

Nonetheless, in the Testament of Zevulun, Zevulun says, we took the cloak, and Shimon slashed the coat. What is the point of the slashing? Could say, its effective. But is it in the posuk? What is the posuk triggered the Midrashic impulse of this comment?

Shelach is a synonymous with Cherev. The text was bothered with the both veshalchayu and derived the word, to slash with a sword. The same Peshat appears in the Seforno: They cut the cloak with a sword to make it look like it was slashed by wild animals.

We have seen that being aware of outside sources does add a certain dimension to our understanding of what Jews were thinking about in Bayis Sheini and the trajectory of the history of Parshanus.

Today's class:

- (1) General discussion about nature in Peshat
- (2) Two sources in Rashi:

The Nature of Peshat/Derash Distinction in General

In Rishonim and Acharonim, you frequently find a distinction between Peshat and Derash. Where does this come from in Chazal? The answer is a bit ambiguous. On one hand, in Gemara you have a number of occasions the phrase, *ein mikra yotzei midei peshuto* - you can't reject the Peshat of the text. In fact, the usage of this phrase in Chazal is not really identical to what the Rishonim and Acharonim say. In the Gem', this phrase is basically used to say that the meaning of the Posuk that is most generally accepted can't be ignored. Peshuto means the familiar, prevalent meaning of the text. Often, the Gem' refers to something that is actually far from Peshat to mean the more common, popular interpretation.

Does this mean that the distinction has no basis in Chazal whatsoever?

There are some indications: There are two schools of Midreshei Halacha: R' Yishmael and R' Akiva. The approach of the schools differ in noticeable respects.

Example: Hekareis tikareis hanefesh hahi - R' Akiva: Hekareis in this world, tikareis in the world to come. R' Yishmael: The Torah speaks *bloshon bnei adam*. We commonly repeat the same verb twice to make an emphasis.

Which view sounds more like Peshat? R' Yishmael. R' Akiva sounds more like a derash.

So we see that in Chazal there are orientations that we today can identify as Peshat or Derash. But the Tannaim themselves didn't use this language. Therefore, at one level they are making such a distinction, while at another level they are not. There are dissections that amount to Peshat Derash distinctions, but they are not referred to as such.

R' Elazar ben Azarya to R' Akiva - your method can be used for halacha but not narrative.

Furthermore, the Midrash discusses the idea of *Shivim Panim L'Torah*. Torah is like a hammer that smashes a rock. Just as the rock divides into different pieces, so too Torah can have many different meanings. This sounds very much like the idea of Peshat and Derash.

But again these sources don't use the terminology that we do.

We can look at this 2 ways:

- (1) The idea was invented by Rashi and Rashi has little continuity with Chazal
- (2) Or, what Rashi is building on is really in Chazal.

In our world there are people with different temperaments. Some people, frum people, would assert that everything Rishonim say is based on Chazal literature. People at the other end, academic people,

see no continuity between Chazal and Rishonim. They want to say that Judaism today has nothing in common with Judaism ages ago. Greater emphasis on change.

Often, regarding the issues that we are discussing, the answer is in the middle. We can't find exact parallelism in the Gemara, thus it is not purely continuous, but it does work with Chazal.

Rav Kook - Received a pamphlet. Commented, it is good that you are using non-Jewish wisdom, But if you are doing that, it is better to use material that is up to date rather than material that is out of date. Secondly, it is often counter productive to make nasty remarks about the founders of other religions. *Thirdly, even though we are told that Judaism is one unity, it is wrong to quote Torah, Chassidim, Rishonim, Acharonim, as if it is all one story. You need to recognize different periods, personalities etc.*

Peshat/Derash is an innovation of Rishonim that was not created in a vacuum.

R' Saadiah Gaon - 10th century Bavel. Translated Tanach into Arabic with a commentary. He faced the question, what do you include in the translation. That presses one to define what we call today, Peshat. The translation, without Chazal's elaboration. Forced him to think about method. Writes, I translate every word literally, except for 4 circumstances:

- (1) The literal meaning of the text contradicts logic. Hashem is eish lahava - Hashem is non-corporeal. Must mean Hashem's anger is like fire
- (2) The verse contradicts known knowledge. Chava was em kol chai - not true, Chava was the mother of humans only, not all living beings. Means, Chava was mother of all intelligent beings.
- (3) Verse contradicts another verse
- (4) Verse contradicts Oral Law

SG was in effect saying that certain translations are Peshat and certain translations are something else. What did he do this?

[When the word es is connected to the next word, it is written with a segol because it is a shorter tenuah. When it is a word in and of itself it is written with a tzeire]

Three possible factors:

- (1) External - SG had to debate with either non-Jews or Apikorsim. 10th century Bagdad was a city of many beliefs. All kinds of Christians, Muslims etc. If you have to defend yourself, it may be important to think through what belongs where.
- (2) At the time of SG grammar was a developed discipline. Meaning, the study of the rules of the Hebrew language came to the forefront. The study of dikduk came about when people needed to generalize, understand the nature of the language better.
- (3) It just happened that why - SG asked these questions himself. As time goes on, people begin to notice things that weren't noticed earlier. Internal realization.

Rashi - explicitly mentions the distinction between Peshat and Derash. Reasons:

- (1) Could be that Rashi needed to emphasize differences in order to respond to Christians. Can't tell a Christian, this is Oral Torah
- (2) Imminent development within the Torah. Sooner or later you start asking, what is the difference between different interpretations. Start to label different processes.
- (3) **Lubavitcher Rebbe** - Rashi needed the distinction for educational purposes. The Mishna says ben Chameish l'mikra. A 5 year old study's Chumash. 10 Lmishna. Contrary to the way a lot of school works, from 5-10 a youngster is meant to study Chumash only. If you are studying Chumash, how do you study without Torah Shbeal Peh? Peshat means, only introducing as much Oral Law as is absolutely necessary to explain the meaning of the text. That is the level for Chumash that they would learn. Thus Rashi on Chumash is intended to respond to the problems of a 5 year old. When he is reading and gets stuck, Rashi is helping the 5 year old. For the Rebbe, the answer to what is bothering Rashi, Rashi's comments are triggered by problems that would bother a 5 year old. The 5 year old is fairly bright. Does that mean that when you have answered the five year old you understand exactly what Rashi has said. This does not preclude deeper levels of understanding that hides within Rashi's commentary. The Rebbe is not saying after the age of 5 you don't need Rashi, but the purpose is mainly to respond to the 5 year old.

If we take the Rebbe's view, Rashi made this distinction to help the bein chameish l'mikra. Now we come to the question, if there is a need to teach a 5 year old Derash, why was Rashi the first one to do it? Before Rashi, the fathers were competent to explain it themselves. Eventually the time came for a written commentary to fulfill this duty.

Example:

בראשית ג:ח

(ח) וַיִּשְׁמְעוּ אֶת-קוֹל יְהוָה אֱלֹהִים מְתַהַלֵּךְ בְּגֶן לְרוּחַ הַיּוֹם וַיִּתְחַבֵּא הָאָדָם וְאִשְׁתּוֹ מִפְּנֵי יְהוָה אֱלֹהִים בְּתוֹךְ עֵץ הָגֶן:

Could be read, (1) "They heard the voice of G-d as he was walking" or (2) "They heard the voice of G-d walking." Is the verb walking going on the voice or going on G-d? Either option is grammatically possible.

Which one would you prefer?

The idea of G-d walking is difficult as it suggests an anthropomorphic description of G-d. A voice, however, does not seem to be as anthropomorphic as stomping around.

If that were the case and one was learning under the inspiration of such philosophical ideas, one would adopt approach (2) - the voice was walking.

בראשית רבה יט:יג-יד

(ח) [וישמעו את קול י"י אלהים מתהלך בגן לרוח היום] אמר ר' חלפיי שמענו שיש הילוך לקול, הילוך לאש לא שמענו, והיכן שמענו להלן ותיהלך אש (שמות ט-כג). אמר ר' אבא בר כהנא מהלך אין כת' כאן אלא מתהלך מקפץ

ועולה, עיקר שכינה בתחתונים הייתה, כיון שחטא אדם הראשון ניסתלקה לרקיע הראשון, חטא קין עלה לרקיע השני, חטא דור אנוש עלה לשלישי, חטא דור המבול לרביעי, דור הפלגה לחמישי, סדומיים לששי, מצריים בימי אברהם לשביעי, וכנגדן עמדו ז' צדיקים אברהם יצחק יעקב לוי קהת עמרם משה והורידו אותה לארץ, אברהם משביעי לשישי, יצחק הוריד משישי לחמישי, יעקב הוריד מחמישי לרביעי, לוי הוריד מרביעי לשלישי, קהת הוריד משלישי לשיני, עמרם הוריד משיני לראשון, משה הורידה למטה, אמר ר' יצחק כת' וצדיקים ירשו ארץ וישכנו לעד עליה (תהלים_לז כט) ורשעים מה יעשו, פורחין באויר אתמהא, אלא שהרשעים לא השכינו שכינה לארץ. אמר ר' ברכיה וישמעו וישמעו קולן שלאילנות אומרים הא גנבא דגנב דעתיה דבריה, אמר ר' חננא בר פפא וישמעו וישמעו שמעו קולן שלמלאכי השרת אומרים י"י אלהים הולך לאותן שבגן אתמהא, ר' לוי ור' יצחק ר' לוי אמר מתו שבגן, ר' יצחק אמר מתהלך לו אתמהא, אמר להן הקב"ה לרוח היום לרוח היום, הרי אני מרויח לו את היום, כך אמרתי לו כי ביום אכלך ממנו מות תמות (בראשית_ב_יז), אין אתם יודעים אם יום אחד משלי אם יום אחד משלכם, אלא הריני נותן לו יום אחד משלי שהוא אלף שנה והוא חי תשע מאות ול' שנה ומניח שבעים לבניו הה"ד ימי שנותינו בהם שבעים שנה וגו' (תהלים_צ_י). לרוח היום רב אמר לרוח מזרחית דנו לרוח היום לרוח שהיא עולה עם היום, זבדי בן לוי אמר לרוח מערבית דנו לרוח היום לרוח שהיא שוקעת עם היום, עם היום, על דעתיה דרב היקשה עליו כל שהיום עולה הוא מרתיח ועל דעתיה דזבדי ריתה עליו כל שהיום שוקע הוא צונין.

In **Bereishis Rabba**, there is a formulation that Adam and Chava heard a voice and the voice said, Meis halach - man is now walking in the garden. Ie. the inhabitant of the garden is now mortal.

The Midrash does offer a more Peshat approach: we hear that voices can walk. Meaning that the word walk is appropriate to use in Hebrew language. The word can be used for the spreading of inanimate objects. You might think only animals or humans can walk, and walk therefore means movement with limbs. But in Tanach the verb can be used in regard to inanimate entities as well.

This supports the approach that the voice was walking.

If we are philosophers are concerned about these kinds of philosophical issues, what peshat would you adopt? This Peshat. The **Rambam**, in fact, does accept this Peshat.

רמב"ם, מורה נבוכים א' פרק כ"ד

הלך, ההליכה ג"כ מכלל השמות המונחים לתנועות מיוחדות מתנועות בעלי חיים, ויעקב הלך לדרכו, וזה הרבה. וכבר הושאל זה השם להמשך הגופות אשר הם יותר דקות מגופות בעלי חיים, והמים היו הלוח וחסור, ותהלך אש ארצה. ואחר כן הושאל להתפשט ענין אחד והראותו ואם אינו גוף כלל, אמר קולה כנחש ילך, וכן אמרו קול ה' אלהים מתהלך בגן. הקול הוא הנאמר עליו שהוא היה מתהלך בגן. ולפי זאת ההשאלה הוא כל לשון הליכה שבאה בבוא יתברך, כלומר שהיא הושאלה למה שאינו גוף, אם להתפשט הענין, או לסור ההשגחה, אשר דומה לו בבילתי ב"ח סור מן הדבר, אשר יהיה בב"ח בהליכה. וכמו שכנה הסתלק ההשגחה בהסתרת פנים, באמרו ואנכי הסתר אסתיר פני, כן כנה אותו בהליכה, אשר הוא בענין סור מן הדבר. אמר אלך אשובה אל מקומי. אמנם אמרו ויחר אף ה' בם וילך, יש בו שני הענינים יחד, כלומר ענין הסתלק ההשגחה המכונה בהליכה, וענין התפשט הדבר והגלתו והראותו, כלומר החרון אף אשר הלך ונמשך אליהם ולזה שבה מצורעת כשגל. וכן הושאל לשון ההליכה להנהגה במנהגים החשובים, מבלתי הנעת גוף כלל. אמר והלכת בדרכיו, אחר ה' תלכו, לכו ונלכה באור ה'.

The word “walk” can refer to inanimate objects, including G-d.

What does Rashi do?

רש"י:

(ח) וישמעו - יש מדרשי אגדה רבים וכבר סדרום רבותינו על מכונם בבראשית רבה (יטו) ובשאר מדרשות ואני לא באתי אלא לפשוטו של מקרא ולאגדה המישבת דברי המקרא דבר דבור על אופניו. ומשמעו, שמעו את קול הקב"ה שהיה מתהלך בגן:

Chazal said many things about this posuk but I have only come to explain the Peshat of the text and the Midrashim that helps to resolve the peshat of the text.

One way to interpret this is, even when Rashi says, this is Midrash, the Midrash still contributes to a Peshat understanding.

The implication in Rashi is clearly that his commentary is a Peshat commentary. Those who are less rigorous than the Rebbe or Nechama in understanding Rashi's goals, would say either that this applies only to this posuk, or Rashi promised a peshat commentary and didn't deliver.

How does Rashi interpret the verse? What does he mean when he adds the word, Shehaya.

Rashi seems to indicate that he is going to interpret against the Medresh. Most mefarshei Rashi, Maharal, Mizrachi - Rashi has rejected the Midrash that says the Kol spread, and Rashi held that it is G-d who is walking around. This, however, is not obvious in Rashi's language.

The Taz, however, aligns Rashi with the Medresh, as he means that the voice was walking.

דברי דוד

(ח) וישמעו מה שמעו שמעו את קול הקציה שהיה מחללך כי מלא דחיקן זוה דליה דמחללך קאי על הקציה דהיינו קול הליכה של הקציה שמעו אלף ההליכה קאי על הקול ועיב חוסף רשי תיבת שהיה כדי ללמד שהיה הקול מחללך וכן אלף צעדים חר

חללי פ' שמעו פ'ם הלך לקול סנאמר ושמעו את קול ה' אלפים מחללך:

Why would Rashi deviate from what the Medresh said, according to the mefarshei Rashi who explain that he was commenting not like the Medresh. **What is bothering Rashi?**

Brief digressions: what can't you hold that both possibilities are correct and assume that the posuk is simply ambiguous, both readings being the intention. Then it is interesting to see which meaning is supported in which way by the succeeding verses.

Even if Rashi agreed with that, that is exactly why one explanation would be Peshat and one would be Derash - one meaning is obvious, one is not, but they both exist. The question here is, what meaning is the primary meaning?

Standard Mefarshim - what bothered Rashi was the word, Mithaleich. The Medresh twisted the word, Meis Halach. Why? Because the word itself is confusing. It is an inflective verb - walking back and forth. Halach - going to a destination. Mithaleich - pacing, walking back and forth. That implies that a human being is walking. Humans walk back and forth, not voices. The Medresh did not bring a proof that hitpaal can apply to inanimate objects.

Now, I could translate Mithaleich to mean that the voice reverberates. But since Rashi didn't say that, these Mefarshim say that Rashi means G-d was walking.

Thus we see that Rashi is more interested in dealing with the understanding of the translation of the text more so than the philosophical issues imbedded within the text.

[Sometimes Rashi is bothered by anthropomorphism, sometimes he is not. R. Carmy has an article online called "Treating G-d like a Character" - discusses this issue]

Different Example:

We all know that Chazal often darshen name. So and so was called this for this reason. If one was writing Peshat, would you include these interpretations as Peshat?

- (1) No. A person's name is his name. Why is someone's name Yosef? Simple answer is that is what his parents called him. Doesn't seem to be a difficulty that needs explanation in the text.
- (2) Yes. It is important information at a literary level, particularly when people have nicknames or more than one name. Names have symbolic value and meaning being names should be relevant to Peshat.
- (3) Sometimes. Sometimes the name is inviting such attention, sometimes it doesn't.

בראשית יד:

(א) וַיְהִי בַיּוֹם אֲמֶרְפֶּל מֶלֶךְ־שֹׁנֵר אֲרִיֹךְ מֶלֶךְ אֶלְסַר כְּדֻרְלַעֲמֹר מֶלֶךְ עִילָם וַתִּדְעַל מֶלֶךְ גּוֹיִם:

In Parshas Noach, the King of Shinar is called Nimord. **Bereishis Rabba** - called Nimrod because he led rebellion.

In Perek 14, four kings are listed. Amrafel is king of Shinar. Since we know that Nimord was King of Shinar at the period, Chazal say that Nimord and Amrafel are the same person.

Later in the perek, there is another list of the same kings but in a different order: Kedarlaomer, tidal, amrafel, and arioch.

Bereishis Rabbah also darshens the name Amrafel:

- (1) Amar Pol - Nimord instructed Avraham to fall into the fiery furnace
- (2) Shehaita ameriso afeilah - his command was dark (referring to the same incident with Avraham.)

Question - if we want to choose one explanation as peshat and one not as peshat, which one makes more sense?

Nimrod - sounds a lot like Mered. Hard to think of a word like this without thinking about rebellion. Amrafel seems far-fetched. In order to squeeze a derasha out of the name, the name has to be chopped up into to. And once it is chopped up, there are different conversions of understanding the name.

Rashi does the exact opposite:

רש"י

(א) אמרפל - הוא נמרוד שאמר לאברהם פול לתוך כבשן האש:

When it comes to Nimrod, Rashi doesn't comment. When it comes to Amrafel, Rashi brings the Medresh.

Why is Rashi doing this?

Could be that Rashi is agreeing with the Medresh that Nimrod and Amrafel are the same person, the question then becoming, where did the second name come from?

Problem - making an assumption that Rashi from the outset is committed to the Medresh. Maybe they were, in fact, two different kings and Nimrod died.

Mefarshei Rashi - what really bothered Rashi was the order in which the kings are listed. Ordinarily, the most important king should have come first, and Kedarlaomer was the most important as implied by the succeeding Pesukim. Why does Amrafel lead off? Because Amrafel has the advantage of being familiar to use from before.

Deflationary point - scholarly editions of Rashi don't exist. Rashi has defeated attempts to create a decisive scholarly edition of Rashi's text. How do we get an adequate text of Rashi? **Elazar Tweetu** attempted to clarify correct texts of Rashi, assuming that if there is a contradiction within Rashi, something must have been added by a copyist. Rashi is corruptible as his text was constantly copied and texts in the margin may have entered Rashi's text.

This is the most extreme in terms of throwing things out of Rashi. Broad criteria for raising doubts in the text.

He took three Parshiyos. One of them was Lech Lecha. He decided that this Rashi was not really written by Rashi. It was really added to the text later but not consistent with Rashi's goals in Chumash.

Class #4 (Sept. 18): Rashi #3 - Peshat and Derash Within Halacha

Halacha and Rashi

- Issues of Peshat and Derash in Halachic texts
- Examples within Rashi

Peshat and Derash Within Halacha

1st issue: Peshat and Derash in halacha in generally. This is more problematic than what we discussed last week. For many people there is an intuitive sense that when reading narrative the text should have multiple levels. It is more difficult to imagine how halachik texts could have multiple meanings. You expect a law book to be straightforward. Law should normally be straightforward.

When we look at Rishonim, we often find that Rishonim explain peshat in the Torah in ways that contradict the Halacha. How could this be?

Mashal: Imagine you have a person who was an American law professor. The same person may also be an American historian. He might also be an American philosopher (discusses American ideal.) This person does three different things. He writes a book on American law. If he writes a history book it would be about american history. If he writes a philosophical book it would be about ideas. But there would be a lot of overlap between the topics in each of the three books. Law is affected by history and ideology, ideology understood through law and history, history includes the study of ideology and law. Even though there is overlap, the focus would be different in each case. L'maase a book on American law would say nothing about slavery, but if one writes about history, slavery would be a big part of it, and the legal issues involved would also be discussed. If one was writing about American history, there is not a lot to say about double parking, but a legal text would include that topic.

If you only study one book, you would find it to be inconsistent with the other. Certain conclusions from Book A may clash with conclusions drawn from Book B. Despite the contradictions, one would answer that it is a matter of different topics and focuses.

If the author wanted to do all of this in one book, it would take a skilled writer to devise a book that could speak to different focuses in one text.

If the Torah is a law book, we have a problem. How could a Rishon disagree with the Halacha's understanding of the posuk? But if we say that the Torah operates on multiple levels, then we don't have an issue. Once the halacha is extracted from the posuk, there is still more to understand from the text. Thus pesak halacha might not necessarily agree with the Peshat, as the Peshat is serving a different purpose than the legal understanding.

The Peshat could be teaching something of ideological or hashkafic value. It could be an historical insight. The Torah is not just a book of laws, it is a story of G-d's relationship with the Jewish people in the desert. A set of laws imbedded within a particular historical narrative.

Two examples in Rashi:

First example:

שמות פרשת יתרו פרק כ
(ח) זְכוֹר אֶת־יוֹם הַשַּׁבָּת לְקַדְּשׁוֹ:

If one is interested in Peshat, what should bother you in the text? Normally, if you want to write a command, you would say Zchor. Zachor doesn't sound like a command. It means, he remembers, to be remembering... That would be a problem in Peshat.

רש"י שמות פרשת יתרו פרק כ

(ח) זכור - זכור ושמור בדבור אחד נאמרו. וכן (שמות לא יד) מחלליה מות יומת, (במדבר כח ט) וביום השבת שני כבשים, וכן (דברים כב יא) לא תלבש שעטנז, (שם יב) גדילים תעשה לך, וכן (ויקרא יח טז) ערות אשת אחיך, (דברים כה ה) יבמה יבא עליה, הוא שנאמר (תהלים סב יב) אחת דבר אלהים שתים זו שמעתי. זכור לשון פעול הוא, כמו (ישעיה כב יג) אכול ושתו, (שמואל ב ג טז) הלוח ובכה, וכן פתרונו תנו לב לזכור תמיד את יום השבת, שאם נודמן לך חפץ יפה תהא מזמינו לשבת:

Rashi addresses this problem. The posuk means, you should remember Shabbos throughout the week. If you found something nice, you put it aside for Shabbos. You are engaged in active remembrance of Shabbos.

Where did Rashi get this in Chazal? **Gm' Beitzah** - Shammai HaZakein, if he found a chaifetz na'eh, would put it away for Shabbos. Hillel disagrees, he says, praise Hashem each day. There isn't a requirement to prepare for Shabbos throughout the week. If this is correct, than Rashi is interpreting the text like Shammai, not Hillel. At a peshat level Rashi is explaining like B"S, whereas the halacha is like B"H and the text means something else. Isn't this a contradiction?

We could answer that there is a difference between what Peshat is doing and what Halacha is doing. The halacha follows Hillel. However, at a Hashkafic level, what Shammai says is correct. Shammai sets a higher standard, perhaps one that halacha doesn't require, but one that is commendable nonetheless, and this is the message imparted by the text.

Important point: We have no evidence that Rashi learned this way. One could read a lot of Rishonim and notice examples of the sort that we are talking about now, and answer, we don't know why the Rishonim do this. We could say that the Rishonim were never bothered by Peshat/Derash contradictions. We can never really know if what we say in the Rishonim is correct if there is no solid evidence.

What is the difference between the thought of Hillel and Shammai? It seems that B"S is almost always stringent. There seems to be some type of ideological difference between the two schools. One line received from kabbalah is picked up in Chassidus as well - B"S is halacha as it should be, B"H is adapted for this world. Along those lines there are statements in Zohar that in Olam HaBa they pasken ken like B"S. Meaning, there is a certain ideal quality in Halacha that B"S tapped and B"H did not. Ideal/reality.

If we say this, the way we approached Rashi makes sense. If we develop a system within Jewish thought, one could very well say that the ideal, Peshat in the psouk, is Shammai, but the actual halacha is like Hillel. Rashi explains Peshat according to the ideological ideal.

What we said so far is ok assuming that we are learning correct Peshat. But let's go back to the beginning. How do we know that Rashi's source in the Gm' Beitzah?

Gm there says, Shammai, if he found something nice, he would put it aside for Shabbos. If he found something better, he would put it aside for Shabbos.

Rashi on Chumash doesn't quote Shammai word for word. He only says, if you find something nice, put it away for Shabbos.

Could be that Rashi didn't feel the need to quote everything to explain Peshat. But we see anyway that Rashi is not copying Shammai fully.

Another step: we assume that Rashi is reading the Gm Beitzah because we already know of the Gm' in Beitzah. What about sources that we don't know about, such as **Midreshei Halacha**.

In the Mechilta of R' Yishmael, there is no Machlokes about the matter, and is word for word like Rashi. Thus the source Rashi is referring to seems to be the Mechilta, not the Gm' Beitzah.

מכילתא דרבי ישמעאל יתרו - מסכתא דבחדש פרשה ז

זכור ושמור, שניהם נאמרו בדיבור אחד, +שמות לא יד+ מחלליה מות יומת +במדבר כח ט+ וביום השבת שני כבשים, שניהם בדיבור אחד נאמרו. +ויקרא יח טז+ ערות אשת אחיך +דברים כה ה+ ויבמה יבא עליה, שניהם נאמרו בדיבור אחד. +שם שם/דברים כב/יא+ לא תלבש שעטנז, /דברים כב יב/ וגדילים תעשה לך, שניהם נאמרו בדיבור אחד. מה שאי אפשר לאדם לומר כן, שנ' +תהלים סב יב+ אחת דבר אלהים שנים זו שמענו, ואומר +ירמיה כג כט+ הלא כה דברי כאש נאם ה':

זכור ושמור, זכור מלפניו ושמור מלאחריו, מכאן אמרו מוסיפין מחול על הקדש, משל לזאב שהוא טורד מלפניו ומלאחריו. אלעזר בן חנניה בן חזקיה בן חנניה בן גרון אומר, **זכור את יום השבת לקדשו, תהא זוכרו מאחד בשבת, שאם יתמנה לך מנה יפה תהא מתקנו לשם שבת**. רבי יצחק אומר, לא תהא מונה כדרך שאחרים מונין אלא תהא מונה לשם שבת. - לקדשו, לקדשו בברכה, מכאן אמרו מקדשין על היין בכניסתו. אין לי אלא קדושה ליום, קדושה ללילה מנין, ת"ל +שמות לא יד+ ושמרתם את השבת. אין לי אלא שבת, ימים טובים מנין, ת"ל +ויקרא כג לז+ אלה מועדי ה' וגו'.

מכילתא דרבי שמעון בר יוחאי פרק כ

(ח) זכור ושמור שניהם נאמרו לענין אחד מה שאי אפשר לפה לדבר ומה שאי אפשר לאוזן לשמוע כן הוא אומר וידבר אלקים את כל הדברים האלה ואומ' אחת דבר אלקים שנים זו שמעתי (תה' סב יב). שמאי הזקן אומר זכרה עד שלא תבוא ושמרה משתבוא. אמרו עליו על שמאי הזקן **שלא היה זכרון שבת זו מתוך פיו לקח חפץ טוב אמר זה לשבת כלי חדש אומ' זה לשבת**. זכור ר' יהודה בן בתירה אומר מנין שכשאתה מונה הוי מונה אחד בשבת ושני בשבת **שלישי בשבת רביעי בשבת חמישי בשבת וערב שבת ת"ל זכור**. את יום אין לי אלא יום לילה מנין ת"ל לקדשו <אם כן> מה ת"ל יום כבוד יום קודם לכבוד לילה. לקדשו בלילה קדשו. מנין שאם לא קידש בלילה מקדש והולך כל היום ת"ל זכור את יום השבת לקדשו. ד"א לקדשו במה אתה מקדשו במאכל ובמשקה ובכסות נקייה שלא תהא סעודתך שלשבת כסעודת החול ולא עטיפתך שלשבת כעטיפתך בחול. ומנין שאפלו עני לא יהא מאכלו שלשבת כמאכלו שלחול ועשיר לא יהא מאכלו שלשבת כמאכל החול ת"ל זכור את יום השבת לקדשו.

Our whole question from the beginning falls apart. The Midrash Halacha holds that this is the Halacha. **Lesson - be careful with sources.**

The Mechilta of RASHBI doesn't have a machlokes either, but does quote Shammai HaZakein. The Ramban, who had this Mechilta, makes reference to it.

Shammai in Beitzah is saying, if you find something better, keep that for Shabbos. But the Halacha in the Mechilta is, if you find something good, keep it. Not necessarily that if you subsequently find something better, replace it. Rashi is then in accordance with the Halacha.

Second Example:

במדבר פרשת בהעלותך פרק ט

(י) דִּבֶּר אֶל־בְּנֵי יִשְׂרָאֵל לֵאמֹר אִישׁ אִישׁ כִּי־יִהְיֶה־טֹמֵא לְנֶפֶשׁ אוֹ בְּדֶרֶךְ רְחֹקָה לָכֶם אוֹ לְדֶרֶתִיכֶם וְעָשָׂה פֶסֶח לִיקוֹן:

There is a dot written on top of the Hey. How far is Derech Rechoka?

תלמוד ירושלמי (וילנא) מסכת פסחים פרק ט הלכה ב

מתני' ואיזהו דרך רחוקה מן המודיעית ולחוץ וכמידתה לכל רוח דברי ר' עקיבה ר' אליעזר אומר מאסקופת עזרה ולחוץ א"ר יוסי לפיכך נקוד על ה"א לומר לא מפני שהיא רחוקה ודאי אלא מאסקופת העזרה ולחוץ:

2 views in the Mishna: R' Akiva - 15 mil. (6 halachik hours). ie. So far away that the distance can't be easily walked before Hakravas Korban Pesach. R' Eliezer - Anyone who is outside the Azarah at the time of Korban Pesach. You could even be in Yerushalayim.

R' Akiva makes for sense, l'halacha. R' Akiva's opinion comes from sevara. Where does R' Eliezer get it from?

Well, what does the dot on the Hey mean?

Dots in the ancient world were signs of deletion. We find this in manuscripts of Homer. If mistakes were made, there would be dots on top of the words. Dead sea scrolls - if a copyist made a mistake, there would be dots on top of letters, sometimes corrections. Dot indicated something wrong.

In a Sefer Torah, what does a dot mean? Chazal say that a dot indicates not that the word is wrong but that the letter should be treated as being dubious. It is there and not there. What does that mean?

In our context, someone could say, it means nothing at all. Getting rid of the Hey = Rechok. Derech could also be masculine. (See Ramban)

In the Yerushalmi, R' Yose says the dot explains the view of R' Eliezer. If we read the posuk normally, it says, a man who was on a far away journey, meaning, a real significant distance. What happened if we take the dot seriously and cross out the hey? Ramban says it becomes Rachok and means the same thing. But we could say that Rechok is not modifying Derech anymore, rather it is

modifying Ish. The man is rachok, not the journey. If a man is far away, it could mean a psychological distance.

Would this dot trigger the attention of a Pashtan?

רש"י במדבר פרשת בהעלותך פרק ט

(י) או בדרך רחקה - נקוד עליו, לומר לא שרחוקה ודאי, אלא שהיה חוץ לאסקופת העזרה כל זמן שחיטה. פסח שני מצה וחמץ עמו בבית ואין שם יום טוב, ואין איסור חמץ אלא עמו באכילתו:

Rashi says, there is a dot on the Hey, meaning that it is not vaday far away but rather like R' Eliezer. What forced Rashi to say this? The obvious answer is the present of the dot.

(The Rebbe points out that there are times when Rashi doesn't comment on dots on letters, and something else much be bothering him [volume 8 of Likutei Sichos]. But most mefarsehi Rashi say that the dot bothered him)

Why is Rashi giving a Peshat that happens to be in conflict with the Halacha? Halacha is like R' Akiva, Rambam paskens like R"A, and at a common sense level, R"A sounds very reasonable, whereas R"E sounds like an incredible Kulah.

אבן עזרא במדבר פרשת בהעלותך פרק ט

(י) או בדרך רחוקה - אין לחפש, כי כבר העתיקו חז"ל כמה היא הרחוקה.

Ibn Ezra - Dots on letters aren't important for Peshat - Chazal tell us what the measurement is.

If I am driven by the dot and I think, R"E is correct on Peshat level, it is not problematic that the Halacha is like R"Y. Why? The interpretation in the Midbar may be different that what it means during the time of the Midbar. Peshat could mean what the text meant at the time of the Midbar. Derash could mean the Halachik implications for all times. We find this idea amongst the Acharonim.

If we apply that principle here, we could say that the Peshat = halacha at the time of the Midbar. Halacha = afterwards. (R"A's position wouldn't be applicable at the time of the Midbar because the entire camp was 12 mil. Everyone was within the shiur)

Class #5 (Oct. 23): Rashbam

Discussion of the Rashbam will be divided into the following entities:

- (1) Rashbam in Vayeishev, Rashbam's general method
- (2) Examples of Rashbam dealing with Halacha

Rashbam on Vayeishev

Ele toldos Yaakov. What does the word Toldos mean? Genealogy. In our case the posuk says, these are the Toldos of Yaakov. The next posuk should be a list of his sons. The Torah does not

say that, rather it discusses Yosef. For that reason, some the Rishonim interpret the word differently in this case. See Ibn Ezra, or Ramban that Toldos means “history of.” The Shores is the word Yalad. Just as the word could be genealogy, it could also mean events that are brought forth day after day.

Before the Rashbam explains the word, he makes a speech about Peshat:

רשב"ם בראשית פרשת וישב פרק לז

(ב) אלה תולדות יעקב - ישכילו ויבינו אהבי שכל מה שלימדונו רבותינו כי אין מקרא יוצא מידי פשוט, אף כי עיקרה של תורה באת ללמדנו ולהודיענו ברמיזה הפשט ההגדות וההלכות והדינים על ידי אריכות הלשון ועל ידי שלשים ושתים מידות של ר' אליעזר בנו של ר' יוסי הגלילי ועל ידי שלש עשרה מידות של ר' ישמעאל. והראשונים מתוך חסידותם נתעסקו לנטות אחרי הדרשות שהן עיקר, ומתוך כך לא הורגלו בעומק פשוטו של מקרא, ולפי שאמרו חכמים אל תרבו בניכם בהגיון, וגם אמרו העוסק במקרא מדה ואינה מדה העוסק בתלמוד אין לך מדה גדולה מזו, ומתוך כך לא הורגלו כל כך בפשוטן של מקראות, וכדאמ' במסכת שבת הוינא בר תמני סרי שנין וגרסינ' כולה תלמודא ולא הוה ידענא דאין מקרא יוצא מידי פשוט. וגם רבנו שלמה אבי אמי מאיר עיני גולה שפירש תורה נביאים וכתובים נתן לב לפרש פשוטו של מקרא, ואף אני שמואל ב"ר מאיר חתנו זצ"ל נתווכחתי עמו ולפניו והודה לי שאילו היה לו פנאי היה צריך לעשות פרושים אחרים לפי הפשטות המתחדשים בכל יום. ועתה יראו המשכילים מה שפירשו הראשונים:

- (1) *The earlier generations, Chazal, were not particularly interested in Peshat. Instead they were interested in the Derashos, because they are a source of Halacha and Mussar. The idea of distinguishing between Peshat and Derash was not dealt with by Chazal. Therefore they did not cultivate this methodological distinction. While the Gemara does say ain mikra yotzei midi peshuto, the Gemara does say that Rav Kahana learnt all of Shas before nothing this. Gm Bava Metzia says that the study of Mishna is superior to the study of Tanach. Again, the study of tanach is valued but the study of halacha is greater. Gm Berachos - R' Eliezer advised his Talmidim, keep them away from Higayon - study of Tanach (some say it means the study of Philosophy.) You should not build a curriculum around the study of Tanach. These Gemaras imply that Tanach is significant but its place should be known. This explains why Chazal do not speak about Peshat.*
- (2) Rashbam goes on to say that he had many discussions with his grandfather Rashi who said if he were writing his Peirush today, he would do things differently based on the Pshatos hamischadshos bekol yom - the Peshatim that are constantly being discovered.

Why does the Rashbam give this whole introduction? What are we supposed to learn from it?

The Rashbam's point is not, I'm a pashtan and therefore I am ignoring Chazal. What he is really saying is that the study of Peshat is a relatively new study and therefore don't be surprised if I am saying things that are different than other mefarshai peshat. Rashi was a pioneer, starting from nothing. Don't be surprised if I disagree with my grandfather, for I am presenting new ideas.

There are two ways that we can look at this discussion with Rashi:

- (1) The more academic way: most academics do not consider Rashi to be Peshat, rather Midrash. They would read the Rashbam as Rashi's admission that he failed at a Peshat peirush on Chumash. When Rashi in Bereishis 13:8 said he sought to explain based on Peshat, either he meant in that posuk alone, or he had a project and it was not successfully carried out.
- (2) The alternative way, which makes more sense, is that Rashi is not saying, what I did was wrong. Rather, since I dealt with a new approach to Chumash, beginnings are difficult and oftentimes this endeavours progress.

What does the Rashbam actually say in the Posuk?

What he says reflects a method that is characteristic of the Rashbam. He holds in a few places in Torah that **information in the Torah is given not because I need it now but rather because the information might be needed later on.**

Example: Cham was the father of Cnaan. Why do I need to know this? I'll get the genealogy at the end of Parshas Noach. Why is this told to me now?

Rashbam: when Noach curses Cham, he says Arur Cnaan. If I would have read the Posuk and didn't know the relationship between Cham and Cnaan, the posuk would be opaque. I wouldn't understand it. Therefore the Torah gives me the information earlier so that, when I need it, it is available later on.

In our posuk the Rashbam uses the same principle but it ends up being more complicated.

Toldos means children. The continuation should be a list of Yaakov's descendants. However, in order to give a genealogy of Yaakov, you have to explain how Yosef ended up in Egypt. The real continuation of the Toldos is in Vayigash when the family arrives in Egypt 20 years later.

Kasha - don't start with Toldos! Just say Toldos when the time in the story arrives to give the list of descendants!!

The Rashbam does not deal with this problem.

Let's deal with the question abstractly: When we study Rishonim, one of the things that we get at is, what is bothering the Rishon, and what is their answer. But there is another question that we can ask: Why is there a problem that requires an answer to begin with. Rishonim don't always raise or answer this question. Why do I have the difficulty in the Posuk to begin with? So that people can show off how clever they are? Some writers may do this to make their writings the subject of better or more complex scholarship. Some of the best novelists don't get academic attention because their text is clear enough. An author who puts in complexities and mysteries will be studied more to uncover the intent of the text!

—> Beis HaLevi and R. Chaim had a conversation where the Beis HaLevi supposedly said, you have taken all the fun out of learning! When someone comes to ask me a Kasha, I give him an answer.

When you, R. Chaim, deal with a question, you end up showing them that the question really isn't a question in the first place!

When it comes to the study of Tanach, one of the chiddushim that our generation is able to add to Torah is to ask, why did the Rishonim need to say this in the first place? What is pushing the whole issue?

Regarding this Rashbam, the Rashbam offhand is a simple explanation of the term Toldos in the posuk. We are asking a meta-question. Why is the Torah written in such a way that we need this pshat of the Rashbam to deal with this problem?

The answer could be as follows:

The Torah begins, ele toldos Yaakov. From the Rashbam's point of view, this was not necessary. The Torah could have begun with the story of Yosef, leaving out this posuk. However, if I am reading the Torah as literature or poetry, what comes right before Toldos? Vayishlach. Before Toldos the Torah says, Ele Toldos Eisav.

The sense we get is a development from the story of Eisav to the story of Yaakov. The use of the word Toldos draws my attention to the fact that I first had Toldos Eisav and now I have Toldos Yaakov. When I read in light of this parallel, there is one thing that hits a careful reader: Eisav has Toldos, a land. For Eisav everything goes smoothly. For Yaakov however, things don't go so smoothly. This narrative tension is mentioned by Rashi on the word Vayeishev: Yaakov could not settle down - the story of Yosef caused him suffering.

Even if I don't hold like the Rashbam, I can say that the word Toldos is not accidental. The word seeks to impart a certain message. If we hold like the Rashbam, we may have to say this point in order to explain the backdrop of why this comment on Toldos was necessary in the first place.

There are instances where there are questions that are various obvious to us that Rishonim simply don't talk about. The Rashbam could agree, or say that he was never bothered by this problem. Often the first instinct is to deal with the problem itself and then answer the meta-questions later on. It may be that our contribution could be a deeper understanding of what the Parshanim have said already.

Rashbam and Halacha

To sum up where we were with Rashi, we had suggested based on Achronim that when there is a gap in Peshat and Halacha, there are two major strategies to deal with this problem:

- (1) Peshat is what the posuk means, Derash is how the posuk is applied Halachikally. The Torah has messages that go beyond Halachik peshat, and the Derash adjusts the message to the reality.
- (2) Peshat is the intent in original historical context. Derash is our interpretation afterwards.

We have no evidence that Rashi used these strategies. We are injecting Acharonische ideas into Rishonim. Historically, we can't really know how Rishonim dealt with these problems.

One example of Peshat/Derash in Rashbam:

According to Halacha, night comes before day. Gemara Pesachim, the Gemara seems to read this idea into Pesukim in Bereishis. We could say that this idea comes from Mesorah, but the Gemara indicates that it is present in Pesukim as well.

The Rashbam disagrees. He holds that based on Pesukim in Torah day comes before night.

בראשית פרשת בראשית פרק א

(ה) וַיִּקְרָא אֱלֹהִים לְאֹר יוֹם וְלַחֹשֶׁךְ קָרָא לַיְלָה וַיְהִי־עֶרֶב וַיְהִי־בֹקֶר יוֹם אֶחָד:

רשב"ם:

ויהי ערב ויהי בקר - אין כתיב כאן ויהי לילה ויהי יום אלא ויהי ערב, שהעריב יום ראשון ושיקע האור, ויהי בוקר, בוקרו של לילה, שעלה עמוד השחר. הרי הושלם יום א' מן ה' ימים שאמר הק' ב' הדברות, ואח"כ התחיל יום שיני, ויאמר אלהים יהי רקיע. ולא בא הכתוב לומר שהערב והבקר יום אחד הם, כי לא הצרכנו לפרש אלא היאך היו ששה ימים, שהבקר יום ונגמרה הלילה, הרי נגמר יום אחד והתחיל יום שיני:

If the Torah meant that night comes before day, the Torah should have said, Veyehi Layla Veyehi yom. Since the Torah wrote, veyehi erev vayehi boker, that implies that day comes before night. What exactly is his argument?

Erev means evening. Evening is not a unit of time in the same sense that night or day is. Night/day take up 12 hour periods. Evening means when it gets dark. Morning means it gets bright out. Levaker means to distinguish/discriminate. Boker is a time when you can distinguish due to the light. If the Torah said, night and day, night would come first. But evening and morning means, first comes the turning of day into night, then the turning of night into day, and that next day is the second day.

How could the Rashbam disagree with the Halacha? How could he say that the Posuk disagrees with the Halacha?

We could say, Al pi peshat the Rashbam is right, but once we have to Torah we can reread the Peshat within the framework of the Oral tradition. This would fall perfectly in line with the second approach to Peshat/Derash differences mentioned above.

(Possible explanation: the peshat is dealing with the human perspective: Phenomenology - we see the day starting when we wake up and ending when we go to sleep, while Halacha sees it as starting from the night.)

Answer:

תוספות מסכת קידושין דף לז עמוד ב

ממחרת הפסח אכול מעיקרא לא אכול - הקשה ה"ר אברהם אבן עזרא היכי אמרינן ממחרת הפסח דהכא הוי ששה עשר בניסן שנקרב העומר דלמא ממחרת הפסח ממחרת שחיטת הפסח קאמר דהיינו ט"ו בניסן שעדיין לא נקרב העומר דהכי

נמי אשכחן בפרשת מסעי דכתיב ממחרת הפסח יצאו בני ישראל והם יצאו בט"ו ואומר ר"ת דהאי ממחרת הפסח דהכא היינו ט"ו בניסן נמי קאמר וה"פ דקרא ויאכלו מעבור הארץ כלומר מן הישן ממחרת הפסח שהרי הוצרכו לאכול מצות וקלוי דהיינו חדש לא אכלו עד עצם היום הזה דהיינו ט"ז בניסן לאחר שקרב העומר וה"נ אשכחן ט"ז דאיקרי בעצם היום הזה דכתיב ולחם וקלי וקרמל לא תאכלו עד עצם היום הזה ור"י מפרש נהי דבעלמא ממחרת הפסח הוי ט"ו הכא ר"ל ט"ז ולשון התורה לחוד ולשון נביאים לחוד ולשון חכמים לחוד ועל כרחך צ"ל כן דאם לא כן אמאי איצטריך למימר מעיקרא לא אכול הא אין לחלק בין ט"ו לקודם ט"ו כיון דאכתי לא איקרב עומר אלא פשיטא דר"ל ט"ז דהיינו ממחרת אכילת הפסח וההיא דפ' מסעי ר"ל ממחרת שחיטת הפסח כדפירשתי [וע"ע תוס' ר"ה יג. ד"ה דאקריבו].

A question is dealt with by the Rashbam's brother, **Rabbeinu Tam**. In Parshas Masei, the posuk says the Jews left Egypt m'mocharas haPesach. What day is this? When did they leave Egypt? Pesach is 14, the next day is 15. In Sefer Yehoshua, the Posuk says they ate Chodosh memocharas Hapesach. We eat chodosh on 16 not 15. Is Pesach on 14 or 15? Is mocharas hapesach 15 or 16?

The Ibn Ezra was a traveller and one day find himself in France in R"t's city, Rammareix. R. Chaim called R"t the Sage of Rammareix. RT meets Ibn Ezra and asks him this problem. The Ibn Ezra says the **use of Hebrew changes between Torah and Navi**.

Sefer HaMakneh of the Haflaah (Pinchas HaLevi, on Kiddushin) - could be that before Matan Torah, the day came first. Therefore before Matan Torah Korban Pesach was eaten the night of the 14th, the next morning, the day they left Egypt was 15. After Matan Torah, since night comes before day, then the Pesach is eaten on the night of the 15th, and the next day is the 16th.

The Sefer HaMakneh does not discuss this Rashbam. R. Yosef Engel (Polish Acharon, 100 years ago) and uses this to explain the Rashbam.

Again, we can't know if this is what the Rashbam really meant. The Ibn Ezra on Parshas Beshalach and a pamphlet he wrote on the subject called Iggeres Shabbat (was in London, found the Rashbam, and the Shabbos came to him in a dream and said, you must refute this man!) attacking this idea. This approach would have solved the Ibn Ezra. Thus we have no reason to assume that either the Rashbam or the Ibn Ezra thought along these lines.

Second Example:

שמות פרשת בא - בשלח פרק יג

(ט) וְהָיָה לָךְ לְאוֹת עַל־יָדֶךָ וּלְזִכָּרוֹן בֵּין עֵינֶיךָ לְמַעַן תִּהְיֶה תּוֹרַת יִקְוֶה בְּפִידָּהּ כִּי בְּיַד תִּזְקֶה הוֹצֵאָה יִקְוֶה מִמִּצְרַיִם

What does the Posuk refer to? We know the Halacha says it refers to tefillin.

רשב"ם

(ט) לאות על ירך - לפי עומק פשוטו יהיה לך לזכרון תמיד כאילו כתוב על ירך. כעין שימני כחותם על לבך:

Rashbam: Os and Zikaron are symbolic. Many pesukim imply a symbolic placing of Torah on the body. Write the Torah on luach libecha, for instance. Lefi omek peshuto shel Mikra, it means that Divrei Torah should always be on one's heart and mind.

The question is, how does this square with the Halacha?

We could very well say, the Peshat is indicating a certain idea, and the Oral tradition has a particular application: Tefillin is the fulfillment of creating a constant reminder of Torah on your heart and head. This appeals to our first strategy.

Would could also appeal to the second strategy. **Torah Shleimah** by R. Kasher. He was a big Baki, liked to exhaust all possibilities. Interested in these issues.

Besamim Rosh - book that appeared around 200 years ago. There were some gedolim who took it seriously, some were suspicious. Forged by a Maskil, Shaul Berlin, said that it was really written by the Rosh.

In the Besamim Rosh, there is a question: How could Jews have worn tefillin in the Midbar? They didn't have daled parshiyos. Sounds like a joke question. Answer: they wore Tefillin with only two batim.

The **Netziv** in Devarim writes, they must have had 4 parshiyos, and even though Shema and Vehaya Im are in Devarim, they could very well have had the parshiyos earlier but they text was finally inscribed in Devarim. Netziv may have been aware of the Sefer and wanted to deal with the problem.

R. Kasher asks the same question, and answers, according to Rashbam they didn't have to wear tefillin. In the Midbar they didn't wear tefillin. Moshe Rabbeinu would say that peshat is like the Rashbam. Once they had four parshiyos of Tefillin at the end of the 40 years, of course they would put on Tefillin.

R. Kasher brings a proof: read the Rashbam in Devarim where he says nothing like this about Tefillin. Why? In Devarim when Tefillin became practical, the Rashbam would agree that the posuk would refer to Tefillin.

Once we say this already, we have a problem. There is a second mention of Tefillin a few pesukim later, where the Rashbam doesn't say anything. If silence means that the Rashbam adopts the halacha, he is already silent in Shemos! Rather the obvious answer is that once the Rashbam explained once, he didn't need to explain again.

(טז) וְהָיָה לְאוֹת עַל־יָדְכָה וּלְטוֹטֶפֶת בֵּין עֵינֶיךָ כִּי בְחֶזֶק יָד הוֹצֵאתָנוּ מִמִּצְרָיִם

רש"י

(טז) ולטוטפת - תפילין, ועל שם שהם ארבעה בתים קרויין טטפת, טט בכתפי שמים, פת באפריקי שמים. ומנחם חברו עם (יחזקאל כא ב) והטף אל דרום, (מיכה ב ו) אל תטיפו, לשון דבור, כמו (לעיל פסוק ט) ולזכרון, שהרואה אותם קשורים בין העינים יזכור הנס וידבר בו:

Now we could say that in the second posuk, once the Torah already refers to totafos, that is a physical item.

Next week: Ibn Ezra - we will immediately discuss Halacha/Peshat by looking at his Hakdamah to Torah.

Class #7 (Oct. 30): Ibn Ezra #1

Ibn Ezra's Introduction to Chumash (See Appendix 1)

The Ibn Ezra presents 5 different approaches to the study of Chumash, four of which he rejects and the 5th being his own.

1) The Approach of the Gaon

Major objection: they include too much extraneous information. If the image of peshat for the Ibn Ezra is that of the bullseye, then the Geonim simply cover the entire target. If we look at the Geonic works extant on the Chumash, on veyehi meoros, there are whole discussions on astronomy.

2) Karaites

Totally outside of the circle. Reject Mesorah, so even there grammar and dikdukim are mistaken.

There is one point that we should spend time on. The Ibn Ezra argues that the Karaite position is contradictory because they hold all we need is the Written Law. The Ibn Ezra says, if you look at Halacha, there are a lot of things in Halacha that has no basis in the Written Law. For instance, the calendar. The calendar is very important - with it we determine age, yomim tovim etc. They'd answer that you could work out the calendar through Sevara, but the Ibn Ezra says that you can't. On the other hand, there are many halacha that are presented in great detail that are not so important on a practical level. Negaim, for instance.

Even Orthodox Jews have to deal with this issue — we should understand that the question is important. If we take seriously the mandate of this course, namely that we should pay attention to what is going on in Chumash, then it is not less important to ask why the division between the Oral and Written Torah is as it is.

Mishna end of Chagiga Perek 1 makes such an observation: Shabbos are mountains hanging by a hair etc. Meaning, some of Torah is more written while some of Torah is more oral.

3) Allegory

The posuk doesn't mean what it seems to mean, it means something different. Probably the view of the Christians who choose to interpret the laws of the text allegorically. Ibn Ezra writes, to take an allegorical approach is legitimate so long as it does not ignore the simple meaning of the text.

4) Chazal

Very close to the bullseye. He demurs from Chazal in only one thing. The approach in Chazal may express important ideals but often it does not come out of the Posuk. Example, Midrash about why the Torah begins with the letter Beis - because the letter Beis stands for Beracha, while Alef stands for Arur. It's a nice idea, and if you put it in the hands of the Maharal, you could make it a profound idea. But if you go through the Hebrew language, there are other words that begin with Beis that are not nice. It is a nice idea but not peshat.

5) Ibn Ezra's Approach

Interested in simple, straightforward understanding of the text. How to read the worlds. He is a levelling pashtan. Normally if you see something that is difficult, such as a dot on a letter, don't bother me with it. For those issues we have the Mesorah. To that extent, Rashi's conception of Peshat is very different than Ibn Ezra's. Rashi comments on any deviation. For Ibn Ezra, if something deviates, you have to explain that it is not so unusual/unprecedented.

Ibn Ezra ends that he is committed to the Oral Torah, and whenever there are two **equal** ways to interpret the Posuk, one of them being the approach of Chazal and the other not, he will always follow the Peshat given by Chazal.

This leaves open one question: what if the two options aren't so equal? Then what does the Ibn Ezra do?

Example #1

Beginning of Mishpatim:

שמות פרשת משפטים פרק כא

(ח) אִם־רָעָה בְּעֵינֵי אֲדֹנֶיהָ אֲשֶׁר־לֹא לֹא יֵעָדָה וְהִפְדָּה לְעַם נֹכְרִי לֹא־יִמְשַׁל לְמַכְרָהּ בְּבִגְדוֹ־כָּה:

The maidservant can't be given to an Am Nochri because that would constitute a betrayal. Am Nochri means a strange nation - a goy. According to this read, the Posuk is saying, an Amah Ivriyah can't be sold to a Goy.

This is the view of the Mechilta of R' Yishmael - the father is betraying her by selling her to a Goy:

מכילתא דרבי ישמעאל משפטים - מסכתא דנזיקין פרשה ג

אם רעה בעיני אדוניה. אין רעה אלא שלא נגמלה חסד לפניו. - אשר לא יעדה והפדה. מכאן אמרו, מצות ייעוד קודמת למצות פדייה. ד"א אשר לא יעדה, אם לא יעדה אדון זה יפדה אב; לא ייעד לשנים כאחת; לא ימכור על מנת ליעד, דברי ר' יוסי הגלילי; רבי עקיבא אומר, מוכר הוא, אם רצה ליעד מיעד. - לעם נכרי. הרי זה אזהרה לבית דין שלא ימכרנה לגוי. - בבגדו בה. מאחר שבגד בה, נהג בה מנהג בזיון ולא נהג בה כמשפט הבנות, אף הוא אינו רשאי לקיימה, דברי ר' יונתן בן אבטלמוס; ואין בגידה אלא שקירה, שנאמר מלאכי ב יא בגדה יהודה ואומר ירמיה ה יא כי

בגוד בגדו בי בית ישראל; רבי ישמעאל אומר, באדון הכתוב מדבר אשר לקחה על מנת לייעד ולא ייעד, אף הוא אינו רשאי לקיימה; רבי עקיבא אומר, בבגדו בה, מאחר שפרש בגדו עליה.

The Gm' understands that Am Nochri means to another Jew. How the Gemara got to this interpretation is not clear from the text; it is taken for granted. This is also how Rashi interprets the text.

The Gemara give three different options regarding the prohibition:

- (1) Shifchus achar shifchus. The Torah is prohibiting sale of a Shifcha after she has already been a Shifcha.
- (2) Shifchus achar Ishus.
- (3) The third option is the Torah is prohibiting both options.

Who is betraying her?

- (1) According to option one, the father
- (2) According to option two, you could say the father or the master

One peculiar point: the word Bigdo in this context means betrayal. The word in Hebrew could also mean a cloak. Peshat is obviously betrayal, but if I'm looking for trouble, I could say that the posuk means, you can't sell her to an Am Nochri because his coat was on her, mean, Ishus. Thus the posuk is saying Ein Shifchus Achar Ishus.

Another point: there is a Machlokes if **Yeish Em LMikra or Yeish Em L'Mesorah** - when darshaning, do we follow the read of the Posuk, or we darshen based on the way we could read it.

Example: The word Sukkos appears 3 times in the plural. One of the times it is written without a vav. The Gm discusses how many walls you need in a Sukkah. According to one approach, the machlokes is over this point. If Yeish Em L'Mikra, you need four walls. The Torah uses the word Sukkos three times. One of the times is needed l'gufa. The other two are there for a Derasha. They are both plural, therefore each one involves plural defanos, at least two, and $2+2=4$. The view of Yeish Em L'Mesorah, you need three walls: the second mention of Sukkos is written without a vav and can be read as Sukat - singular.

What complicates the Gm in Kiddushin is that the sugya drags in this Machlokes into our discussion. The problem is, it is not clear how it fits in... see Rashi and Tosafos there.

One problem remains: How Am Nochri means another Jew.

Rashi:

רש"י שמות פרשת משפטים פרק כא

לעם נכרי לא ימשל למכרה - אינו רשאי למכרה לאחר, לא האדון ולא האב:
בבגדו בה - אם בא לבגוד בה, שלא לקיים בה מצות ייעוד, וכן אביה, מאחר שבגד בה ומכרה לזה:

Rashi in Chumash follows the Gemara, and says Bigdo means betrayal. It doesn't mean a cloak. It could be betrayal on either the part of the father or the owner.

Ibn Ezra:

אבן עזרא שמות (הפירוש הארוך) פרשת משפטים פרק כא

(ח) לא ימשול למכרה בבגדו בה כמו מדוע נבגוד איש באחיו (מלאכי ב, י). ואמת ונכון הוא, כי אין רשות לאדון למכרה לאיש מִישראל. וזה ידענו מהקבלה, ושמו זה לזכר ולאסמכתא. ואל תתמה בעבור מרחק לעם נכרי מזה הפסוק, כי כמוהו שלם ישלם (שמות כב, ב), כאשר אפרש. אמר הגאון, כי לעם נכרי, כמו לאיש נכרי, וכמוהו הגוי גם צדיק תהרוג (ברא' כ, ד). וזה לא יתכן, שיאמר על היחיד באחת הלשונות. כי נכון הוא, שיאמר ויאמר ישראל כי הוא שם המין הכולל, כמו ויאמר מצרים (שמות יד, כה). רק להיות שם, שטעמו כלל, כמו עם, וגוי, וקהל, ועדה, לא יתכן שיאמר על היחיד. ופי' הגוי גם צדיק, שם מפורש, כי הבאת עלי ועל ממלכתי חטאה גדולה (ברא' כ, ט). וטעם לא תצא כצאת העבדים שיציאתם לעולם אחר שש שנים, כי גם זאת תצא אם הגיעו שש שנים, כאשר הוא כתוב, כי ימכר לך אחיך העברי או העבריה ועבדך שש שנים (דבר' טו, יב). רק אם הגיעה קודם שש לזמן שהיא ברשותה תצא. אם רעה שלא מצאה חן בעיניו אחר שקנה אותה שישאנה לאשה. וזה הוא טעם אשר לו יעדה, שהיא יעודה לו להיותה אשתו, או יעדה להיותה אשת בנו. ודע, כי לו קרי, וכתוב הוא בפנים באל"ף, ובחוז' בוי"ו. ואמר הגאון, כי שני טעמים יש לו, כמו הוא עשנו ולא אנחנו (תה' ק, ג). הטעם האחד כי אנחנו לא עשינו עצמנו. והשני, כי לו אנחנו. והנכון בעיני, כי זה השני הוא האמת לבדו. וככה וכולם. אמר רבי יהודה המדקדק, אנחנו לא נוכל להפריש במבטא בין לא באל"ף, ובין לו בוי"ו או בה"א, כמו הלה היא ברבת בני עמון (דבר' ג, יא). כל אלה הפסוקים אל"ף מבפנים ומבחוז' וי"ו. כל אלה כדרך קריאתם הוא טעמם. ודע, כי מלת והפדה מהפעלים היוצאים, כמו והפדך (שם יג, ו), אשר פדה את נפשי (ש"ב ד, ט), כי פדיתם (זכרי' י, ח). והנה והפדה - פועל יוצא לשנים פעולים, כמו המצמיח חציר (תה' קמז, ח), או כמו ראובן האכיל לשמעון לחם. והנה והפדה, שיבקש פדיונה ויקבלנו, בין שתפדה היא עצמה או אביה או אחד מקרוביה, כי אם היא קרובה אל שש שנים יחשבו כמה שנים עבדה, וכמה המרחק עד השביעית, או עד הזמן שתהיה ברשותה. וכפי החשבון יהיה הפדיון. לעם נכרי פירשנו. ודע, כי כל עם שאינו ישראל יקרא נכרי. ואינו כמו זר, כי זר יקרא שאינו ממשפחת השבט. והנה, אם אמרנו, כי ישראל נקראו עברים בעבור עבר, והיה הוא עובד השם. והנה, מי שהוא ממשפחתו ועל אמונתו יקרא עברי. ואם אמרנו בעבור אברהם נקרא כן, הנה כתוב, כי ביצחק יקרא לך זרע (ברא' כא, יב), אעפ"י שבישמעאל כתוב כי זרעך הוא (שם יג, ג), לא נתנה הארץ רק ליצחק לבדו. ובני יצחק היו יעקב ועשו, וכתוב ביצחק כי לך ולזרעך אתן את כל הארצות האל (שם כו, ג). והנה לא נקרא לו זרע רק ביעקב לבדו, אשר לו נתנה הארץ. והנה נכרים יחשבו בני הפילגשים ובני עשו עמהם:

In both commentaries the Ibn Ezra holds that Am Nochri is a **goy**. What about the Halacha? Chazal knew the Halacha, and the use of the Posuk is an Asmachta. The word Asmachta here is not used in the normative sense. In Gm Asmachta is a Rabbinic rule connected to a posuk. For the Ibn Ezra it means the halacha is learnt from Mesorah and connected to the Posuk, but it is not Peshat in the posuk,

We have solved our problem: in situations where the approach of Chazal is not a plausible peshat, we accept it as mesorah and that's it.

We are still left with the problem of Am Nochri.

Ibn Ezra quotes **R' Saadia Gaon** - Am can mean nation or individual. Brings a proof from Avimelech, hagoy gam tzaddik taharog, goy referring to an individual in this case.

Ibn Ezra rejects this on straightforward grounds - the word Goy doesn't ever mean individual. Avimelech was referring to his whole household.

(Then says, what R' Saadiah does is a distortion of Divrei Elokim Chayim etc. What is bothering him so much? We'll discuss this later.)

Answer:

The word **Am** in Arabic means your uncle on your father's side. Young R' Carmy - Am Nochri means some relative, a relative other than the master or son of the master. Eventually found Mechilta Rashbi:

מכילתא דרבי שמעון בר יוחאי פרק כא

(ח) לנכרי לא ימכר יכול לא ימכרנה אבל יתננה במתנה ת"ל לנכרי לא ימשול יכול לא ימכרנה לאחרים אבל (לא) ימכרנה לקרובים ת"ל לעם לא ימכר יכול לא ימכר אבל יתננה במתנה ת"ל לעם נכרי לא ימשל יאמ' לאחרים מה אני צריך <לומר> לקרובים שאילו נאמר לאחרים ולא נאמר לקרובים הייתי אומ' לא ימכרנה לאחרים אבל ימכרנה לקרובים <בבב> צריך לומר לאחרין וצריך לומר לקרובים. בבגדו בה. כיון שפרס טליתו עליה אין יכול למכרה ר' שמע' אומ' הראשון שבגד בה אין רשאי לשעבדה מיכן אמרו אין אדם מוכר את בתו לשפחות אחר אישות. סל' פסו'

Can't sell to Kerovim from the word "Am." Am in Arabic - relatives!

— We see then two views amongst Chazal. 1) Am Nochri means goy, like Mechilta of R"Y. 2) Gemara and Mechilta Rashbi - Am Nochri means a relative, based on the meaning of the word Am.

Example #2

We still need to understand what is it about R' Saadiah that upset Ibn Ezra. Let's look at another example.

Sometimes in reading and speaking, things are said not the way they ought to be said but in some other way. People make mistakes all the time. Are there times where even in serious writing that things are not said in what we would consider to be the most simple, logical order?

Example: When letters change order, The Hebrew word Keves means sheep. The Hebrew words Kesev means sheep. In Chumash these terms are used interchangeably. These are the same words, but in using the language sometimes the words are pronounced differently, the order of the consonants are changed.

Metathesis - the transposition of sounds or letters in a word.

Similar linguistic example: Medieval English - to request something is to Aks, but many people pronounced it as Ask, to the point where in most English dialogues, we use the term "ask." Though some people in the American south would say Aks.

Among the early ba'alei dikduk, **R' Yonah Ibn Janach** payed a lot of attention to this phenomenon. Ibn Ezra calls him Mar Yaninus. He looked at change of order in both words and sentences. His point is, the way language works is that people do things like this.

Abnormal order in sentences reflects the flow of thought better than if the normative style of sentence structure was used.

Example in **Tehillim**:

תהלים פרק קד

(ו) תהום כלבוש פסיתו על־הרים יעמדו־מִים:

If we learn this without changing the order, it means: on the mountain stands water. Meaning, you can find water/lakes on top of mountains.

אבן עזרא תהלים פרק קד

(ו) תהום - עתה הזכיר הים תהום המקום העמוק בים כי בהראות היבשה היה מקוה המים וטעם על הרים יעמדו מים זה הדבר ידוע ונראה בלב כי יש מימי הים על הרים גבוהים גם על חומות שהיו בנויים, וטעם כלבוש כסיתו כי התהום הוא עומק הארץ והוא מכוסה במים כי חצי הארץ היא מגולה וההופך דברי אלהים חיים על מים יעמדו הרים תהפכות בלב:

Ibn Ezra - ascribing greatness to creation. It means just this.

Ibn Janach - Mountains on top of water. That's a big deal! In Medieval physics, there are 4 elements: earth, water, air, fire. Earth is the heaviest element. There is also an absolute up and down gravitational put - heavy stuff go down. If we adopt these principles, then water should rest on top of mountains. The greatness of creation is that there are mountains on top of the water, despite the comparative weight of the mountain.

For Ibn Ezra this approach is almost Kefira. Once you start doing this, you are changing around the words of Hashem and can say anything! Ibn Ezra's basic sense of Peshat is, things ought to be straight forward. In a certain way, Ibn Janach is rewriting Tanach!!!

This explains why Ibn Ezra reacted so negatively to R' Saadia - you can't make words mean anything. That would result in a hefker velt of interpretation!

Example #3

In a well functioning language, can you have a word that means one thing and the opposite of itself as well? Can't be. In English - inflammable. If there are people who thing that flammable means inflammable, people could die! In the real world, even Homer Simpson has to understand what you are saying.

However, in terms of poetry, it may even be attractive for words to be ambiguous.

Remember, Ibn Ezra was critical of ambiguity even in poetry. Koheles Perek Hey Ibn Ezra attacks paytanim for writing in a certain way.

For Ibn Janach, why shouldn't ambiguity be attractive.

Example: In Beshalach, before Kriyas Yam Suf, the Amud HaEish that was behind the nation moved in front. The Amud Heanan goes behind them, and the posuk says:

שמות פרשת בשלח פרק יד

(כ) וַיָּבֹא בֵּין מַחֲנֵה מִצְרַיִם וּבֵין מַחֲנֵה יִשְׂרָאֵל וַיְהִי הָעֲנָן וַהַחֹשֶׁךְ וַיָּאֵר אֶת־הַלַּיְלָה וְלֹא־קָרַב זֶה אֶל־זֶה כָּל־הַלַּיְלָה:

רש"י שמות פרשת בשלח פרק יד

ויאר - עמוד האש את הלילה לישראל, והולך לפניהם כדרכו ללכת כל הלילה, והחשך של ערפל לצד מצרים:

אבן עזרא שמות (הפירוש הארוך) פרשת בשלח פרק יד

ויאר את הלילה כמשפט כל הלילות לישראל לעבור הים, כי בלילה עברו, ואמר ר' מרינוס, כי פי' ויאר את הלילה ויחשיך, - וכמוהו ולילה אור בעדני (תה' קלט, יא). ובדברי חז"ל אור לארבעה עשר (פסחים ב, א). והמפרש כזה השם חשך לאור, ואור לחשך, כי לא יתכן בכל לשון שיהי' פי' מלה אחת דבר והפכו, אם לא היה על דרך כנוי, כמו ברך נבות אלהים (מ"א כא, יג). ומלת אור בעדני פירשתי שהיה אור בעצמו. גם חז"ל אמרו אור לארבעה עשר לישנא מעליא הוא. והנה הוא כמו כנוי. ומה טעם להזכיר ויחשיך את הלילה, כי כל לילה חשך הוא. רק ויאר את הלילה, כאשר עשה מיום צאת ישראל ממצרים, כי עמוד האש בכל לילה היה, ואם אין להם אור, איך יעברו את הים, כי הנה פרעה בא בימם, והשם השקיף עליו באשמורת הבקר, ורוב ישראל כבר עברו:

V'yaer es halaila - it illuminated the night. How could the Amud HeAnan illuminate?

Rashi and Ibn Ezra - You have to say that this does not refer to the Amud HeAnan, it refers back to the Amud HaEish.

Ibn Janach - "Or" can mean light or darkness. Thus the posuk could mean the Or HeAnan darkened the night.

Ibn Ezra - such a person is turning light into darkness and darkness into light!!

A question that can be raised regarding this Ibn Ezra - "Or" having only one meaning - is the first Mishna in Pesachim: Or l'arba asar.

We can give two answers:

1) There is development in the Hebrew language. Even if Ibn Ezra is right and Biblical Hebrew has a unity, by the time we get to the time of Chazal and there is influence from other language, the word Ursa means night in Aramaic and it could be that the word Or adapted to the Aramaic meaning.

That could be a simple answer.

2) Ibn Ezra - the word Or is euphemistic. Like Sagi NaHar.

— the gemara clearly says that or means day and does not entertain this possibility:

אלא בין רב הונא ובין רב יהודה דכולי עלמא אור אורתא הוא ולא פליגי מר כי אתריה ומר כי אתריה באתריה דרב הונא קרו נגהי ובאתריה דרב יהודה קרו לילי ותנא דידן מאי טעמא לא קתני לילי לישנא מעליא הוא דנקט

Class #8 (Nov. 5): Ibn Ezra #2, Rambam #1

We discussed last week, what do we do when there is a certain unclarity in the posuk? Ibn Yannach, Saadia Gaon were ok with poetic unclarity. The Ibn Ezra is more rigid in his position of not tolerating ambiguity in the Hebrew language and unclarity in Tanach in general.

Let us look at a similar phenomenon in Chazal, Rashi, and Ibn Ezra: euphemisms in Tanach.

Tikkun Sofrim or Kina HaKosuv

The posuk says something, and Chazal say the posuk really means something else and we are reading a euphemism. **Example**, posuk in Zecharia 2 - whoever afflicts am israel is like one who pokes himself in the eye. According to the views in Medresh who list this verse in the Tikkun Sofrim category, they would say that what the posuk really means is not that one is poking Israel in the eye but G-d in the eye. Since that is not a respectful imagery, the posuk writes that he is poking himself in the eye. This is a euphemism.

It could be that originally the Navi wrote Bevat Aeni and the Baalei Mesorah cleaned it up, or the posuk initially was written Bevat Aeno.

Would Ibn Ezra like this phenomenon or not like it?

Based on what we so last time, we would assume that Ibn Ezra would not want the posuk to mean something that it doesn't really say, especially if it is the opposite of the text. Thus frequently the Ibn Ezra will say, **there is not need for Tikkun Sofrim**.

Perhaps the best known example in Tikkun Sofrim is the phrase in this week's Parsha, Ve'Avraham odenu omed lifnei Hashem. Avraham left G-d to take care of his visitors and is now standing before G-d. Now, in fact G-d was waiting for Avraham; Avraham was not waiting for G-d. Bereishis Rabbah/Rashi says this is a case of Tikkun Sofrim. G-d indeed was waiting for Avraham, but since that is inappropriate, the posuk turns it around - Avraham was waiting for G-d.

Other examples:

בראשית פרשת וירא פרק יח

(כב) וַיִּפְּנוּ מִשָּׁם הָאֲנָשִׁים וַיֵּלְכוּ סְדֵמָה וְאַבְרָהָם עֹדֵנּוּ עֹמֵד לִפְנֵי יְקֹוֹק:

רש"י בראשית פרשת וירא פרק יח

(כב) ויפנו משם - ממקום שאברהם ליום שם: ואברהם עודנו עומד לפני ה' - והלא לא הלך לעמוד לפניו אלא הקב"ה בא אצלו ואמר לו (פסוק כ) זעקת סדום ועמורה כי רבה, והיה לו לכתוב וה' עודנו עומד לפני אברהם, אלא **תיקון סופרים הוא זה** (אשר הפכוהו ז"ל לכתוב כן):

Interlude About Checking Girsaos

Moshe says to Hashem, *horgeinu na a'harog ve'al er'eh b'ra'asi*. Chazal say, Moshe really means *b'ra'asam* - this evil that will befall the Jews, instead of *ra'ati*, his own evil.

This example is a little bit different. The other Tikkunei Sofrim protect Hashem. Here it protects Israel. However, the **Taz** had a different Girsas. Not *b'ra'asam* but *b'ra'atcha*. Likewise, Rashi in Iyuv mentions another a Tikkun Sofrim and says it is like this Tikkun Sofrim. There are some textual traditions that do read like the Taz.

Why are we mentioning this? We noted earlier in the term that it is important to have the correct text. There are certain scholarly apparatus that attempt to get as good a text as possible. There is a common sense issue: how much time should be spent on this?

Many years ago, Yom Iyuv on learning Gemara. R' Shachter said, first thing to do is get a correct text, but added, don't spend so much time on it. If you are publishing articles, then you need to obsess with Girsas. If you are lazy or have students who are more ignorant than you are, you can get away with these things. If you spend so much time on Girsas you won't get to anything else! You prepare to understand but never get around to understanding.

In our case, where so much revolves around one letter and that one letter is not in the posuk but in the Medresh, the better part of judgement would lead someone to check into it, and lo and behold, the Taz has a different Girsas, and elsewhere in Rashi in Iyuv, you can clarify without too much difficulty.

Searching For Clarity

One final sugya. If you are reading a book and something is unclear, how to clarify that which is unclear? Do you do it by reading the book over and over again until something falls into place, or alternatively do you look for outside information? Or do you just give up. Either you remain internally focused, or you conclude that the book does not contain enough information and you need external sources. The first approach is clearly the "frummer" approach.

Example of this issue in Mefarshim:

בראשית פרשת ויחי פרק מט
(יט) גִּדְדוּ יְגִדְדוּ וְהָא יְגַד עֲקֵב:

What is this posuk referring to?

רש"י בראשית פרשת ויחי פרק מט
גדודים יגודו הימנו, שיעברו הירדן עם אחיהם למלחמה כל חלוץ עד שנכבשה הארץ:

והוא יגוד עקב - כל גדודיו ישובו על עקבם לנחלתם שלקחו בעבר הירדן, ולא יפקד מהם איש:

Rashi says the reference is to Gad's entry into Eretz Yisrael. We know that Gad marched in the vanguard. Rashi said to himself, I'm looking for an answer within the Tanach and I'll find a candidate. Any candidate is better than no candidate.

אבן עזרא בראשית פרשת ויחי פרק מט

(יט) גד התנבא שיבא עליו גדוד, והוא ינצחנו באחרונה. יגודנו כמו לעם יגודנו (חבקוק ג, טז), גם יגוד מפעלי הכפל, והשורק תחת חולם, כמו ירון ושמה (משלי כט, ו). ואנחנו לא נדע היום כל התלאות העוברות על אבותינו:

Ibn Ezra says, there must have been some type of military activity. We don't know what it was. Since we don't have the information, we have to conclude that we don't know what the posuk is referring to.

Rashi - if I don't know something, I'll look for a possible answer elsewhere. **Ibn Ezra** - if there is no clarity here, I have to assume that the explanation can't be known, even if there are other possibilities out there, as we can't know if they are correct.

Rambam - Relationship Between Torah She'be'al Peh and Bichsav

We will discuss 2 topics. 1) The relationship between Oral and Written Law and 2) Moreh Nevuchim.

In his Hakdamah to the Peirush HaMishnayos, the Rambam divides halachos into 5 parts:

- (1) **Halacha Mekubelet** - doesn't have basis in text whatsoever, learnt only through tradition from Moshe Rabbeinu.
- (2) **Peirush Mekubal** - there is a verse, but the correct interpretation is passed through tradition. ie pri etz hadar. Ayin tachas ayin, etc.

Rambam - these two categories have no Machlokesim.

Problem: there are many cases where it seems that there is Machlokes about some things that might be Halachos l'Moshe MeSina. See **Chavos Ya'ir** - has a whole list of cases where there is a debate if something is Halacha l'Moshe MeSinai. See also Encyclopedia Talmudit.

The Rambam seems to be saying something that is open to serious doubt.

R. Carmy - from the Rambam's point of view, whether there is or is not Machlokes about it, there **should** be no Machlokes about it because it is Mesorah. If there is, it is a misfortune.

2nd category are Gezeiros. 3rd category are things derived from Derashos. There the Rambam says that Machlokes is in place. It is not Mesorah, so we could expect different Tannaim to come to different conclusions.

Halacha l'moshe m'sinai - no Machlokes, at least l'chatchilah there shouldn't be. **Derashos** - there can be Machlokes amongst the Tannaim.

This position deviates from the position of the Gaonim. In Gaonic literature, by and large, the picture you get is that everything is Mesorah, but people don't always remember so well, so Machlokesim entered the fray. It may be that the Gaonim were responding to Karaites who rejected the Oral tradition. They raised questions about sources and machlokes all the time. The Gaonim were saying, everything is Mesorah, and we need to reconstruct it.¹

The Rambam, however, holds that Halacha L'Moshe M'Sinai has a clear Mesorah. Machlokes applies to Derashos.

What about the Gemara that says once upon a time there was very little Machlokes. Ie. few Machlokesim between Shammai and Hillel. Talmidei Shammai and Hillel were marbeh Machlokes. Gemara - they didn't so enough Shumush Talmidei Chachamim.

The Gaonim learn that Shimush means forgetting.

The Rambam interprets it differently. The failure to meshamesh was not a matter of remembering, it was a matter of not reasoning well. From the Rambam's point of view, if people are operating correctly in a debate, they should reach a unanimous conclusion. If you look at committees, for all the downsides of academic life, by and large, when a committee comes to the end of its work its decision is unanimous. This is a sign that things are operating properly.

When you have Talmidim who are properly trained in argumentation, they know how to sit on a committee as it were, and reach a viable unanimous conclusion. There shouldn't have been Machlokes. Since Talmidei Shammai and Hillel disputed instead of debated, they were not able to reach unanimous decisions.

Epistemology - the theory of knowledge, especially with regard to its methods, validity, and scope. Epistemology is the investigation of what distinguishes justified belief from opinion.

We said a moment ago, in regard to Derashos, there is room for Machlokes. Interpretation is open ended. The phrase that we use frequently to describe this phenomenon is Eilu v'Eilu. Two sides of a Machlokes, both can be right. **Ritva in Eruvin** says Eilu v'Eilu means both sides are really correct, and for practical purposes we need Psak. Rabbi Rosensweig has an article about Eilu v'eilu in a Tradition article, discusses various approaches, but the Ritva seems to be the general understanding amongst the Yeshivishe velt.

If this is correct, then why is it that no one until the 14th century actually put it that way?

Well, the Rambam himself is not exactly like the Ritva's Peshat. Ritva says both Beis Shammai and Beis Hillel are equally correct. The Rambam is not saying that all approaches are true. He is sayign

¹ George Burns = Natan Birenbaum!

something more modern. Beis Din has the right to pasken one way or the other. Both approaches are legitimate approaches in Halacha, but that doesn't mean that both opinions are true.

It is with the passage of time that certain ideas become fully fleshed out. Like we said earlier, Rashi and Ibn Ezra don't address discrepancy between Peshat and Derash. Acharonim later formulate questions about it and deal with the difficulties. Addressing issues and progressing ideas takes time. Different points are noticed with the passage of time.

The Rambam is presenting one picture, and the Ritva is taking it a step further, thinking in terms of truth and veracity. Symphony of halacha. Thus it could be that the Rambam is on the road to saying what the Ritva eventually did say.

Halacha l'ma'ase in this discussion in the Rambam. Beginning of Hilchos Mamrim, a Beis Din can override Derabbanans. Regarding Derashos Chazal a later Beis Din can deviate from those, and the Rambam says you don't need godol mimenu b'chochma u'minyan. Why do you need more authority by Derabbanan's and less by Derashos? Derabbanan's are gzeiros are depend on the authority of Beis Din. But derashos are up for interpretation and any Beis Din can darshen differently than before.

Jerry Blitzstein - books on Rambam

Another source we want to look at is the Rambam's Sefer HaMitzvos. In Gaonim literature, the idea of enumerating the 613 Mitzvos was accepted. After the Rambam, this type of work went out of style, replaced with commentaries on the books themselves. He prefaced the book with 14 principles determining whether a particular commandment is considered to be one of the 613.

2nd principle: we include only those things explicit in the posuk, not the things that are derived through the 13 middos. Those Mitzvos are divrei sofrim.

Does the Rambam mean that they are only Derabbanan?? Famous example, the Rambam uses the phrase Mdivrei sofrim by Kiddushei Kesef. Rambam writes in letters that he doesn't mean that it is Kuddishin mderabannan. It is certainly deoriassa. He means that it is simply derived through Midrshei Halacha.

In the course of explaining himself the Rambam quotes the ma'amar, Ein Mikra Yotzei Midi Peshuto.

The Ramban is upset about this.

M'Sinai Ad Likshak HaGazit - Shlomo Kasirer, something Glick. Compares Ramban/Rambam here.

Rambam - Moreh Nevuchim

3 parts, much of part one devoted to the meaning of religious language. Part two, first half is about creation. Second half is about the nature of Nevuah. Part three is about G-d's conduct of the world. The first half deals with certain sugyas in Tanach, problem of evil. Second half of the third chelek, the Rambam discusses the question of the way G-d runs the world and is focuses on Torah, purpose of Mitzvos.

He poses a question: are Mitzvos rational or whimsical? Do Mitzvos have meaning? He answers that they do. Therefore, he goes through Torah and discusses what the Mitzvos are for, what purpose they accomplish. **Taamei HaMitzvos**.

In order to respond to that question, it isn't really necessary for the Rambam to give a whole philosophy of Judaism. He just needs to answer that there is reason in the Mitzvos.

1) Among the Rambam's Taamei haMitzvos, there are reasons that did not appeal to later writers, reasons that did not seem to be particularly religious. For example, the Rambam explains some Mitzvos in practical utilitarian terms.

Banausic - not operating on a refined or elevated level; mundane.

Example: Ketores. There are animals in the Temple, animals smell bad, shechting smells bad. Blood in large quantities does not smell nice. Ketores makes the Temple smell nice. Fumigates the stench.

From a religious point of view, this isn't very attractive. Ketores is a practical deodorant!

But since the Rambam simply wants to demonstrate that there is purpose, that is sufficient for his point.

2) The second type of Taamim found in the Rambam is the idea that Mitzvos serve as a prophylactic against Avodah Zara. Arlah, Korbanos. In ancient times people brought korbanos. G-d wants korbanos to Him to prevent people from bringing it to A"Z.

The problem with this is, Mitzvos that were initially purposeful in steering away from A"Z nowadays lose that purpose.

Thus we see that the Rambam interprets Mitzvos in either a banausic fashion, or historical fashion.

R' Shimshon Refoel Hirsch rejected this approach. To him Taami HaMitzvos was important. R. Hirsch responded negatively to this approach and explained Mitzvos in a far more spiritual sense.

(Further academic reading: **R. Isadore Twersky's** intro to the Mishna Torah. Or the **Rav's Halachik Mind**. Last few pages the Rav discusses Taamai HaMitzvos. Yad Chazakah Rambam discusses what the Mitzvah is really about, but in the Moreh is dealing with challenges from Greek philosophy and defending Mitzvos from claims that they are whimsical.)

Now, if the Rambam is given Taami HaMitzvos that are oriented to an historical reality, does this mean that he thinks this to be the Peshat? What did the Mitzvos mean to the particular society that the Torah was speaking? Like we said earlier, Peshat can be seen as what the pesukim meant at the time they were written.

Class #9 (Nov. 13): Rambam #2, Kri and Ksiv #1

Rambam and Ancient Near-East Literature

Last class we discussed the Rambam's approach to taamei HaMitzvos (such as reasons based on historical issues) and those who disagreed with him.

Basar and Chalav - Rambam says there is no source in ancient religions for this, but suggests Misvara that the reason for the prohibition is that the Ovdei Avodah Zarah used Basar V'Chalav in their fertility rites.

On what basis did the Rambam infer this? If he didn't have information, how could he have come up with such an idea misvara?

The issur appears 3 times in Torah. If I were writing the Torah, it should go in Shemini. Instead, it appears 2 times in Shemos in the context of Moadim:

- (1) In Mishpatim
- (2) Ki Sisa after Cheit HaEgel
- (3) One final occurrence in Re'eh in the context of Kashrus, a reprise of the halachos in Shemini.

The appearance of Basar and Chaval in the context of Moadim on two occasions led the Rambam to think that the reason for the Issur was connected to some time of festive rite, such as a fertility rite. Shavuot - first fruits of the years. People would bring korbanos to ask G-d for a fertile year. Says the Torah, don't do what the Goyim do when they eat Basar V'Chalav in their festival.

We see the Rambam using "comparative religion" or outside sources to explain Taamei HaMitzvos, or Sevara to conjecture historical facts. This is in line with the ideal of Peshat we discussed earlier - the Pesukim talking to the society to which the Torah was given to.

— 1920's, collection of inscriptions found in a place called Ugaret, up in the Syrian coastline. The tablets date to the time of Matan Torah. Written in Ugaritic, a north-west Semetic language, not unlike Hebrew in many respects. This was considered one of the most important discovery of this half of the 20th century. One of these tablets contains a description of a woman preparing a fertility rite for the idol Ba'al. What does she do? Tabach Gdi B'chalav ananach b'chemat - slaughtering a calf in milk, ananach - some kind of animal, slaughtered in Chamat.

The content is very encouraging if we like the Rambam - the Rambam, who in other cases worked from old Arabic idolatrous documents, and in terms of Basar B'Chalav had only sevara, now has a real source from the time of Matan Torah saying that there was an idolatrous fertility rite where animals were slaughtered in milk — Basar B'Chalav.

Is this really so wonderful or is there a fly in the ointment?

The words Gedi and Chalav — we are not certain if that is really what the tablet says because of wear on the stones. Thus, in the academic world, this particular idea has been dismissed. The

translator himself was a Jew who would have been familiar with the Rambam and may have been influenced by his knowledge.

Many years ago, when R. Carmy presented this lecture, a student came to him and said, you want people to be frum: don't take what the scholars say so seriously, even if they support the Rambam. — Not a bad idea!

Rambam on Ayin Tachas Ayin

Next example: Rambam also discusses Ayin tachas Ayin in the Moreh. If I poke out your eye, my eye should be poked out. That is justice.

Problem: how could the Rambam say this? The Halacha is not that way! Rambam himself deals with this problem, says to the student that he is writing to, I will explain this to you in person, and my book explains the Pesukim based on the Peshat.

Since we don't know what the Rambam said, what could we assume that he said?

Simple answer: The Rambam is in effect operating on a distinction between Peshat and Derash that we have already stated. We talked about historical distinctions. But we also said that Peshat could be what the posuk says blatantly, while the Derash is the application of that Halacha practically. Thus, even though the Mesorah is that Ayin tachas ayin is in regard to mamon, the text itself uses different language: an eye for an eye. Why? Because the Peshat is explaining the Taam of the Mitzvah, the ideology behind the rule. From the perspective of pure justice, an eye should be taken — that is the severity of the crime and what would really be seen as just.

Maharal in Be'er HaGolah, speaking about capital punishment in general, says, when you read the Torah there is a lot of capital punishment. But Chazal seem to take all the fun out of it! You need eidim etc. All sorts of ways to eliminate the death penalty. Explains, from the point of view of justice, life is forfeit for certain sins. However, l'ma'ase if we did this our society would be drowning in blood. L'ma'asah we don't apply strict justice in this sense.

The Rambam is saying the same thing here. The posuk is telling us, when we injure someone, monetary payment isn't really enough in terms of a just punishment.

Interesting question - is bodily damage more like murder or more like monetary damage? The Torah uses the phrase ayin tachas ayin to stress the severity of bodily damage, in line with Nefesh tachas Nefesh.

From these two examples we see the Rambam making use of both distinctions between Peshat and Derash: (1) Historical realia and (2) Intent of the Mitzvah vs. its practical application according to Mesorah.

See Seforno who also takes this approach, and the Rav in an interview with the NYT in 1971. Goyim often stigmatized Jews as people who believe in an eye for an eye - the Rav wanted to demonstrate that this is not true.

2 Shitos on Kri and Ksiv

Moving to the Radak and issues of Kri and Ksiv (lower biblical criticism). There are words written in Tanach that are read differently than they are written. There is no one theory that explains all kri and ksiv.

(1) The first category is discussed by the **Gemara Megillah**. There are several cases where the Ksiv is offensive, and the Kri is euphemistic, cleaned up. One example in Navi, the ambassador of Assyria is speaking to the ambassador of Chezkiyah who says to him, please speak Aramaic because we don't want the people on the way to understand. The Assyrians say, we want them to understand, because these are the people who when the siege is over will be eating their Charah and drinking their Sheten. The Kri is Tzoah and Memei Ragleihem. The Ksiv is a pejorative, inappropriate term (wouldn't be said on television). The Kri tempers the language. **Ksiv is what it is and Kri cleans up the language.**

Another example: in the Tochacha, one of the afflictions is called Afolim (piles, literally translated.) The Ksiv is: batchorim - hemorrhoids.

[The Nikud always follows the Kri, not the Ksiv.]

— **Obvious Question:** why, if we want Loshon Nakiah, do we have two versions?

The answer is likewise fairly obvious: Torah and Navi communicate on multiple levels. One level we want to communicate a more severe message. The Assyrian ambassador himself didn't want to use a more tempered language! The Ksiv = saying what is said in unvarnished form. However, when it is read out loud, we bear in mind a certain delicacy.

Where does this idea come from? Beginning of **Pesachim**, speaking Loshon Nekiah, learnt from HaBeheimah Asher Eneina Tehorah - the Torah avoids a few extra syllables to avoid harsh language.

Baal HaMaor - why doesn't the Torah always speak in such language? Because sometimes the Torah needs to use non-Naki language in order to have clear communication by avoiding extra verbiage. But the Torah does make a point of changing the language in some instances to stress the ideal of Loshon Nekia.

(2) Second Category - the Ibn Ezra. Kri and Ksiv are the same. **Kri is advice on how to read the Ksiv.** He is definitely not referring to the examples above; the words are completely different!!

Look up ghoti = fish.

Example: In these week's Parsha, Na'ara is spelled Na'ar. Obvious explanation, the letters are NAR, it could be read in two ways. The Kri is telling us how to read it. Thus there is no real difference between the two words.

Likewise, there are 11 cases where the word HU is written but it is read HI. Ibn Ezra says the same thing - the Kri is telling us the proper way to read the Ksiv.

The more controversial case is where Ibn Ezra does the same thing with the kri and ksiv of Lo with alef and Lo with vav. The Ibn Ezra also says that there is no difference between the Kri and Ksiv. This case is a bit weirder. Ibn Ezra seems to be saying that spelling can be flexible. This frequently happens in the Dead Sea Scrolls with these very words.

שמות פרשת משפטים פרק כא

(ח) אִם-רָעָה בְּעֵינַי אֲדֹנֶיךָ אֲשֶׁר-לֹא לֹא יַעֲדָה וְהִפְדָּה לְעַם נִכְרִי לֹא-יִמְשַׁל לְמַכָּרָה בְּבִגְדֹו־כָּה:

אבן עזרא שמות (הפירוש הארוך) פרשת משפטים פרק כא

אשר לו יעדה, שהיא יעודה לו להיותה אשתו, או יעדה להיותה אשת בנו. ודע, כי לו קרי, וכתוב הוא בפנים באל"ף, ובחוץ בוי"ו.

Class #10 (Nov. 20): Kri and Ksiv #2, Ramban #1

Last week we were discussing Kri or Ksiv. A few shitos:

- (1) Euphemistic kri and ksiv
- (2) **Ibn Ezra** - hu, hi, lo/lo alef vav, naara, naar.

3rd Shita: Radak on Kri and Ksiv

ספרי דברים פרשת וזאת הברכה פסקא שני

(כז) מעונה אלהי קדם, שלשה ספרים נמצאו בעזרה אחד של מעונים ואחד של היא היא ואחד נקרא ספר זעטוטים באחד כתיב מעון אלהי קדם ובשנים כתיב מעונה אלהי קדם, בטלו חכמים את האחד וקיימו השנים, באחד כתיב תשעה היא ובשנים כתיב אחד עשרה היא בטלו חכמים את האחד וקיימו את השנים באחד כתיב וישלח את זעטוטי בני ישראל, ואל זעטוטי בני ישראל, ובשנים כתיב שמות כד ה + וישלח את נערי בני ישראל שם/שמות כד/יא + ואל אצילי בני ישראל בטלו חכמים את האחד וקיימו את השנים.

רד"ק הקדמה

...ועל כן ראיתי אנכי הצעיר דוד ב"ר יוסף קמחי ז"ל לכתוב על ספר ביאור דברי המקרא כאשר למדתי וקבלתי וכאשר תשיג יד מחשבתי באשר יי' אתי אשר לו נאוו תהלות אשאל העזר להחל ולכלות כי הוא העוזר והסומך יתברך שמו ואכתוב הפסוקים אשר צריך לפרשם והמלים אשר צריך לדקדקם גם אכתוב טעם כתוב וקרי וכתוב ולא קרי וקרי ולא כתוב כאשר אוכל לתת טעם לשניהם כל אחד ואחד במקומו ונראה כי המלות האלה נמצאו כן לפי שבגלות ראשונה אבדו הספרים ונטלטלו והחכמים יודעי התורה מתו ואנשי כנסת הגדולה שהחזירו התורה ליושנה מצאו מחלוקת בספרים והלכו בהם אחר הרוב לפי דעתם ובמקום שלא השיגה דעתם על הברור כתבו האחד ולא נקדו או כתבו מבחוץ ולא כתבו מבפנים וכן כתבו בדרך אחד מבפנים ובדרך אחר מבחוץ ואכתוב בקצת המקומות תרגום יונתן בן עוזיאל שיש בו פירושים טובים ונאים גם אביא דברי רבותינו זכרונם לברכה במקומות שאנו צריכים לפירושם ולקבלתם על כל פנים גם כן אביא קצת הדרשות לאוהבי הדרש ועתה אחל בעזרת המלמד לאדם דעת:

Beraissa on three sefarim in the Azara. This Beraissa shows clearly that there were discussions about the biblical text that needed to be adjudicated, and according to the Radak these issues came about because of Golus Bavel.

— **When there were different readings, one became the kri and the other became the ksiv.**

It is not clear if the Radak actually used this approach in Chumash. He does apply it in Nach. Thus when there is kri and ksiv, each approach needs to be dealt with separately.

Posuk in Tehillim:

תהלים פרק ק

(ג) דְּעוּ כִּי־יִקְוֶה הוּא אֱלֹהִים הוּא־עָשָׂנוּ וְלֹא יִלּוֹ אֲנַחְנוּ עִמּוֹ וְצֹאן מִרְעִיתוֹ:

אבן עזרא תהלים פרק ק

(ג) דעו - הוא אלהי' לבדו ושלו אנחנו עמו והמלה כמו כל קרי וכתוב על כן אמר הגאון כי ולו אנחנו הפך ואני עשיתי ומלת עמו שבה אל דעו:

Ibn Ezra - the correct reading is correct reading is Lo with a vav - to him. The kri is there to help you understand the Ksiv.

רד"ק תהלים פרק ק

(ג) דעו כי ה' הוא אלהים. עתה יש לכם לדעת כי ה' הוא האלהים והוא יכול על כל העולם והוציא אתכם מהגלות בכבוד. הוא עשנו ולו אנחנו, הוא גדלנו ורוממנו, כמו (ש"א יב, ו): אשר עשה את משה ואהרן. ולו אנחנו, שאנחנו נקראים בשמו עמו וצאן מרעיתו. והכתוב הוא ולא באל"ף, ופירושו שלא נוכל לומר כחנו ועוצם ידינו עשה לנו את החיל הזה. הגאון רב סעדיה פירש ולו אנחנו היפך ואני עשיתי (יחזקאל כט, ג):

Radak - you don't know which one is correct so you read 2 ways - G-d created us, we didn't create ourselves, or, He created us, and we belong to Him.

If that is this case, who decided what should be the Kri and what should be the Ksiv?

There is no answer. Another question, what would happen if there are three readings.

(**Posuk in Behar** - Habayis asher lo choma. Is it lo with a vav or an aleph - does it have a wall or not have a wall? The Gemara darshens in a way that combines the two reads. See Arachin 32a. Tosfos there had a third girsa in the chumash - Laved vav aleph, thus the Gemara is darshening peculiar spelling.)

What about the Machlokes Yeish Em L'Mikra yeish em l'masores? Shouldn't this be connected to how to understand Kri and Ksiv?

This is dealt with in Gaonic literature. There is an opinion in Kiddushin that we darshen both.

4th Shita: Malbim on Kri and Ksiv

A fourth shita on Kri and Ksiv: The Malbim. The Malbim insists that every detail in Tanach is necessary and important. omni-significance - nothing is insignificant in Nach.

Given that kind of approach, the Malbim holds that if you have kri and ksiv, both a Misinai. It is not that we don't know which one is correct. Rather, both meanings are intended.

Rav Mordechai Breuer did a lot of work on giras and the text of Tanach. In terms of the issue of kri and ksiv, R. Breuer said something simple and obvious: Ksiv is the Masorah of how to write. Kri is the Masorah of how you read. A sofer's job is to copy the written masorah exactly.

Victual - food or provisions, typically as prepared for consumption. Pronounced "vitl"

Kri and Ksiv didn't come up because there were un-sureties. Rather, there are two different traditions that exist contemporaneously.

[R' Akiva Eiger Shabbos 50a - there are a number of cases where the Masorah in chazal is different than the written sefarim now

Kiddushin - anan b'chaseiros v'yeseiros lo bekiin

Meiri - sefer torah is not posul because of Chaseiros or yeseiros

The Shulchan Oruch paskens that it can posul a sefer Torah.

Yeshaya Meiri has a chapter on textual variances in traditional sources]

Abarbanel on Kri and Ksiv in Yirmiyahu

אברבנאל ירמיהו הקדמה

ואמנם בחקוי והשלמות הג', שהוא ביושר הכתב ודקדוקו אחשוב גם כן שירמיהו לא נשלם בו מהסב' אשר זכרתי, רצוני לומר להיותו נער כשהתחיל לנבא ולזה לא למד בדקדוק הלשון ובסדר הכתיבה כראוי, והנה יורה על זה הקרי וכתב וכתב ולא קרי. וקרי ולא כתב, שתמצא בספרו יותר מבשאר הנביאים, כי הנה תמצא שספר ירמיהו בכמותו בכתיבה הוא דומה בכמות הכתיבה לספר התורה מבראשית עד תחילת בא אל פרעה, עוד תשוב תראה שספר ירמיהו זה הוא כמו ספרי יהושע ושופטים בקרוב בכמות הכתיבה, דוק ותשכח שבאותו חלק מהתורה אשר זכרתי נמצאו כ"א קרי וכתב, ואמנם בספר ירמיהו שהוא בכמותו דומה לזה נמצאו פ"א קרי וכתב, וכן בספר יהושע ושופטים תמצא מ"א קרי וכתב, ובאו א"כ בספר ירמיהו הכפל מהם, וכדי להעמידך על אמתת הטענה הזאת וחזקה, ראיתי לבאר פה ענין הקרי וכתב ומה הסבה שבספרי התורה והנביאים והכתובים

One last sugiya on Kri and ksiv. The Abarbanel in his Hakdamah to Yirmiyahu noticed that there is a lot of Kri/Ksiv in the sefer. Answer: Yirmiyahu was not fully prepared to be a Navi. See perek 1 - Naar anochi, not ready to be a Navi. Hashem still tells him, go ahead. If Yirmiyahu indicates that he was not fully experienced, that could explain why there is a lot of kri and ksiv. His spelling wasn't as good as his Nevuah. Thus the Ksiv is what Yirmiyahu incorrectly wrote, and the Kri is the correct pronunciation of the text.

Amongst the 4 shitos above, who would be outraged by this? The Malbim. In his intro to Yirmiyahu, the Malbim takes offence to this. How could the spelling of words be a matter of indifference? Of course the spelling is important! The Abarbanel himself seems to be saying that the words of obviously important, but the spelling is less so.

The **Rav** on Taam Elyon and Taam Tachton by Aseres Hadibros - see in Uvikashten misham.

The Ramban and the Sefer Torah During the Midbar

תלמוד בבלי מסכת גיטין דף ס עמוד א

א"ר יוחנן משום רבי בנאה: תורה - מגילה מגילה ניתנה, שנא': **נא** אמרתי הנה באתי במגילת ספר כתוב עלי; ר"ש בן לקיש אומר: תורה - חתומה ניתנה, שנאמר: **דלקוח** את ספר התורה הזאת. ואידך נמי הכתיב לקוח! ההוא לבתר דאידבק. ואידך נמי הכתיב במגילת ספר כתוב עלי! ההוא, דכל התורה כולה איקרי מגילה, דכתיב: **הויאמר** אלי מה אתה רואה ואומר אני רואה מגילה עפה. אי נמי, לכדרי לוי, דאמר רבי לוי: שמנה פרשיות נאמרו ביום שהוקם בו המשכן, אלו הן: פרשת כהנים, ופרשת לויים, ופרשת טמאים, ופרשת שילוח טמאים, ופרשת אחרי מות, ופרשת שתויי יין, ופרשת נרות, ופרשת פרה אדומה.

Gm' Gittin - was the Torah given in Megillos or Chasuma? Simple meaning: was the Torah accumulated over the course of the 40 years in the desert, given piece by piece. Or, was the Torah given all at once at the end of forty years?

There is a Beraissa: 8 parshios were given on the same day, the day of Chanukas HaMishkan. Some of these parshios are in Vayikra, others are spread out elsewhere. Two girsaos in the Gemara - detaniah, implying that this beraissa is relevant to the above discussion, supporting the view Megillah megillah nitnah. If you don't have the dalet, rather it just says taniah, then it could be another sugiya. I, in any case the Beraissa is a kasha on Chatumah nitnah? Simple answer - the parshios were given be'al peh.

שמות פרשת משפטים פרק כד

(י) וַיִּקַּח סֵפֶר הַבְּרִית וַיִּקְרָא בְּאָזְנֵי הָעָם וַיֹּאמְרוּ כֹל אֲשֶׁר־דִּבֶּר יְקֹנֶה נַעֲשֶׂה וְנִשְׁמָע:

At the end of Mishpatim, the Torah says that Moshe took Sefer HaBris and read it to the people, and based on the reading they made a covenant. What is Sefer Habris?

רש"י

(י) ספר הברית - מבראשית ועד מתן תורה ומצות שנצטוו במרה:

Rashi - Bereishis and half of Shemos. All the Torah up to that point. Seems to follow the approach of Megillah megillah nitnah. The Torah was not given all at once.

תוספות מסכת גיטין דף ס עמוד א

תורה חתומה ניתנה - תימה דכתיב (**שמות כד**) ויקח ספר הברית ויקרא באזני העם ופרש"י בפ"י חומש דהיינו מבראשית ועד כאן ונראה לפרש דלא קאמר חתומה ניתנה שלא נכתבה עד לבסוף אלא שעל הסדר נכתבה דיש פרשיות שנאמרו תחילה לפני אותם הכתובים לפנייהם ולא נכתבה עד שנאמר לו אותה שכתובה לפנייה וכותב

זאת אחריה ועל זה מייתי מדרבי לוי שאותם לא נאמרו על הסדר והיה יכול להוכיח זה מכמה מקראות דאין מוקדם ומאוחר בתורה אלא הואיל ומשכח דרבי לוי מייתי לה ור"ת גריס א"ר לוי מילתא באפי נפשה.

Tosafos - Torah chatuah means that at any particular time there was only one instalment of Sefer Torah. The first instalment was sefer habris, and then over the fourth years there was expansion. Megillag megillah means that the Torah was given in different pieces, not as a unified entity.

Ramban in his introduction to Chumash:

רמב"ן בראשית הקדמה

בראשית. משה רבינו כתב הספר הזה עם התורה כולה מפיו של הקב"ה והקרוב שכתב זה בהר סיני כי שם נא' לו עלה אלי ההרה והיה שם ואתנה לך את לוחות האבן והתורה והמצוה אשר כתבתי להורותם כי לוחות האבן יכלול הלוחות והמכתב כלומר עשרת הדברות והמצוה מספר המצות כולן עשה ולא תעשה א"כ התורה יכלול הספורים מתחילת בראשית כי הוא מורה אנשים בדרך בענין האמונה וברדתו מן ההר כתב מתחלת התורה עד סוף ספור המשכן וגמר התורה כתב בסוף שנת הארבעים כאשר אמר לקוח את ספר התורה הזה ושמתם אותו מצד ארון ברית ה' אלהיכם וזה כדברי האומר תורה מגלה מגלה נתנה אבל לדברי האומר תורה חתומה נתנה נכתב הכל בשנת הארבעי' כשנצטוה כתבו לכם את השירה הזאת ולמדה את בני ישראל שימה בפייהם וצוה לקוח את ספר התורה הזה ושמתם אותו מצד ארון ברית ה' אלהיכם. ועל כל פנים היה נכון שיכתוב בתחלת ספר בראשית וידבר אלהים אל משה את כל הדברים האלה לאמר

Moshe Rabbeinu wrote the Torah up to Parshas Tetzaveh on har sinai. Then he completed the Torah 40 years later. This is the view in the Gemara that says Torah megillah megillah nitnah. And according to the view Torah chatumah, there was only one session as the end of the 40 years.

In Devarim, the Ramban only mentions the view that Torah chatumah nitnah:

The Ramban may have favoured this view in light of the Kabbalistic idea that the Torah is a tzeiruf of sheimos of Hashem — this only makes sense if the Torah existed as a unified whole. But since there is a view of Megillah megillah, he limits it as much as possible.

If so, how does the Ramban interpret Sefer HaBris? It does not refer to Bereishis to Mishpatim. It means no more and no less that Parshas Mishpatim itself.

What is Parashas Mishpatim? If it is a din in Sefer Torah, the Ramban's answer is strange - doesn't fit either view of Megillah or Chasuma! Rather, Mishpatin is not a din in Sefer Torah. Rather, it is sefer a bris. The parsha is a contract.

Class #11 (Dec. 2): Ramban #2, Authorship of Nach

Chronology of Halacha - Ramban/Rambam

- 1) There is a Biblical prohibition to use wine that was consecrated for Avodah Zara: Yayin Nesech. There is also a prohibition to use Korbanos given for Avodah Zara. **Are these two issurim or one issur?**
- 2) There is a Rabbinic prohibition called Stam Yaiynam - all wine of non-Jews is considered to be Yayin Nesech.

There is a Gm in A"Z which infers the prohibition of non-Jewish wine from the posuk: Asher cheilev zivchechem yocheilu, yishtu yain nesicham (Ha'azinu). The Gemara says, just as the solids are prohibited, so too the wine is prohibited as well.

If the issur of Yayin Nesech is a separate issur from Korbanos, then the hekeish teaches the Issur. Deoraisa. If it is the same issur, then the posuk is an asmachta teachign the prohibition of Stam Yaiynam.

ספר המצוות לרמב"ם מצות לא תעשה קצד

והמצוה הקצ"ד היא שהזהירנו מלשתות יין נסך. וזה לא בא בו כתוב נגלה בבאור אבל אמרו בע"ז (כט ב) אשר חלב זבחימו יאכלו ישתו יין נסיכם מה זבח אסור אף יין אסור. ואתה יודע שאסור הוא בהנאה ולוקין עליו כמו שהתפרסם בכל התלמוד. והראיה על היות יין נסך מאיסורי דאורייתא ושהוא ימנה ממצות לא תעשה אמרם בגמר עבודה זרה (עג ב) רבי יוחנן וריש לקיש דאמרי תרוייהו כל איסורין שבתורה בין במינן בין שלא במינן בנותן טעם חוץ מטבל ויין נסך דבמינן במה שהוא ושלא במינן בנותן טעם. וזו ראיה מבוארת שיין נסך מאיסורין שבתורה. ובסיפרי (ס"פ בלק) גם כן כשזכרו תואר התפשט ישראל בשטים לזנות את בנות מואב אמרו והוא היה נכנס והצרצור מלא יין אצלה מיין העמונים ועדיין לא נאסר יינן שלגוים לישראל אמרה לו רצונך שתשתה וכו'. והנה מאמרם ועדיין לא נאסר יינן שלגוים יש ראיה כי אחר זה נאסר בלא ספק, ואולם אמרם (שבת יז ב) כי בכלל שמנה עשר דבר שגזרו שמכללם יינם וכן גם כן אמרם (ע"ז נו א) שאני יין נסך דאחמירו ביה רבנן, הנה הם ירצו בזה סתם יינם לא יין נסך עצמו. אולם יין נסך עצמו הנה הוא אסור מן התורה. וכבר ידעת אמרם (ע"ז לב ב, לא א) שלשה יינות הם וכו'. וכבר התבאר משפטי מצוה זו בפרקים האחרונים מעבודה זרה:

The **Rambam** in Sefer HaMitvos holds that Korbanos and Yayin are two separate Issurim, learnt from the posuk in Haazinu. He adds, I'll show you that this is a separate issur Deoraisa: Chazal speak of the incident at Baal Peor - the Moavite women seduced the Jewish men, give them wine to drink, and in their drunken state the women led the men to A"Z. The Midrash adds, they gave them wine to drink - vedayin lo ne'esar yayin ovdei kochavim.

The Rambam says, you see from here that the issur of Yayin Nesech was promulgated after the incident of Baal Peor, and the limud comes from Haazinu, which occurred after the incident at Baal Peor.

— The fact that something is not yet in the Torah is a sign that the Halacha did not yet apply.

השגות הרמב"ן לספר המצוות לרמב"ם

ומה שאמר הרב [שנב] מן הלשון שהשנוי בסיפרי והוא בגמר סנהדרין בפרק חלק (קו א) וצרצור מלא יין אצלה מיין העמוני ועדיין לא נאסר יין שלגוים לישראל ומאמרם עדיין לא נאסר יש ראיה שאחר כך נאסר

בלא ספק, זה ודאי טעות. לפי שעל סתם יינן נאמרו הדברים שהיין המונח אצלם מיין העמוני סתם יינן היה לא ייין שנתנסך ממש לע"ז ולפיכך קראוהו יין שלגוים ובתחלה לא היו מפתות בשתייה אלא בדברים המותרים והמורגלים להם שאין בהם שמץ עבודה זרה ואיסור שלא היה שומע לה עד שהיה היין בוער בהם ולוקח לבם לזנות ולפיכך הוצרכו לומר שעדיין לא נאסר. ובמדרש ר' תנחומא (ס"פ בלק) בארו עוד זה ואמרו אין אתם רוצים לאכול מזבחתינו ומבשולינו הרי לכם עגלים ותרנגולים שחטו כמצותכם ואכלו מיד משקתו היין ובוער בו השטן והיה נשטה אחריה. ואילו יתפרש ביין נסך ממש יהיה הפך מדברי הרב ותהיה משם ראיה שאיסורו אינו מן התורה. שכל התורה כולה כבר נאמרה למשה בסיני וכמו שאמרו (ספרא ר"פ בהר) כל התורה כולה נאמרו כללותיה ופרטותיה ודקדוקיה מסיני. ואם יאמר מפני שהקש ישנו יין נסיכם הוא אחרי כן בשירת האזינו, זה דבר שאינו ראוי לשמעו.

The **Ramban** disagrees with this. If the issue is drunkenness, the Midrash could be referring to Stam Ya'aynam, the Rabbinic prohibition. Why does the Rambam assume that the Midrash means Yayin Nesech?! Further, how do you know that since a halacha has not been written in the Torah yet means that it did not apply until then?

Thus, there is a Machlokes if, where something is written in the Torah can determine when the Halacha was applied.

We have suggested a few times that Dreash/Peshat = difference in interpretation before 40 years/after 40 years. We mentioned the Torah Shelimah's approach to Ayin Tachas Ayin - Peshat is literal. After the pesukim in Devarim, we can interpret the posuk figuratively. The Rambam allows for this possibility, while the Ramban does not.

Yibbum in the Ancient Near-East

Now for something completely different: **Yehudah and Tamar** - The posuk says that Yehudah married his son off to Tamar, his son died, a second son married her and he died, and Yehudah didn't give her to his third son. Rather Tamar ends up seducing Yehudah, Yehudah doesn't know. She is pregnant, he wants to put her to death, she confronts him etc.

It looks like the Parsha is dealing with the Mitzvah of Yibum, but it can't really be Yibum because the father-in-law doesn't play a role in Yibum. However, at a peshat level, appearances mean something...

Likewise, after Matan Torah, we have the story of **Rus and Boaz**. They clarify that the closer relative doesn't want to marry Rus. Again, it looks like Yibum but isn't - Yibum only applies to the brother.

Maybe these stories are dealing with some strange kind of Yibum?

רמב"ן בראשית פרשת וישב פרק לח

(ח) ויבם אותה והקם זרע לאחיה - הבן יקרא על שם המת, לשון רש"י. ואין זה אמת, כי במצות התורה נאמר גם כן (דברים כה ו) יקום על שם אחיו המת ולא ימחה שמו מישראל, ואין היבם מצווה לקרא לבנו כשם אחיו

המת, ואמר בבועז וגם את רות המואביה אשת מחלון קניתי לי לאשה להקים שם המת על נחלתו ולא יכרת שם המת מעם אחיו ומשער מקומו ותקראנה אותו עובד לא מחלון (רות ד י):
ועוד, שאמר וידע אונן כי לא לו יהיה הזרע, ומה הרעה אשר תבא עליו עד כי השחית זרעו מפניה אם יקרא שם בנו כשם אחיו המת, ורוב בני האדם מתאווים לעשות כן. ולא אמר הכתוב "ויאמר אונן" אבל אמר וידע אונן כי לא לו יהיה הזרע, כי ידיעה ברורה היתה לו בזה שלא יהיה לו הזרע:
אבל הענין סוד גדול מסודות התורה בתולדת האדם, ונכר הוא לעיני רואים אשר נתן להם השם עינים לראות ואזנים לשמוע. והיו החכמים הקדמונים קודם התורה יודעים כי יש תועלת גדולה ביבום האח, והוא הראוי להיות קודם בו ואחריו הקרוב במשפחה, כי כל שארו הקרוב אליו ממשפחתו אשר הוא יורש נחלה יגיע ממנו תועלת:

והיו נוהגים ליישא אשת המת האח או האב או הקרוב מן המשפחה. ולא ידענו אם היה המנהג קדמון לפני יהודה. ובבראשית רבה (פה ה) אמרו כי יהודה התחיל במצות יבום תחלה, כי כאשר קבל הסוד מאבותיו נודרו להקים אותו. וכאשר באתה התורה ואסרה אשת קצת הקרובים, רצה הקב"ה להתיר איסור אשת האח מפני היבום, ולא רצה שידחה מפניו איסור אשת אחי האב והבן וזולתם, כי באח הורגל הדבר ותועלת קרובה ולא בהם, כמו שהזכרתי:

והנה נחשב לאכזריות גדולה באח כאשר לא יחפוץ ליבם, וקוראים אותו בית חלוץ הנעל (דברים כה י) כי עתה חליץ מהם, וראוי הוא שתעשה המצוה זאת בחליצת הנעל. וחכמי ישראל הקדמונים מדעתם הענין הנכבד הזה, הנהיגו לפנים בישראל לעשות המעשה הזה בכל יורשי הנחלה, באותם שלא יהיה בהם איסור השאר, וקראו אותו גאולה, וזהו ענין בועז וטעם נעמי והשכנות. והמשכיל יבין:

R' Avraham ben HaRambam/Ramban - before Matan Torah, Yibum really was much more extensive than it is in Halacha. The Midrash says, Yehudah patach b'yibum techilah. These mefarshim take this literally: at that time and place, this was a form of Yibum. The practice was, if a man died without children, his wife would be married to another close relative, and the job could be performed by a father in law.

Thus, when Tamar seduced Yehuda, she was not doing incest, rather she was performing Yibum. When Boaz was concerned about the kinsman, which was after Matan Torah, nevertheless, the general concept of Yibum was that the family of the dead man owes some kind of involvement to the widow, then Yibum could still apply to distant relatives, and the Minhag was that a relative should step it (despite the halacha not mandating this).

This is quite the chiddush: aside from the Yibum we know in Halacha, there was some kind of common law Yibum that even after Matan Torah remained a presence in social life.

We have historical evidence — two legal codes mention this type of Yibum, one of them: the **Hittite Legal Code** (extant at the time of Matan Torah). They lived in Turkey, but there were Hittites in E"Y.

More Examples of Peshat/Derash Issues

Example #1 -

בראשית פרשת נח פרק י

(ח) וְכֹשׁ יָלַד אֶת־נִמְרֹד הוּא הֶחֱלָ לְהִיּוֹת גִּבּוֹר בְּאֶרֶץ: (ט) הוּא־הָיָה גִבּוֹר־צִיד לִפְנֵי יְקֹנָק עַל־כֵּן יֵאמָר כְּנִמְרֹד גִּבּוֹר צִיד לִפְנֵי יְקֹנָק:

The Posuk says in Noach, Nimrod was King of Shinar, and hu hechel lihios gibor tzaid lifnei Hashem. What does Gibor Tzaid mean? **Bereishis Rabbah** - Nimrod took people away from Hashem. Midrash understands Nimrod to be a Rasha. Is this Peshat?

רש"י בראשית פרשת נח פרק י

(ט) גבור ציד - צד דעתן של בריות בפיו ומטען למרוד במקום:

Rashi thought so; he quotes this Midrash as Peshat in the posuk.

אבן עזרא בראשית פרשת נח פרק י

(ח) נמרוד אל תבקש טעם לכל השמות, אם לא נכתב, והוא החל להראות גבורות בני אדם על החיות, כי היה גבור ציד. וטעם לפני ד'. שהיה בונה מזבחות ומעלה אותם החיות עולה לשם, וזו דרך הפשט, והדרש דרך אחרת:

Ibn Ezra - no, this sounds like praise, not criticism. It means that he was a mighty hunter and a G-d fearing man.

Ibn Ezra disagrees with Rashi on two points - 1) Peshat in the posuk, and 2) Whether Nimrod was a Rasha or not.

רמב"ן בראשית פרשת נח פרק י

(ט) הוא היה גבור ציד לפני ה' - צד דעתן של בריות בפיו ומטען למרוד במקום. על כן יאמר על כל אדם מרשיע בעזות פנים ויודע רבונו ומתכוין למרוד בו יאמר זה כנמרוד. לשון רש"י, וכן דעת רבותינו (עירובין נג א): ורבי אברהם פירש הפך הענין על דרך פשוט, כי הוא החל להיות גבור על החיות לצוד אותן. ופירש "לפני ה'" שהיה בונה מזבחות ומעלה את החיות לעולה לפני השם. ואין דבריו נראין, והנה הוא מצדיק רשע, כי רבותינו ידעו רשעו בקבלה: והנכון בעיני, כי הוא החל להיות מושל בגבורתו על האנשים, והוא המולך תחלה, כי עד ימיו לא היו מלחמות ולא מלך מלך, וגבר תחלה על אנשי בבל עד שמלך עליהם, ואחר כך יצא אל אשור ועשה כרצונו והגדיל, ובנה שם ערים בצורות בתקפו ובגבורתו, וזהו שאמר ותהי ראשית ממלכתו בבל וארך ואכד וכלנה:

Ramban - splits these two points. Peshat means that he was a mighty hunter. Before Hashem - means he was a great hunter in the world. Was he a Tzaddik or a Rasha? He says, our Rabbis know from Mesorah that he was a Rasha. (Multiple negative Midrashim about Nimrod).

The Ramban uses the Midrash's character analysis, but not the Peshat.

The **Netziv**'s tendency as an Acharon is to try to justify both sides of the Machlokes. It is natural to want to benefit from the insight of multiple approaches. He tries to substantiate both Ibn Ezra and Rashi - he was a hunter, and his hunting was a way of serving G-d, but he was a Rasha. Think of

people who don't lead very good lives but give a lot of Tzedakah. They are not righteous but do certain things that are positive.

Example #2 -

Inheritance - a man dies with no children. **Gm'** - His father inherits him. **Posuk** - his brother inherits him. **Ramban** sees this issue.

רמב"ן במדבר פרשת פינחס פרק כז

(ט) ואם אין לו בת ונתתם את נחלתו לאחיו - קבלו רבותינו (ב"ב קטו א) כי האב יורש את בנו כאשר מת בלא זרע, ולא הזכיר הכתוב זה. והטעם כי במשפטי הירושה כל מנחיל נוחל, כי הקורבה שוה, וכיון שאמר הכתוב שהבן יורש את אביו גם האב יורש את הבן. ועוד כי הירושה היא בשלשלת הזרע ביוצאי חלציו לא בצדדין. אם כן "ונתתם את נחלתו לאחיו" משמע נחלה שהאב יורש בקבר וממנו תבא לאחים. אבל לא רצה לומר ואם אין לו בת ונתתם את נחלתו לאביו, כי דרך ברכה ידבר ולא בנכרתים. ואולי לא היה זה בבאי הארץ שינחול האב את הבן, שבהם ידבר:

We said at the beginning of the term that there are 2 strategies for dealing with this situation:

- 1) Peshat is poetic/Derash is practical
- 2) Peshat is Midbar/Derash is l'doros

Rashi/Rashbam/Ibn Ezra never talk in this terms but do recognize that Peshat and Derash may not be identical. However, as we get to later Rishonim and the Acharonim, we will see Mefarshim speaking in these terms, dealing with distinctions between peshat/derash and the Halacha.

Ramban gives 2 answers:

- 1) The posuk reflects the **historical situation** in the Midbar. The father never inherited the son, because the father always predeceased the son. The oral law recognizes that such a situation could occur, and adds that if the father is still alive, he inherits the son. *This reflects option #2 above.*
- 2) Yes, practically the father will inherit the son, but it is an unfortunate reality. Therefore the posuk doesn't mention it. The written law wants to avoid being explicit about a circumstance where the son predeceases the father. *This reflects option #1 above.*

Abarbanel - The Authorship of Books of Tanach (Higher Criticism)

תלמוד בבלי מסכת בבא בתרא דף יד ע"ב - טו ע"א

ומי כתבן? משה כתב ספרו ופרשת בלעם ואיוב; יהושע כתב ספרו ושמונה פסוקים שבתורה; שמואל כתב ספרו ושופטים ורות; דוד כתב ספר תהלים ע"י עשרה זקנים; ע"י אדם הראשון, על ידי מלכי צדק, ועל ידי אברהם, וע"י משה, ועל ידי הימן, וע"י ידותון, ועל ידי אסף, ועל ידי שלשה בני קרח; ירמיה כתב ספרו וספר מלכים וקנינות; חזקיה וסיעתו כתבו (ימש"ק סימן) ישעיה, משלי, שיר השירים וקהלת; אנשי כנסת הגדולה כתבו (קנ"ג סימן) יחזקאל ושנים עשר, דניאל ומגילת אסתר; עזרא כתב ספרו ויחס של דברי הימים עד לו

Within the Beraissa, it is not clear what the term Katvuhu means. In the case of Mishlei, the Tanach uses the term he'etiku. Does that mean edited, copied? It's unclear. In the very least, it means that these Batein Dinim or individuals were the authority responsible for these sefarim and their canonization as Kisvei HaKodesh.

Remaining within Nach, the question we can ask in general terms is, does this Beriassa close the issue, as far as we are concerned. Could we say that this is the kind of statement where there is room for a Peshat commentator to come to a different conclusion regarding the authorship of books in Nach.

(Shneur Leihman - Canonization of the Bible, deals with traditional sources...)

Regarding Sefer Yehoshua, the Gemara there has a few questions about Yehoshua. How could Yehoshua write, Yehoshua died? The Gm. answers Elazar. But the next posuk says, Elazar died. Rather, the Zkeinim who survived Yehoshua and Elazar wrote those lines.

אברבנאל יהושע הקדמה

וכאשר עיינתי בפסוקים ראיתי הדעת הזו שיהושע כתב ספרו רחוק מאד, לא בעבור מה שנאמר בסופו וימת יהושע (שהוא לבד הספק אשר התעוררו אליו בגמרא), כי אם בעבור הכתובים שיעידון יגידון שלא כתבם יהושע, אמר בהקמת האבנים בתוך הירדן (שם ד' ט') ויהיו שם עד היום הזה, ואמר בענין המילה ויקרא את שם המקום ההוא גלגל עד היום הזה, ואמר בעכן (שם ז' כ"ו) על כן קרא למקום ההוא עמק עכור עד היום הזה, ובגבעונים נאמר (שם ט' כ"ז) ויתנם יהושע ביום ההוא חוטבי עצים ושואבי מים לעדה ולמזבח ה' עד היום הזה, ואמר (שם י"ד י"ד) על כן היה חברון לכלב בן יפונה הקניזי לנחלה עד היום הזה, ובנחלת בני יהודה אמר (שם ט"ו ס"ב) ואת היבوسی יושבי ירושלם לא יוכלו בני יהודה להורישם וישב היבوسی את בני יהודה בירושלם עד היום הזה, וכן נאמר בנחלת אפרים (שם ט"ז י') וישב הכנעני בקרב אפרים עד היום הזה ויהי למס עובד, ואם יהושע כתב כל זה איך יאמר בהם עד היום הזה? והנה הכתיבה היתה סמוכה לעשיית הדברים ההמה, וכח מאמר עד היום הזה יורה בהכרח שנכתב זמן רב אחרי שקרו הדברים. עוד תמצא בנחלת בני דן שאמר שם (שם י"ט מ"ה) ויצא גבול דן מהם ויעלו בני דן וילחמו בלשם, וידוע שזה היה בימי פסל מיכה באחרית השופטים, וזו טענה מכרעת שלא נכתב המאמר הזה כי אם שנים רבות אחרי מות יהושע, והוא המוכיח שלא כתב יהושע את ספרו... ומפני זה כלו חשבתי אני, שיהושע לא כתב ספרו, אבל שמואל הנביא כתבו וכתב ג"כ ספר שופטים, ולזה לא תמצא שנאמר ביהושע שכתבו...

Abarbanel - amongst Rishonim, the Abarbanel was willing to question some of the attributions in this Beraissa. He held that Yehoshua could not have written Yehoshua. The best known reason is because the sefer uses the term as hayom hazeh multiple times. If Yehoshua was recording was happened to him soon after the events occurred, it would be odd to say, Ad hayom hazeh.

Based on this and other reasons, the Abarbanel concludes that Shmuel wrote Yehoshua, not Yehoshua himself.

What about the Beraissa?

If there is no Machlokes, it is likely that the information is true and based on Mesorah. However, the Sugiya in B”B itself had doubts attributing Yehoshua to yehoshua himself. Based on this, the Abarbanel feels that the final conclusion regarding the authorship of yehoshua is still up for question.

We could dispute this - the Gemara has not doubts regarding the authorship of yehoshua, and is merely questioning what to do with the pesukim about his and Elazar’s death, but the Gemara does not mean to use these verses as difficulties questioning the sefer’s authorship.

R. Tzaddok HaKohen - The Abarbanel treated Tannaim as if they were his friends!

Class #12 (Dec. 4): Authorship of Chumash, Parshanus HaAchronim #1

Last 8 Pesukim of Chumash

Last class we talked about authorship of Nach, now will we talk about authorship of Chumash. The Beraissa in B”B deals with the last 8 pesukim in the Torah after Moshe’s death. The Gemara assumes that Moshe would not have written about his own death. It is not necessarily a strange concept — it is possible.

In any event, the Beriassa is bothered by this. The Gemara quotes a Machlokes: (1) R’ Nechemia or R’ Yehudah: Yehoshua wrote the last 8 pesukim, (2) R’ Shimon: impossible that part of Torah is not written by Moshe. Rather, Hashem dictated, and Moshe wrote in tears.

The Nafka Mina is whether a yachid can read it. What does that mean? The Rishonim discuss this, see Tosafos, Shita, and Rambam.

(The Rambam’s view of Yachid Korei Osa means you can read the last 8 pesukim without a minyan. R’ Velvel: assuming the Gra, that Moshe wrote it and Yehoshua had to unscramble it — what is Kriyas HaTorah all about? It is frequently assumed that Kriyas HaTorah is a reenactment of matan Torah. The oleh stands, people stand throughout matan Torah, the bimah etc. How was the Torah actually given? B’ksav and be’al peh. Everything in Torah is both written and oral, and Kriyas hatorah reenacts the oral transmission of the written text. That is true of the entirety of the Torah with the exception of the last 8 pesukim. Moshe never taught the people the last 8 pesukim. Therefore, the Rambam’s opinion makes sense. If you are reading the last 8 pesukim, who don’t need a minyan because you are not reenacting the reading of Torah in public.)

Ibn Ezra - Yehoshua wrote the last 12 pesukim, starting from Ve’ya’al Moshe.

Ramban - in his hakdamah to Chumash, the Ramban says that according to the view Megillah Megillah Nitnah, the rest of the Torah was written up to Le’einei kol Israel (the last posuk)

Or HaChaim - Expressed regret that Ibn Ezra wrote what he did. Doesn’t say it’s wrong but wishes he didn’t say it, probably because amongst Muslims there were claims that Jews changed things in the Torah and saying that Yehoshua wrote part of it would cause issues.

Especially in the Christian world it would have been safer to claim that the Bible was entirely written by Moshe. (In Moses Mendelssohn's German translation and commentary, only this view was expressed.

Gra - Denied this Machlokes completely and held that R' Shimon, the second view, is merely explaining the view that Yehoshua wrote it. R' Shimon means, we all know that it is impossible that Yehoshua really wrote it. Moshe wrote b'dema doesn't mean that he wrote it in tears, but rather he wrote up in a mixed up way. Then Yehoshua unscrambled the text. (Having his cake and eating it too!)

The Rest of Chumash

What happens to other Parshiyos in the Torah? Can we introduce some later author there? The relevant Gemara is in Makkos. At the end of Sefer Yehoshua it says that Yehoshua wrote something B'sefer Torah Elokim. The assumption is that this means the Torah. What did he write? Machlokes R' Yehudah, R' Nechemia. One view is that he wrote the last 8 pesukim, like the Gemara in Bava Basra. The other view is that Yehoshua wrote the Parsha of Arei Miklat. The cities were set aside by Moshe but not allocated until Yehoshua.

The Gemara asks, how could Yehoshua have written this Parsha? Answers, it does not mean that he wrote it in Devarim. It means he copied the chapter from Devarim and put it into his own book.

The Gemara's conclusion is that the earlier parts of Torah were only written by Moshe. Only the last 8 pesukim are up for question.

Obviously this was very scandalous. It turns out that people have suspicions about him earlier as well. When this became public, Jacobs lost his position in Jews College became the Rabbi of the most prominent non-Orthodox shul in London - conservative.

Ibn Ezra's Approach

If we conclude that Chazal closed the Torah on parshios, what about certain phrases here and there? There are a few places where **Ibn Ezra** says cryptic things about particular pesukim. One example in Lech lecha - vehacna'ani az b'aretz. Az implies some other time but not now.

Rashi - the Kena'ani were then in the land, as opposed to beforehand.

Ibn Ezra - says like Rashi. Then says, if you don't hold like this, there is an enigma here, and if you understand it, keep it to yourself.

There are about half a dozen passages where Ibn Ezra says the same kind of thing.

What is this "sod" that he speaks about? There are two options:

- (1) Ibn Ezra means that Torah is written from the viewpoint of a later perspective. The Torah assumes that the normal reader will be living much later on, after the Kna'ani leave E"Y.
- (2) **Tzafna Paneach** - R' Yosef Tuv Elem: Ibn Ezra means that the phrase was added later, the Gm Makkos was bothered by different authorship in Halachik passages, but narrative passages, certain verses is ok.

L'maase, we probably wouldn't rely on this Ibn Ezra - it is a Shitas Yachid.

One final note: In the last 70's early 80's, a book was published called the commentary of R' Yehudah the Chossid on Chumash. The book contained points similar to this approach in ibn Ezra, used very freely. R' Moshe Feinstein said that the book must be a forgery. In effect, if you look at Ibn Ezra, he discusses examples where you could very easily see that the Ibn Ezra is making a valid point - there is reason to say that the verses were written later. But this book was saying that pesukim that don't **need** the Ibn Ezra's approach were still written at a later point. The book was eventually republished without this passages.

R' Carmy - late Ashkenazi Rishonim aren't really writing in a way that someone should build a theology based on what they are saying. Sephardim were systematic philosophers. Statements needed to be consistent within the scope of their work. Late ashkenazim weren't philosophers - they weren't worried about if what they say squares with the rest of what they say. There was a sense that if you want peshat, you have Rashi, and they were working on their own dime.

Take Chizkuni for example, were you find extreme peshat and extreme derash — like a collection of Shalosh Seudos torah!

Example:

In Bamidbar, the posuk says that the Kna'ani Melech Arad attacked the Jewish people on the east bank of the Jordan. Jewish people wiped them out, called the place Chormah. If so, how come in Sefer Yehoshua one of the conquered cities is that of Melech Arad? They were destroyed already!

Ibn Ezra - quotes a karaite view that these pesukim were written later on. Ibn Ezra says no. Rather, there are two places called Arad. One was on the east bank of the Jordan, one on the west bank.

We know from Egyptian documents that there were more than two places called Arad. Sheeshak invaded two different places called Arad...

Ramban rejects Ibn Ezra on the grounds that the Kna'ani Melech Arad is later described as dwelling in the Negev of Eretz Cnaan, and Cnaan refers to the west bank of E"Y. If so, how does the Ramban explain Shoftim? Two approaches. One approach is, the destruction of Arad occurred after the death of Moshe.

Melech Arad crossed the river to attack the Jews. It doesn't make sense that the Jews crossed into Israel to avenge the attack. Rather, they took a neder. You normally take a neder if you can't do

something right away. The neder was later fulfilled in the days of Yehoshua, and Moshe wrote it al pi ha'asid.

Introduction to Parshanus HaAchronim

After the time of the Ramban, with the exception of the Ralbag, Achronim are not involved with questions of Peshat and Derash in Halacha as we have discussed earlier in the term. 14th century Spanish commentator named **R' Yosef Ibn Kaspi**, wrote philosophy and on Tanach. In his commentary on Mishpatim he says: "I'm not a specialist in Halacha. I recommend you use Rashi's commentary. I will rejoin you in Ki Sisa - I have nothing to say."

The major mefarshim after the earlier period were not major Halachik thinkers.

Gedolei halacha who write on Chumash in this period are really coming from a different angle. They aren't writing on chumash, they are really writing on Rashi: The Mizrachi, the Maharal etc. There was a great period of Mefarshei Rashi. Part of the reason for this may be because these writers felt that the Peshat approach to Chumash was, for the moment, exhausted, they had creative energies towards Chumash, so they wrote commentaries on Rashi. You could try to extract from Mizrachi/Maharal a commentary on Chumash via what they said about Rashi.

In any event, the issues themselves don't go away, but attention to them is in eclipse. It starts up again in the 18th century, partially because books are now more readily available, halachik works for accessible. People have access to the heikey of Midreshei Halacha and Sifrut Chazal.

If we take the great Achronim, we can divide them into two groups:

(1) There are major Achronim whose entire energies are devoted towards defending what Chazal said. How Chazal derived Torah shebe'al peh from bichsav. **HaKsav VeHaKabbalah**, for example. **Torah Temimah, Torah Shleimah**.

(2) Second approach also interested in understanding Chazal, but also interested in discussing what happens when the Peshat and the Derash are not identical. **Gra, Netzvis, Meshech Chochoma**.

From a social point of view, the people in the second group tend to be people who were more isolated intellectually, outwardly speaking. They weren't addressing adversaries of Orthodoxy. Interesting - when you are working in the frum world you might have more intellectual freedom, vs. when you are trying to justify Orthodoxy and are worried that people might distort your opinions, use it against you.

Example:

Hashem tells Moshe, tell Aharon not to go into the Kodosh HaKodoshim. If he does want to go in, he needs to bring the following korbanos etc. What is this about? Ask anyone on the street, it is talking about Yom Kippur. The Torah itself, however, doesn't mention Yom Kippur at all! 25 pesukim discuss the Avodah, not one mention about what day of the year he is meant to do this on. After the

25 pesukim, there is another section. Therein Hashem this, this is going to be a halacha l'doros, the kohen who replaces his father, he will do this Avodah on the 10th day of the 7th month.

Two things happening here: No immediate mention of Yom Kippur, and at the end of the Parsha, Yom Kippur is mentioned regarding someone who replaces Aharon.

Someone who rejects Torah Misinai could suggest that there are two different authors here, two stratas of text - an earlier stage which does not yet know about Yom Kippur, and there is a later author who introduces Yom Kippur. What he would switch from Aharon to the son is a random change. This is upscale Kefira.

If we change the language a little bit, this is how the **Gra** learned. He noticed these changes, and said: there are in fact two stages in the Parsha. Aharon himself was allowed to enter the KK any time of the year as long as he did this avodah. L'doros, the Avodah can only be done on Yom Kippur.

Both approaches share the same insight regarding two layers of text.

If the Gra is correct, then essentially we have two different Halachik institutions combined in Yom Kippur. There is a ritual for purifying the Temple. Conceptually, this has nothing to do with Yom Kippur. It can be discussed on its own. Then we have something else called Yom Kippur, which is in Emor/Pinchas. In theory, both points can be discussed separately.

Many people might be puzzled by this, but a Brisker would be in heaven! There are two dinim in Yom Kippur - Taharas HaKodesh and Kaparah, both dinim expressed within the text of the Torah itself!

Now, when we read Achrei Mos, there are some frustrating things going on. The halacha is hard to find in the pesukim themselves. Kiddush yadayim and raglayim, overlap of korbanos with Mussaf...

Once you accept the Gra, things start to make sense. The Torah we have is combining two different things. In the midbar there was taharas hakodesh and avodas hamoed. If you were onyl doing avodas hayom without the involvement of the korbanos of Yom Kippur, the peshat in the pesukim would fit much better. You don't need 10 kiddush yadayim and 5 teveilos. It is only because our Yom Kippur which came into being after the Midbar combines both services, the taharas hakodesh and the moed, and the oral law teaches us how to integrate these two different institutions.

Class #13 (Dec. 11): Parshanus HaAchronim #2

We want to continue discussing the topic of different approaches to Chumash amongst the Achronim. We talked about an example involving the Gra. Today will spend most of our time discussing approaches that are pro integrating Torah shebeal Peh with bichsav. Achronim recognize that Peshat and Derash are not always the same, but there is a group of Achronim interested primarily in understanding how the oral tradition fits into the written law.

R. Shimshon Refoel Hirsch

Three topics here:

- 1) We have already he talked about his approach to Taamei haMitzvos when we looked at the Rambam. Taamei HaMitzvos has detailed religious significance.
- 2) R. Hirsch's understanding of the Hebrew language - we will get to when looking at Ksav v'Kabbalah
- 3) **Methodology** -

Mishpatim: Ki tikne eved ivri - R. Hirsch is bothered by the fact that the pesukim are not particularly well organized. If we were writing the Torah, we would begin: You can become an eved ivri in 2 ways etc. Instead the Torah begins immediately, when one buys an Eved Ivri, as if we already know about the whole sugiya to begin with!

One could answer that there are possible literary reasons. R. Hirsch gives a different explanation:

R. Menashe M'Ilya, part of the circle of the Vilna Gaon. He is quoted a few times in the Teferes Yisroel. The mashal that R. Hirsch uses is his mashal. The principle involved is, our basic source of Halacha is Torah Shebeal Peh. Where do we get the Halacha? From the tradition. The written Torah is not meant to be an organized explanation of Halacha.

Written Torah is comparable to a set of lecture notes. The Halacha pesuka is not the ikkar of Torah Shebichsav. The oral tradition is not built up from the written law. Rather, the oral tradition is the basis of the halacha, and the Torah = a set of notes on that lecture.

Lecture notes don't give all the details of the shiur.

For R. Hirsch, the oral Torah is really about the Mesorah, while the written law only hints to the mesorah.

One could find this point interesting but say that R. Hirsch may have taken this too far. Halachos and derasho may come naturally from the Peshat in the posuk. But the point nonetheless is that Oral law is not based on derashos but rather Mesorah and the derashos are used to show how the oral and written laws are linked together.

We can ask, what were Tannaim really up to, were they learning Mishnayos or Midreshei Halacha? Would the Tannaim teach the pesukim and darshen the pesukim, and then take the derashos and forge Mishnayos etc. Or were Mishnayos taught and explained through Derashos? R. Hirsch would say like the later approach.

Sefer HaKsav V'HaKabbalah

Basic premise is that the Mesorah can be found embedded into the Written Torah. A few interesting examples:

Example #1 - Two Letter Roots

Involves the theory of the two letter root. R. Hirsch also uses the idea of the two letter root. The assumption is that in Hebrew, when two words share two letters of a root, they may very well share meaning. The root is comprised of 3 letters, but we can look at the root as comprised of a second 2 letter root which is expanded. Thus other roots that share the same two letters could be connected in meaning.

Posuk in Devarim about Chametz and matzah - Lo tochal alav Chametz, Shivat yamim tochel alav Matzot lechem oni.

Based on this the Gemara in Pesachim has a Kekesh: in order for something to be Matzah, it needs to be made out of something that could become Chametz: the chameishes minei dogon. R. Yehudah asked, if I can make a derasha out of two different pesukim, Chazal ought to have chosen the earlier posuk. If so, there is a Posuk in Bo, Kol machmetzes lo tochelo, bechol moshveteichem tochlu Matzah! Why didn't the Gemara make a hekesh from there?

HaKsav v'HaKabbalah - the Peshat in the posuk points to the Derasha. The posuk in Re'eh calls Matzah Lechem oni. What is Lechem? Bread. What is the root of lechem? Lamed, Ches, Mem. Builds on the word Cham - to be warm. The process of fermentation involves the release of heat. The very meaning of the word Lechem involves the idea of the application of heat. If Matzah is referred to as lechem, that means that Matzah has to share something with Chametz. Thus we conclude - Matzah needs to be made of something that can ferment and become Chametz.

The Gemara used a derasha, but the derasha reflects a substratum, the Peshat of the posuk itself.

We could ask, but the word Lechem doesn't just mean bread. It could also mean any staple of life. Hinei ani mamtir lachem lechem min Hashamayim. **Ibn Ezra** - this refers to the slav, meat. In Arabic, lechem means meat. **Rashi** - it means the man himself.

Et korbani lachmi l'ishai - Lachmi means meat.

We could answer that it really means bread but it is used to refer to meat as well.

Example #2

Arami oved avi vayered mitzrayma —

What is the subject in the sentence? Is it the Arami or Avi? If the subject is Arami, who would it be? Lavan; this is how **Rashi** learns. Avi is referring to Yaakov. Oved means destroy - Lavan tried to destroy Yaakov. This is also in the Haggadah.

But the word Oved means lost, perish, to stray. It doesn't work!

Ibn Ezra learns, the subject is Avi, meaning Yaakov was a wandering Aramean. He was a rolling stone.

—> (The **Rashbam** held like Ibn Ezra but said that Avi refers to Avraham - this could be connected to the machlokes Rav and Shmuel when to start the haggadah, from Terach or from descend to Mitzrayim. Look at Rambam on perisuh Hamishnayos in Pesachim...)

Problem is that this approach goes against the mesorah. How do we explain the traditional understanding of the posuk, considering the fact that Oved means to be lost, not the lavan attempted to destroy?

Digression: We have 7 binyanim in Hebrew. This isn't really true. There are more binyanim that pop up in Tanach that are not that visible and didn't make it into Modern Hebrew. Example: Haleviim *hitpakdu* - what is this binyan? It is some kind of combination between Hitpael and Hufal. What is amazing about this is, the fact that this peculiar construction survived in our Mesorah is very interesting. Without the mesorah of how to read the posuk, and all one had was the written text, the idea of such a peculiar way of vocalizing it would make sense only if the Baalei haMesorah were careful to preserve things the way they should be.

This is a vestigial binyan that doesn't exist in modern language. The nature of language is that it gets simpler with the passage of time. (Example: distinction between telcho and teilachnah)

Arabic has ten binyanim. One of the binyanim is called Phail - Pheh, Alef, Ayin, Lamed. In Hebrew the aleph would turn into a cholam maleh. It is a **causative** binyan. What if this binyan existed in Hebrew?

HaKsav v'HaKabbalah - Take the word Oved. We think it is binyan kal. What if it is binyan poel which is past tense third person singular, Oved? Then Rashi makes sense - Lavan tried to destroy Yaakov, make Yaakov lost.

Question: If this Peshat is correct, then we can still ask, how do we know that it is correct? How do we know that this is Rashi means?

Rashi could said this Peshat and say, it is Mesorah. I don't know where Chazal go it from. The KVHK is saying, the Mesorah is also rooted in the Peshat.

The **Rav Z"L** in his hesped for Dr. Belkin (Dr. Belkin passed away on Pesach, same day as the Rav) — said these two meanings in Arami Oved Avi. Built a hesped on the two ideas of being destroyed and wandering alone...

The Malbim - Biblical Synonyms

The Malbim does something that is almost diametrically opposed to R. Hirsch's method. He held that the derashos are peshuto shel mikra. If you really understand the Hebrew language properly, you will derive the Derashos. Peshat and Derash are, in affect, the same thing. Chazal knew Hebrew better than everybody else, we have lost much of that information, and the Malbim tries to reconstruct it.

Halachik portions of Chumash - the Malbim stops interpreting Chumash and starts interpreting Midreshei Halacha, as the Derashos are Peshuto shel mikra.

Methodologically, the Malbim is associated with the principle called Omni-significance, the idea that every detail in Tanach is significant. There is nothing so small that it doesn't mean anything. We talked about this by Kri/Ksiv.

Therefore, there is no such thing as a synonym in Biblical Hebrew.

In Philosophy - the bachelor is an unmarried man. In language, the two words can have different connotations even though they are synonymous. Word choice, grammatical form is all significant. Amar vs. Vayomer is significant.

Example: Standard Hebrew word for "shame" is Busha. There are other words: Klimah, Chapar, and Cherpah. Cherpah is particularly extreme.

How do we distinguish between the words? Hard way is to know all of Tanach and then generalize.

Easy way: If we take the words themselves,

Busha = Binyan Kal - **I feel shame**

Klimah = Binyan Niphal, Nichlamti - **to have cause shamed to. Shame is imposed by something else.**

Posuk in Yeshaya: The Navi is describing eclipses. Vechafra halevanah uvosha hachamah. At a literary level, one could say that the two words for shame are synonymous here and used for literary purposes. The Malbim wants the different word choice to mean something.

The posuk begins with chafar, a more severe word, and ends with Busha, a less severe word. I would expect the verse to have a crescendo, start with less severe, end severe.

The Malbim explains, the crescendo is, the moon is completely eclipsed, and even the sun is too.

Another example in Yeshaya - B'oz paroah leboshes vehachasut betzel Mitzrayim lchlimah.

Here the Malbim says, Pharaoh has strength and it will disappoint, and the protection of Mitzrayim will be an embarrassment. The protection of Mitzrayim is a different kind of image - Egypt was a source of protection to those standing in its shade and that protection has been removed. The removal of that protection is a source of greater embarrassment and shame. Klimah = imposed shame.

The Netziv

Point #1 -

Vayakhel - We have hilchos Shabbos juxtaposed to the building of the mikdash. What is the connection between Shabbos and the Mikdash (which Chazal speak about.) Further, within hilchos Shabbos chazal pick out the Melacha of Havara.

The Gemara gives two opinions, Havara l'lav yatzas or l'chaleik yatzas. Havara is either singled out as a lav instead of Misa and Kares, or in order to teach that every melacha in Shabbos is separate in regard to Chiyuvei Chataos.

According to the view, l'chaleik yatzas, why did the Torah use Havara davka?

The Netziv mentions this, but says that peshuto shel mikra is something else. We have to think about how the posuk was understood to the dor hamidbar. In the midbar, there was a din that when they were constructing the Mishkan, building could not take place on Shabbos. One could not start work on Friday and allow the work to be carried out throughout the rest of the Shabbos. Havarah - one is doing metalwork, wants the metal to be softened. I would think I could heat up the metal over Shabbos. You can't do that.

Point #2 -

We said earlier that a religious way of reading text will feed a sensitivity towards ambiguity. We have different mefarshim. We want different views to be correct. Why should we have to choose between Rashi and Ibn Ezra? They're all correct. How far are we willing to go with this?

We already talked about the Netziv of Gibor Tzaid. Very often the idea of noticing ambiguity is a matter of common sense. Skilled communication = intend different readings to be possible.

It is one thing to have a play on words. But what if, in order to achieve ambiguity, there has to be more than one double meaning in the posuk? How have multiple meanings and readings in the posuk.

Vatireina hameyaldos es HaElokim va'ya'as lahem batim -

Rashi - G-d made houses for the meyaldos, dynasties of Kehunah and Malchus.

Rashbam - Pharaoh but them under house arrest.

Here it would take a lot of effort to adopt both position - not only would words have two meanings, but we have two entire sentences cohabiting in the same sentence! This is the thing found in the London Times crossword puzzle.

The Netziv goes this way - both positions can be accepted, and the Torah intended for both of them to be true.

Class #14 (Dec. 18): Biblical Criticism #1 - Narrative Parts of Chumash

Introduction to Biblical Criticism - Bereishis and the Beginning of Shemos

One premise that doesn't require discussion is, if people believe in Torah MiSinai and other people don't, then motives in interpreting Tanach will be different. Number two, in terms of the various differences that come to the fore, many of them are fairly local issue, and there is no point to discuss them in an intro course. We will be discussing things that are fairly generally.

Yesod hayesodos, the approach adopted by secularists or people of liberal religious outlook denies Torah MiSinai. In denying Torah MiSinai, they also deny the unity of the Torah - the integrity of the text. This is different than denying Nevuah - a person deny Nevuah and yet accept the integrity of the text.

The standard view taught today is that the Chumash is a composite of different documents written at different times by different people. The **Documentary Hypothesis**. Specifically, the DH in its most accepted form, claims that Bereishis and the beginning of Shemos contain 3 major different documents.

Some of the questions here are very good questions, many which are dealt with by Chazal or Mefarshim. Due to the outlook of the Bible critics, they answer these questions differently than we would.

Historically, in terms of Bereishis, BC starts a couple hundred years ago with the observation that there are stories in Bereishis that cover similar ground but use different names of G-d. Example, Bereishis perek A is about creation and G-d is Elokim, Perek 2 is about creation and G-d is called Hashem. In the mabul, part of the story of the Mabul uses the name Elokim, and alternatives with Shem Havayah. In the story of the Avos, these names are used interchangeably.

The initial hypothesis was that different names of G-d indicate different authors. The parts using shem havayah is called the J document, the parts using Elokim is called E, while the rest is called P - priests.

Why didn't the editor smooth out the differences? Could say that different parts of the text was edited fairly early - J and E early, P later. If we speak about "the editor" in general terms, the editors either were so pious that if they had two different traditions in front of them, they were too cowardly to rewrite it, didn't want to change anything. This works, except in cases where names of G-d fit into the wrong places, in which case you do have to say that the editor rewrote or fixed things up.

This isn't a particularly good argument — it is circular — but it isn't illogical. Somedays editors rewrite a lot and sometimes they don't.

Let's look at an alternative: if we are focusing only on the names of G-d, we all know that Chazal distinguished between the meanings of different names of G-d. (Philo has this too). Elokim and Shem Havayah are different names. Elokim is associated with the idea of the judge and judgement, Midas

HaDin, G-d in universal terms. Shem Havayah is more personal, Midas HaRachamim, G-d's relationship with Klal Yisroel. If those distinctions mean something, you don't need the authorship of multiple authors. Names of G-d have different connotations.

Further, different names doesn't imply different authorship altogether. I could call someone James or Jimmy alternatively.

One example, a widely known example, of someone approaching the question in this way: the Rav in lonely man of faith. There the Rav is interested in understanding human beings, not attempting refuting Bible critics. The Rav said, look at Bereishis 1 and 2 - ignoring the DH. 1 is Elokim, 2 is Shem HaVayah, Hashem Elokim. 1 describes the totality of creation, while 2 is interesting only in human beings. 1 - the human being isn't much different from an animal in regarding to the creation of different genders. 2 - there is a totally different story regarding the creation of man and women, there is a relationship between man and woman. 1 - man isn't given any mitzvos. 2 - man is given mitzvos. Different relationship with G-d. 1 - man is created in the image of G-d. 2 - human beings are submissive to G-d, not referred to as made in the image of G-d. 1 - man has domination over creation 2 - he doesn't.

The Rav says, there are two dinim in the human being. From one point of view, the human being is what is described in perek 1, from another point of view, he is what is described in perek 2. The human is a complicated being, and the best way to communicate what creation is about is to take two different stories and juxtapose them.

If we accept what the Rav is doing, we are left with two options:

There are two types of people. There are people who are profound and open to the profundity of the human condition. When these people see the text of the Torah, or l'havdil a high level literary text, and they see inconsistency, they say, let's go a little deeper. If you aren't particularly deep or nuanced, you will say, these inconsistencies must be the product of two different authors. Everything needs to be simple, and if it isn't simple, they have to assume multiple authors, contradictions etc. We have either serious people, or shallow people.

If these are the choices, the issue seems to be very simple.

Now, someone in the BC camp could say, this proves that the editor was a very brilliant man.

History of BC proof for Darwinism. Shows how intellectual thought can evolve. Take the Kofrim, they deny everything. We, on the other hand, take all these problems and eat them up. Orthodoxy isn't poisoned by BC, but can deal with these questions and use them for our own purposes! On the other hand BC could always claim that this is proof of the genius of the final editor/s.

There is another issue that can't be waived away so simply. Let's look at a couple of pesukim:

Shemos 3:15 - G-d reveals himself to Moshe. Moshe asks G-d, what is Your name? G-d says, Eheyeh asher eheyeh. This sounds very much like the Shem Havayah.

So, now the critics can come and say, yes, who want to read Bereishis and say the different names of G-d = different relationships, but here, if you read k'peshuto, Moshe doesn't know G-d's name, and G-d tells him, His name is EAE. If there is one unified tradition, why wouldn't Moshe know the Shem Havayah? Moshe didn't know anything? Rather, if you adopt the DH, then we can explain the posuk. Regarding the Avos, there were different traditions. Some of the conveyers believed that the Avos knew the Shem Havayah; the J tradition. If you grew up in the J tradition, this posuk has no place at all. If you believe that the Avos didn't know the Shem Havayah, then it makes sense that Moshe should have to be taught the new name of G-d. This is the point in history where this name comes into the fore — this would be in line with the E tradition.

Q - Why didn't Moshe know that Hashem's name was Elokim?

Keep on reading and we get to beginning of Vayeira. Moshe is complaining to G-d, G-d says to him, I appeared to the Avos by the name Kel Shakai, and the name Hashem I did not tell them.

Here we have another story where Moshe discovers the Shem havayah. This story would be part of the P tradition.

Rashi says, Eyehe asher eyehe doesn't mean that G-d is giving Himself a new name. Rather, Moshe is saying, the people want to know, who is G-d, in the way, how will G-d deal with the people. In the same way that a journalist will ask, who is Hillary Clinton. To this G-d responds, tell the people I will be with them always.

Shmi lo nadati laheim — Moshe is in despair. **Rashi** - I made promises to the Avos but I did not deliver yet. Now, I will fulfill what had been promised to them and which they accepted through faith alone. You will see the promise come into fruition.

One other point: If you take the DH seriously, it has to go along with some kind of historical theory as well. If you take the traditional approach, the text speaks for itself, and the work you have to do is interpret the text. That work may be very serious work, and you are working with something that is clearly there. If you reject the integrity of Torah, where did the documents come from? How were they put together? The more historical fantasies you have to come up with, the more complicated things become.

If we are saying that the J tradition held that the Avos knew Shem Havayah, and the E and P traditions held that they didn't, which one is right historically? It can't be both. Either they knew or they didn't know. Avos in this circumstance means the earliest source, a place keeper for "way, way back."

First possibility - J got it write. E and P got it wrong. That possibility doesn't make sense. If you know people, especially from people, people tend to be anachronistic². The tendency is to think of

² A thing belonging or appropriate to a period other than that in which it exists, especially a thing that is conspicuously old-fashioned:

the past in continuity with the present. Even today, our instincts are to equate the past with the present. If that is true about people, it is certainly true about frum people. We all know that Yaakov wore a shtreimel! Could you imagine any frum person thinking that if today, in 700 BCE, by us every kid on the street knows the Shem havayah, the avos didn't know the Shem Havayah? Impossible! The religious imagination makes it more likely project the present into the past, than imagine a past where the highest religious figures lack the knowledge that we have today.

Therefore it is more likely that the second possibility is true. J got it wrong, E and P got it right.

The only problem though is that there is direct evidence that Shem Havayah was around at the time of the Avos. Major evidence found in a place called Ebla in Syria. They found stones going back to the time of the Avos, and these stones prove that the names of the Avos existed. Someone named Yaakov El, other names familiar from Breishes. Syrian government was very unhappy with the evidence, tremendously restricted which archaeologists could visit the site. They thought the evidence would strengthen the Zionists. Many of the names are theophoric, names that have the form of a name of G-d: Yechezkel, Chikiyahu - the name of G-d included in a name. Many of these names end with Yud Hey or Yud Hey and Vov.

If so, the Avos knew of the name of G-d. Thus neither approach really works so well.

Class #15 (Dec. 25): Biblical Criticism #2 - Halachic Parts of Chumash, Targumim

Introduction to Biblical Criticism - Halachic Parts of Chumash

The approach of Bible critics in the rest of Chumash is basically the same. The critics speak of a division between P, Vayikra, and D, Devarim. Within P, there are a lot of additional sources that had been discerned. Today people talk of P and H, holiness.

We will look at two examples:

Example #1: Internal Structure of Vayikra

Vayikra is about Korbanos. Finish Vayikra, and Parshas Tzav is about Korbanos.

Malbim - who is Parshas Vayikra directed to? Bnei Yisroel - adam ki yakriv michem korban. Tzav, the audience are Kohanim - Tzav es Aharon v'es Banav. If you look at the content, you see that this distinction is true. Example: Tumas Dam Chatas in Parshas Tzav - if the blood of the chatas sprays onto cloth, the cloth becomes Tamei. This halacha is relevant to Kohanim, not to Bnei Yisroel.

R. Dovid Tzvi Hoffman - adds important piece of data. Parshas Vayikra was given at Ohel Moed. Tzav was given to Moshe on Har Sinai on the day G-d commanded the Jews to give their Korbanos in midbar Sinai. (Meaning, given at Har Sinai, to prepare for when the Jews will give korbanos later on in the midbar.)

R. Hoffman understands this to mean, Parshas Tzav was given before Vayikra chronologically.

If you are a critic, you would claim that we have two separate parshiyos with two different authors. They wouldn't care about the fact that the parshiyos are written out of order - Tzav was tagged on later.

How would R. Hoffman explain why the Parshiyos are out of order?

Well, Tetzaveh is in Shemos, instructed at Har Sinai, and addressed to Aharon. Thus, from a literary point of view, Tetzaveh and tzav have a lot in common, in terms of content. R. Hoffman says, in terms of oral law, Tetzaveh and tzav were given on Har Sinai, and meant for Aharon and the Kohanim, preparing them for the Avodah. Vayikra didn't have to be given as har sinai, because Vayikra wasn't about preparing anyone to do the Avodah, but explaining to the Klal was the avodah was basically about.

Therefore, Tetzaveh and Tzav should come first. Yet from the written point of view, first comes Tetzaveh, then Vayikra, which explains the Korbanos to the people, and then Tzav, which is really a supplement to Vayikra, explaining the details of the process of giving the korbanos mentioned in Vayikra.

Can one not just present this idea, but give additional evidence?

Three kinds of Olah - Bakar, heavy animals; Tzon, sheep, goat; or fowl. Which one should be first? I'd think you'd start from the biggest to the smallest. Indeed, that is the order in the posuk.

Assuming that the Torah doesn't want to repeat all the details in each Parsha, saving space by presenting all the halachos once, and let the reader assume that the same halachos would be true by the others, then all the details should be given in the first.

The Torah doesn't do this. Where do you shecht the Olah? The north side of the Mizbeach. The Torah doesn't say this by Olas Bakar; it waits until Olas Tzon!

R. Hoffman - what is the first Olah that comes up in Halacha? The first Korban Olah that is presented is the Korban Tamid in P. Tetzaveh. The Tamid comes from Tzon. We see that the parshyos Tetzaveh and Tzav were taught at Sinai for Aharon's sake. Tamid was taught at Har Sinai. When G-d taught Moshe on Har Sinai, the first Olah that was taught orally was Olas HaTzon. When it came time to write it down, Bakar came first because it is the biggest, but in terms of the content, the tzon is more detailed because it is the first of the korbanos that Moshe was actually taught.

We can see the footprint of Tetzaveh/Tzav on Parshas Vayikra! It is clear that Vayikra is piggy-backing on the other parshios.

Example #2: Meat in Vayikra and Devarim

Traditional understanding: Vayikra given in midbar, Devarim at the end of the 40 years. Amongst the critics, there is argument about the order. Velhaussen, who Hoffman was particularly concerned about

refuting, argued that Devarim was edited earlier than Vayikra. Israeli critics mostly say Vayikra came first.

The history of eating meat in the midbar:

Achrei Mos - a person takes an animal that one can shecht for a korban, if you shecht it, and you don't bring them as a korban, that is bad.

We hear that it is assur to shecht one of these animals and not bring it as an animal. It is clear from Devarim 12 that when the Jews enter E"Y, the halacha changes. The question is, what is the initial halacha, and how does it change?

R' Akiva - in the midbar, Jews were able to eat Chulin (basar ta'avah). The only thing is, basar ta'avah was not subject to Shechita. Korban needed Shechita; Chulin couldn't be shechted, it needed Lechira - you pierced the animal, killing it in some other way. Once Jews enter E"Y, only shechita.

R' Yishmael - In Vayikra we are told that everything needs to be brought as a Korban. You have to shecht and bring as a korban, if you didn't bring it as a korban, that is wrong. No such thing as basar ta'avah. Devarim - there is such a thing as chulin, you use shechita.

Two questions that R. Hoffman was bothered by:

1) We don't eat Neveilah or Treifa. Where does the Torah prohibit it? If we were writing the Torah, the prohibition should be in Shemini along with the other Kashrus prohibitions. The issur actually appears in Mishpatim. This is bad for the critics - they would expect the P writer to write about neveilah/treifa, not the author of Mishpatim. Why are these issurim not where we would expect them to be?

2) The Torah in Shemini, while talking about non-kosher animals, says don't eat them and don't touch their neveilos. Is that the halacha? The halacha is you become tamei. There is no issur of touching the carcass of a non-kosher animal! It would be a very tough prohibition to keep!

Gm' Rosh HaShanah - we see from here that when a person comes to the Beis HaMikdash on a regel, they have to be tahor.

Answer: presupposing that we thought through the issue of Baser Ta'avah, if we hold like R' Yishmael, we could understand why Vayikra doesn't talk about Neveilos, because you can't eat Chulin anyway! Vayikra is addressed to the dor hamidbar (peshuto shel mikra may be adapted to historical setting) therefore doesn't dwell on the issue of Neveilah/Treifa.

If you hold like the critics, that Vayikra was written much later, than the question remains!

The other question about the neveilah of beheimah tmeah, if Vayikra is written for the period of the midbar, and everyone is encamped around the Mishkan, then all Jews have to be tahor! Jews can't touch a Neveilah because they can't become tamei during the period of the midbar.

After the period of the Midbar, Chazal explain that the prohibition to become Tamei applies when Jews go to the Beis HaMikdash. This is like the peshat but not identical to the peshat.

What we learn from these examples is that a) this is the way our Rabbis can go about looking at some of the questions raised by Bible critics and give traditional answers, often demonstrably better answers; and b) this study doesn't just refute the critics but help us understand Torah itself.

Targumim

Final point to discuss. The standard Targum is Onkelos. Very disciplined Targum, very little beyond the words themselves. The Onkelos we have was edited in Bavel. There are Targumim from E"Y which are more verbose, like Targum Yonasan, which is really Targum Yerushalmi. There is a third version of Targum called the Neophyte, discovered in the Vatican library almost 50 years ago.

What happens if there is a discrepancy in targumim and Halacha? One option is to use the same answers we used all terms. This is a bit difficult as targum was meant to accompany Kriyas HaTorah and was for public use. It would be strange if the targum addressed Peshat and not Halacha.

The alternative, which R. Yechiel Weinberg and others discuss, is that the Targumim could reflect a deviant halachik tradition.

Example in Chumash

Ki yavir ish - one targum interprets this as fire, but the Halacha is that it refers to a person. R. Weinberg - couldn't be a deviant tradition, because the Mishna itself doesn't call Maveh fire, and Mishnayos with numbers are old traditions...Rather it must be a copyist mistake.

Neophyte also translates it as fire. Here we have a debate. Do we look at this as ama'aratzos, or, like the Torah Shleimah says, there was a real tradition who held that Maveh refers to fire.

Example in Kesuvim

There is no official Targum in Kesuvim. However, there are Targum published in Mikraos Gedolos of Kesuvim. Who wrote this?

Targum Rus - Rus tells Naomi, I'm staying with you no matter what. The language is redundant. Midrashim darshen it. Rus is saying, I'm joining your religion, accepting the implications of it, if I transgress, the same sins you are put to death for, I will be put to death for (she says v'sham ekaver).

The Targum uses this as an opportunity to discuss the various death penalties. He says that Chenek is hanging. But the halacha is that Chenek is strangulation with a shmata. We have objections to hanging!

What do we make of this?

One opinion is that the Targum represents a different Halachik tradition that we are not familiar with elsewhere. Proof - Gm Kesuvos, person wants to do Teshuva for a number of Issurei misah. He hangs himself. **Chasam Sofer** (Even HaEzer Siman 7) - maybe, if you take the targum in Rus seriously, there was such a shita that hanging = chenek.

Another opinion is that the translation of Rus was written by a Tzeduki, or an ignoramus. The author of this statement is also the Chasam Sofer!

תם ונשלם שבה לקל בורא עולם!

Summary Questions on “Mavo L’Talmud,” Maharitz Chayes

(17) Relation of Aggadah to Biblical verses:

Everything Chazal knew was learnt from the tradition. Many of their teachings were attached to Biblical verses in order to make it easier to remember them, not because the teaching itself is the Peshat in the posuk.

Different Chachamim had different strenghts. Some were bekiin in Aggadeta, while others were more proficient in Halacha. See Gm BK 55a where the Gemara says that certain Chachamim weren't so knowledgeable in Tanach.

(18) Different formulas for introducing historic material, note differences, what outside sources does he mention?

We have it by tradition vs. a masorah from our ancestors - tradition about the distant past versus direct communication between generations. MC brings proof that Chazal knew about the history of the Jewish people. The Meor Einayim says many details of the lives of the Avos in Gemara are told by Philo, who lived 200 years before the sealing of the Mishna. Josephus, who lived 4 generations before Rebi, also told many of the narratives found in Chazal.

(19) Examples of hyperbole in Aggadah, note case of Rivash. See Rambam Guide III:43, get straight meaning of Devarim 23:14 and Midrashic interpretation, see Ramban Vayikra 23:40.

The Rabbis would exaggerate certain sins: loshon hara, embarrassing, not giving charity, etc. They would overawe and terrify the people will polemics against sin.

Rivash - the Geonim say that he who disobeys Cherem falls under the Biblical warning, He will not clear the guilty, and is to be treated like an idolator. Explains, it was the practice of the Rabbis to exaggerate the seriousness of sins so as to lead men to be on their guard against falling into them.

Rambam (Moreh III. 43) - Al Tikre = derashos expressed in poetic form to urge upon men the appropriation of virtues, and warn them against the practices of vices. They supported their views from Scripture, simple because they had no other early written records besides it. When they came

across something suitable they devised support for it from Scripture in order that men might remember the moral lesson contained in it.

Example - Yated yihiyeh al azanecha, teaches that one should use his fingers to plug his ears with listening to lashon hara. The simple peshat is: who should carry a shovel with your weapons when you go to war in order to practice proper sanitation.

[Four species: Rambam writes that the four species are symbolic expression of our rejoicing that the Israelites changed the wilderness, a place of no seed, to a country full of fruit trees and rivers. In order to remember this we take the best of the fruit of the land - pri eitz hadar, the branches which smell the best, etc. see **Ramban** (Vayikra 23:40) - pri eitz hadar, a pri that has lots of taavah and due to taavah the first man sinned...]

(20) Chazal's desire to glorify the righteous and execrate the wicked: examples and problems addressed to Ralbach:

The Rabbis had a tradition to praise as far as possible the good conduct of the righteous. Therefore Chazal go at lengths to say, don't say Dovid sinned, don't say Reuven sinned etc. (Shabbos 55b) They also charge the wicked with all other possible abominable deeds, deducing their charges from the context in each case. They did this in order to strengthen the principles of righteousness in the people's minds, and as soon as one deviates from good, he will be exceptionally evil.

Ralbach - if so, why do the Rabbis find fault with righteous? Examples, David asking Avigail an indecent request. Joseph - went to the house to be with the wife of Potiphar. David came to the head - he worshipped idols (San. 107a)...

Ralbach answered, even where the Rabbis found fault with the actions of the just, their intentions were good, since even in doing this they meant to show some praiseworthy aspect in their lives, and thereby to teach the truth of that which the Rabbis had laid down as a fundamental principle. The stories are embellished to bring out the worth of the pious, how they were saved from falling into sin.

(21) Examples of conservation of personalities, special problem of Ivtsan = Boaz in MC.

Since the Rabbis wanted to praise as much as possible the deeds of the virtuous, and disparage the doings of the wicked, they also had the practice of calling different people by one and the same name, if they found them akin in any feature of their characteristics or activities, even if there was only some resemblance. — Where ever reference is found to the worthiness of a particular righteous man, we should attribute any other virtue to him which is found in any other outstanding personality, if only this can be given Biblical support, however far fetched.

B.B 91a - Ivzan (10th shofet) is Boaz. The Gemara asks, what does this teach us? Rashbam = what good can be derived from this.

Difficulty - what is this question? According to what we are saying, the Talmud always wants to combine personalities!

Answer - this case is different, as no virtue is recorded in Scripture regarding Ivtzan. If so, what do we gain by saying that he was Boaz. (The Gemara answers, this teaches that although he had many children already, he still fulfilled the precept, in the evening without not thine hand, meaning, have children even in old age.)

(22) Special status of genealogies in Divrei haYamim; views of R. Meir and R. Yehudah in Shir HaShirim:

Chazal had a special tradition expounding the names of men in Chronicles. There is a definite rule that no text ever loses its literal meaning, and both Midrashic and literal interpretations are true. With regard to Chronicles, however, the Rabbis had a special tradition that the book was given only for homiletic purposes.

Regarding Shir HaShirim, R. Meir felt that it could be expounded disparagingly, while R. Yehudah felt that it could only be expounded eulogistically in favour of the Jewish people.

(25) Examples of Al Tikre according to Rambam. How did Rashi interpret the case on Kiddushin 30a? MC's problem with Rambam:

Already mentioned that **Rambam** in Moreh Nevuchim holds that all exegetical expositions were merely poetic expressions in a particular style to aid in memory. Example, see Azaneicha —> Azanecha above.

Kiddushin 30a - Do not read veshinantam but beshilashtam. This is a clear variation from the actual Scriptural text. Rashi - veshinantam is derived from Shanan, which means sharpening, impressing. This can be achieved only through learning all three areas of Torah. Tanach, Mishna, Gemara. Hence, veshilashtam.

MC on Rambam - if the main point is to achieve some type of support for homiletical exposition, why do we find instances where the Gemara asks, isn't the proper reading of Scripture x or y? According to Rambam, what is the issue? Al Tikre is just a matter of finding slight support in a scriptural verse!

(Mekor Boruch pp. 497 deals with this issue at length.)

(26) Rashba's comment on the basis of some aggadot: evidence cited by MC: What point does he make about the structure of some Midrashim?

Rashba (Berachos) - talking about the stone which Og attempted to cast down on the Jewish people, comments: **Rambam** says that these types of Aggadah intended on sharpening the intellect of students or open the eyes of fools hastening to find fault with the scholars as soon as they found their words difficult to follow.

Rashba gives a different approach: Since there were occasions when the Aggadists were delivering their discourses publicly and the listeners fell asleep, the lecturer, in order to awaken them, had to make use of queer and astounding tales to rouse them from their sleep!

Medresh Tanchuma - often starts with homiletic explanations to explain halacha, because these discourses were given to the masses. Bavli/Yerushalmi doesn't include much of this type of Midrash, because their chief goal is to explain halacha and ethics.

(27) 3 views on Aggadah in Rambam: which is correct? Examples.

(1) Some people take Aggadah literally, and do not imagine that they contain hidden meaning. The impossible is factual to them.

(2) Those who despise Aggadah and scoff at it. These are foolish men void of understanding.

(3) The correct approach - students of full intelligence who understand the genius of the Sages. They know that the Rabbis did not engage in jest. Some Aggadah is revealed, other meanings are concealed.

MC points out that many Aggadetas describing corporeal behaviour in connection with G-d can't be understood literally and have a deeper meaning. Also, feast of the Leviathan, the yayin hameshumar since creation etc.

Chazal conceal what they intend to say so that only certain individuals who have reached great wisdom can properly interpret their secrets.

(28) R. Shmuel b. Hofni and R. Hai Gaon on miraculous stories of Talmudic personalities: examples. What is MC's view?

R. Hai Gaon - G-d performed miracles for the Sages of the Talmud.

R. Shmuel b. Hofni - even some Biblical miracles, such as the case of the mistress of Ob can't be taken literally

MC agrees that some cases should be understood as dreams, but for the most part we should accept that miracles did happen to Talmudic personalities.

(29) Examples of parable, personification, and dialogues between Biblical characters: How does MC understand these phenomena? (Especially the last)

Parable - used to elucidate Biblical passages or for meting challenging criticisms against the Torah put forth by pagan philosophers or heretics.

Rabbis also adopted special form of parable, introducing facts to the reader in the form of a dialogue between two persons. They put in the mouth of each disputant arguments with which he defends his

case and justifies his actions. This class of parables includes instances where plants and animals speak and argue with men.

There are instances where the Rabbis tell us of the decisions and arguments advanced by Sodom, Korach, Sanncheriv, David with Yishbi benov, Nevuchadnezzar, Haman etc. It could be that Chazal had an historical tradition. It could also be that the Rabbis gave these details in an allegorical or poetic style, trying to show in a vivid way what arguments each of these persons *might* have put forward to defend their actions.

(30) a) Hyperbole in Talmud, cite view of Rashbam in Pesachim. b) point about Biblical text, see Tosafos Shabbos 55b and R' Akiva Eiger in Gilyon HaShas there

a) **Rashbam Pesachim** - Korach's treasure house was a load for 300 white she-mules. This isn't to be taken literally. The number 300 in Gemara is usually used in conjunction with hyperbole.

b) numerous Biblical passages were quoted by Rabbis in a form which varies from the Massoretic text.

Tosafos Shabbos: Our Gemara thinks the text is Ma'aviram, but our Chumashin say Ma'avrim.

See other examples in Rebi Akiva Eiger:

(31) Views of Rambam and MC on evil eye, demons, and related phenomenon. What difference does MC find between the treatment of these matters in Bavli vs. Yerushalmi?

MC - Rabbis believed in the existence of all these things

Rambam - witchcraft, incantations aren't real, see Hilchos A"Z 11:16

Incantations, demons etc. Yerushalmi doesn't elaborate on these tales at such inordinate length, while Bavli does.

Appendix 1: Ibn Ezra's Hakdamah to the Torah

אבן עזרא הקדמה לתורה

הקדמה

בשם האל הגדול והנורא, אחל לפרש פירוש התורה
אנא אלהי אבי אברהם, עשה חסד עם עבדך אברהם
ויהי פתח דברך מאיר, לעבדך בן עבדך מאיר
ומישועת פניך תבא עזרה, לבן אמתך הנקרא בן עזרא
זה ספר הישר לאברהם השר, ובעבותות הדקדוק נקשר
ובעיני הדעת יכשר, וכל תומכו מאושר

נאום אברהם הספרדי הנזכר מפרשי התורה הולכים על חמשה דרכים:

הדרך האחת ארוכה ורחבה, ומנפשות אנשי דורנו נשגבה, ואם האמת כנקודה בתוך העגולה, זאת הדרך כקו הרחב, הוא החוט הסובב בתחלה. ובה דרכו גדולים, והמה חכמי הישיבות במלכות ישמעאלים, כרב יצחק שחבר שני ספרים מבראשית (ברא' א) עד ויכלו (ברא' ב), ועוד לא כלה מרוב דברים. ובפסוק יהי אור (ברא' א, ב) - אמונת בעלי האור והחשך הזכיר, והוא הולך בחשך ולא הכיר. ובפירוש תוצא הארץ (ברא' א, כד) מלבו הוציא מלים, וידבר על העצים והצמחים, קטנים וגדולים, ובפירוש נפשות החיות (שם) הביא חכמות נכריות. ובמסלה הזאת עלה רב סעדיה גאון הגולה, ובפ' יהי מאורות (ברא' א, יד) הכניס דעות אחרות לדעת המדות הנזכרות על פי חכמי הספירות. גם ר' שמואל בן חפני אסף רוח בחפניו. בפירוש ויצא יעקב (ברא' כח, י) ברוב עניניו, כי הזכיר כל נביא בשמו, וכמה פעמים גלה ממקומו, וכמה תועלת יש בהליכת הדרך, ואין תועלת לפירוש הזה, כי אם אורך, ועם ויחלום (ברא' כח, יב) כתב פתרון החלומות, ולמה יראו בתנומות? והרוצה לעמוד על חכמות חיצונות, ילמד מספרי אנשי תבונות. אז יתבונן בראיותם, אם הן נכונות, כי הגאונים בלי ראיות בספריהם הביאום. ויש מהם שלא ידעו דרך חכמי קדם ומאין הוציאו: הדרך הב' בחרוה פתלתולים, ואם הם ישראלים, אשר חשבו כי עמדו על הנקודה בעצמה, והם לא ידעו את מקומה, וזאת דרך הצדוקים, כענן ובנימין ובן משיח וישועה, וכן כל מין, אשר בדברי מעתיקי הדת לא יאמין, והוא נוטה להשמאל או להימין, וכל איש כרצונו יפרש הפסוקים, גם במצות ובחקים, והם מדעת תוצאות לשון הקדש ריקים, על כן יתעו גם בדקדוקים. ואיך יסמכו במצות על דעתם, וכל רגע יהפכו מצד אל צד כפי מחשבתם? בעבור שלא תמצא בתורה מצוה אחת בכל צרכיה מבוארה. ואחת מהנה אזכיר, והיא גדולה למכיר, כי תחתיה כרת על אכילת יום הכפורים, וחמץ בפסח שלא עשוהו טהורים, ושביית ימים שבעה, וקרבנות וסכה ותרועה. כי אין בתורה חקי השנה מפורשים, ואיך נחשוב החדשים? ועניי הדעת מרודים שמו אותם מפסוק לאותות ולמועדים (ברא' א, יד), ולא ידעו כי והיו (שם) לשון רבים, ועל המאורות והכוכבים. והאומר כי וי"ו ולמועדים (שם) נוסף, כי לאות עם מועד נאסף, יבקש אדם שיהיה אוהבו אולי יאמין בו. ואם מצאנו שנים ושלושה ווי"ן נוספים, מי יודיענו כי זה הוי"ו מהעודפים, אחר היות וי"ו הטעם לאלפים? ואין פי' עשה ירח למועדים (תה' קד, יט), כדברי אלה שמתניהם מועדים. ואילו היה כתוב והיתה הלבנה לאות למועדים בחדשים, מי יתן לנו אות שהם מועדי השם המוקדשים? כי יש מועדים רבים בתורה ובמקרא ובכתובים. ואילו היה ל'מועדי השם' מבואר, עוד הדבר הגדול נשאר, אם החדש עד סוב הלבנה גלגל המזלות, שהם שבעה ועשרים יום ושעות מוגבלות, ואם עד סוב גובה גלגל היוצא, אשר מוצקו רחוק ממוצק הארץ ימצא, או עד סוב גלגל התלי כדעת חכמים, כי מהלך הגלגל הקטן הפך זה באמת ובתמים. ואם נסמוך על דעת התחברות המאורות, גם הנה ג' מחברות, מחברת בגלגליהם תיכונה, ומחברת כנגד העליון באמונה, ומחברת שנוי מחזה, ולא נדע אי זה יכשר, הזה או זה. ואשר אמרו כי הדבר תלוי על מראה עינים נשאו, כי עינים להם ולא יראו, אולי יראונו בתורה ובתעודה המקום שמצא זאת האבדה, ולא דברו בפירוש חדש בחדשו (במד' כח, יד) נכונה, כי אין בכתוב זכר ללבנה, רק פי' לעשות כל דבר בעתו יום ביומו, שבת בשבתו, וידוע כי פעם יהיה בין המולד לעת השקיעה שש שעות, ותראה הלבנה אך על חקות ידועות, ופעם - ביניהם שלשים שעות, ולא תראה אפילו בגבעות, כי תהלוכות הלבנה מפאת גלגלה, גם גלגל השמש משתנות, וגם מפני ארך ורחב המדינות. ואם שכנה על הארץ עננה, ולא תראה בראש אלול ותשרי הלבנה, הנתענה ג' ימים בכפורים. ועוד מי ספר לנו כי ימי החדש על שלשים יום ספורים? כי הנה יהודה הפרסי חבר ספר, ובחשבון השמש השנה, והחדשים ספר. גם לא נדע מהתורה עדות החדש, ומי העד, ואם ילך בדרך רב ביום קדש, ואם נקבל עדות אב ובנו וגרים ונשים. וגם אם היו כל אלה מפורשים, עוד דבר קשה, איננו מפורש בתורת משה לדעת כמה חדשי השנה, ואם היא באביב נסמכה, ההוא מחטים או שעורים, ומתי יבוקש, ואנה השעורים. ואם היתה שנת בצורת בארץ ישראל ומסביב, והנה אין זרע, אף כי אביב, הנקבע השנה פשוטה או מעוברת, גם אין ספירה נספרת, ואין חג שקראנוהו עצרת. וכל אלה המצות צריכות לקבלה ומסורת. והאומרים הנה אנשי המשנה, מעידים על ראיית הלבנה, והנה התשובה נכונה, אם היא עדותם בעיניהם נאמנה, יקבלו עדות צרכי השנה, כי על פי קריאת ב"ד היא נתונה, כי יסוד העיבור על אביב ותקופה וצרכי צבור. ולמה במצות נגע צרעת מבוארים המשפטים, שהיא מצוה לאדם אחד, ולפרקים מעטים, ומצות המועדים חיוב לכל ישראל בכל זמן, ולמה אין בתורה עליהם עד נאמן, רק נחפש כה וכה רמזיות? ולמה בדברי תורה תמימה כזאת? וזה לנו האות שסמך משה על תורה שבעל פה, שהיא שמחה ללב ולעצם מרפא, כי אין הפרש בין שתי התורות, ומידי אבותינו שתיהן לנו מסורות, ופסח חזקיהו יחזיק ידי אמונה, כי

נעשו על ידי בעלי עצה וזקנה, ולא הקריב הפסח במועדו, ולאכול חמץ בחדש הראשון שלח ידו, ופסח שני כראשון שבעת ימים עשה, ויש ראיות רבות שקבל מעשיו רם ונשא, כי בבית דין היה, ואין ברוחו רמיה:

הדרך הג' דרך חשך ואפלה, והיא מחוץ לקו העגולה, והם הבודאים מלבם לכל הדברים סודות, ואמונתם כי התורות והמשפטים חידות, ולא אאריך להשיב עליהם, כי עם תועי לבב הם, כי הדברים על צדק לא חלקו, בלתי בדבר אחד צדקו, אשר כל דבר מצוה קטנה או גדולה, בכף מאזני הלב תהיה שקולה, כי יש בלב דעה מחכמת יושב קדם נטועה. ואם הדעת לא תסבול הדבר, או ישחית אשר בהרגשות יתבר, אז יבקש לו סוד, כי שקול הדעת הוא היסוד, כי לא נתנה התורה לאשר אין דעת לו, והמלאך בין אדם ובין אלהיו הוא שכלו, וכל דבר שהדעת לא תכחישנו, כפשוטו ומשפטו נפרשנו, ונעמידנו על מתכונתו, ונאמין כי ככה אמתו, ולא נגשש קיר כעורים, ולפי צרכינו נמשוך הדברים, ולמה נהפוך הנראים לנסתרים? ואם יש מקומות שהם באמת נחברים, ושניהם נאמנים ברורים, מהם בגופות ומהם מחשבות, כמלת בשר וערלת לבות. ובעץ הדעת סוד ינעם, גם הדברים הם אמת כמשמעם. ואם יש איש לא יכילו זה רעיוניו, אם הוא חכם יפקח את עיניו, כי ימצא בתולדות רבים נוצרים נחירים והלשון והרגלים לב' דברים:

הדרך הרביעית, קרובה אל הנקודה, ורדפו אחריה אגודה. זאת דרך החכמים, בארצות יונים ואדומים, שלא יביטו אל משקל מאזנים, רק יסמכו על דרך דרש כלקח טוב ואור עינים. ואחר שימצאו המדרשים בספרי הקדמונים, למה יגיעונו לכתבם שנית אלה האחרונים? ויש דרש הפך דרש, ויש לו סוד, ואיננו מפורש, כדרש שהתורה קדמה אלפים שנה קודם העולם. וזה אמת רק על סוד דרך הנעלם. ורבים לא יבינוהו כן, ולהיות כמשמעו לא יתכן. ובעבור כי השנה מימים במספר היא מחוברת, ומדת הרגע והיום בתנועת הגלגל נספרת, ואם אין גלגל אין יום, אף כי יומים, או שנה, או מספר אלפים. והשואל מה היה העולם בתחלה? הלא יתבייש, למען אשר יבקש לאין יש. והמשיבים שברא ד' את העולם בעת שידע כי טוב הוא, גם זו תשובה בנויה על אבני בהו. וכן האומרים שבראו להראות גבורתו, לאדם שהוא שרש יצירתו, והנה שמו תשובתם האמולה, חלק קטן מהשאלה הגדולה, כי יש ראיות גמורות לאשר עינים להם ולא לעורות, כי היישוב חצי ששית הארץ באמונה, וכולה כנקודה אל המסכה אשר עליה נתונה, ואף כי המסכה העליונה. ואם מדרך ישרה, אין דרש יום נדרש כדרך המקרא, כי אלו היה הטעם לאלפים, היה כתוב יומים, כי פירוש יום יום בכל יום ויום, וכן איש איש (ויקרא יז, ג), וברוך ד' יום יום (תה' סח, כ), גם סוף הפסוק יוכיח: משחקת לפניו בכל עת (משלי ח, ל), והנה אחריו כתוב: לשקוד על דלתותי יום יום (שם שם, לד). אם כן נשמור התורה הנאמנה, עד אלפים שנה. ועוד: כי אלף שנים בעיניך (תה' צ, ד), איננו לנוכח השם, וימצאהו בפירושי בספר תהלות אשר יבקשם. גם יש דרש להרויח נפש חלושה בהלכה קשה, ויש דרש מסבא ידועה. ויש שהוא בהלכה שאיננה קבועה. גם יש דרש שהוא טוב לאחרים, וידריך בדרך תבונה את הנערים, כי יש עוף שאיננו רואה ביום הנגהות, ובליילה רואה מפני שעניו כהות, כדרש שהעולם נברא בבי"ת בעבור ברכה. ואם הדבר ככה - הנה ד' בוקק הארץ ובולקה (ישעי' כד, א), ואשיתו בתה (שם ה, ו), ובטלו הטוחנות (קהלת יב, ג), כל ידעום (תה' קמז, כ), משחת בלי (ישעי' לח, יז), בלו שלמותיכם (דבר' כט, ד), בלע ד' (איכה ב, ב), בלל ד' (ברא' יא, ט), ובתקוד (יחז' טז, מ), וברא אתה (שם כג, מז), בין בתריו (ירמיה לד, יח), בזיון וקצף (אסתר א, יח) ילדו לבהלה (ישעי' סה, כג), בלהות אתה (יחז' כו, כא), איש בליעל (משלי טז, כז), בעל פעור (דבר' ד, ג) כרע בל (ישעי' מו, א), כהני במות (מ"א יג, לג). ואם הרי"ש ראשה די דהב (דניאל ב, לב), הנה איש רע ובליעל. אשר מעט השכל בלבו, ואף כי אשר חכמת אלהים בקרבו, יוכל להוציא מדרשים, וכלם כנגד הגוף הפשוט הם כמלבושים. וקדמונינו זכרם לברכה אמרו על ככה, אין מקרא יוצא מידי פשוטו:

דרש בראשית בתורה, שנאמר: ד' קנני ראשית דרכו (משלי ח, כב). אחר, העולם נברא על לוינתו, שנאמר: הוא ראשית דרכי אל (איוב מ, יט). אחר, העולם נברא שייראו מלפניו, כי כן כתיב ראשית חכמה יראת ד' (תה' קיא, י). אחר, העולם נברא בעבור הבכורים, שנאמר: ראשית בכורי אדמתך (שמות כג, יט):

ולמה בי"ת בתחלה, להורות כי ד' אחד, והנבראים שנים שהם עצם וצורה, או שני עולמות. ולמה בי"ת, ואחריו רי"ש אל"ף שיי"ן, ואח"כ יו"ד ותי"ו, רמז שהבית הראשון יעמוד ד' מאות ויו"ד שנים, כי הוא היה קודם השמים והארץ, ואחר כך ישום הבית. וזה הוא והארץ היתה תהו ובהו וחשך על פני תהום (ברא' א, ב), שבא חשך לעולם כאשר נסתלקה השכינה. ורוח אלהים מרחפת על פני המים (שם) - שנחה רוח החכמה והבינה על מפרשי התורה הנמשלת למים. ובסוף יהי אור (שם) - על ימות המשיח. אז יבדיל ד' בין המקוה לישועתו, ובין אשר במחשך מעשיהם:

דרש, בראשית שתי מלות שהכל היה מהאש, והוא היסוד. אחר, שית, כמו אמין שית (דניאל ג, א), שהם שש הקצוות הנמצאות לכל גוף. וחשבון ראשי מלות פסוק בראשית כנגד כל האותיות, והמלות שבע כשבעה מלכים, או כשבעה כוכבי לכת. והאותיות שמונה ועשרים, כנגד מחנה הלבנה, וכן מספר העתים בקהלת. ותחלת הספר ב"ת וסופו מ"ם, כנגד השם המפורש היוצא מפי כוה"ג ביום הכפורים, ובסיני נתן למשה, וכן כתיב: ד' בם סיני בקדש (תה' סח, יח). ובתחלה בראשית, ולבסוף ישראל, כי הם עלו במחשבה בראשית העולם, וסוף דבר אין לדרש סוף: הדרך החמישית, מוסד פירושי עליה אשית, והיא הישרה בעיני, נכח פני ד', אשר ממנה לבדו אירא, ולא אשא פנים בתורה, ואחפש היטיב דקדוק כל מלה בכל מאדי, ואחר כן אפרשנה כפי אשר תשיג ידי, וכל מלה שתבקשנה בפירוש המלה הראשונה תמצאנה, כפירוש שמים תמצאנו בפ' הראשון, ועל זה המשפט כל הלשון, ולא אזכיר טעמי אנשי המסורת, למה זאת מלאה, ולמה זאת נחסרת, כי כל טעמיהם כדרך הדרש הם, כי הכתוב פעם יכתוב המלה מלאה מבוארה, ופעם יחסר אות נעלם לאחז דרך קצרה, ואחר שידרשו טעם, למלאים ולחסרים, יורנו איך יוכלו לכתוב הספרים, ומשה כתב בלא וא"ו ד' ימלך (שמות טו, יח), ומעתיק משלי, כתב בוא"ו תחת עבד כי ימלוך (משלי ל, כב), ושנים רבות בין שניהם, רק לתינוקות טעמיהם טובים הם. גם בפירושים הישרים אין צורך לתיקון סופרים. ומתרגם התורה ארמית תרגם אמת, ובאר לנו כל נעלמת. ואם דלק במקומות אחרי מדרשים, ידענו כי יותר ממנו ידע השרשים, רק חפץ להוסיף טעמים אחרים, כי פשוטו יבינוהו אפילו הבוערים, כמו עירה (ברא' מט, יא) שלא תרגמו כבן אתון, ותרגום בני יבנון, ואתונו שער האיתון. ובעבור הדרש דרך הפשט איננה סרה, כי שבעים פנים לתורה, רק בתורות ובמשפטים ובחקים, אם מצאנו שני טעמים לפסוקים, והטעם האחד כדברי המעתיקים, שהיו כולם צדיקים, נשען על אמתם בלי ספק בידים חזקים. וחלילה חלילה מלהתערב עם הצדוקים, האומרים כי העתקתם מכחשת הכתוב, והדקדוקים. רק קדמונינו הי' אמת, וכל דבריהם אמת וד' אלהים אמת ינחה את עבדו בדרך אמת:

Appendix 2: Rambam's Hakdamah L'Peirush HaMishna

הקדמת הרמב"ם למשנה

נמצא לפי הכללים שהקדמנו שכל הדינים הקבועים בתורה נחלקים לחמשה חלקים. החלק הראשון, הפירושים המקובלים ממש שיש להם רמז בכתוב או שאפשר ללמדם באחת המדות, וזה אין בו מחלוקת כלל, אלא כל זמן שיאמר אדם קבלתי כך וכך מסתלק כל וכו'. החלק השני, הם הדינים שבהם אמרו שהם הלכה למשה מסיני, ואין עליהם ראייה כמו שאמרנו, וגם זה ממה שאין בו מחלוקת.

החלק השלישי, הם הדינים שנלמדו באחת המדות, ובהם נופלת מחלוקת כמו שאמרנו, ונפסק בהם הדין כדעת הרוב לפי הכללים שהקדמנו, במה דברים אמורים כשהדבר שקול, ולכן אומרים אם הלכה נקבל ואם לדין יש תשובה. ולא תפול מחלוקת ומשא ומתן אלא בכל מה שלא שמענו בו קבלה, ותמצאם בכל התלמוד חוקרים על דרכי הדין שבגללם נפלה מחלוקת בין החלוקים ואומרים במאי קא מיפלגי, או מאי טעמא דר' פלוני, או מאי ביניהו, כי יש שהם הולכים בדרך זו בענין זה במקצת מקומות ומבארים סבת המחלוקת ואומרים שפלוני סומך על דבר פלוני ופלוני סומך על דבר פלוני וכיוצא בזה.

אבל סברת מי שחשב שגם הדינים שיש בהם מחלוקת קבלה ממש, ונפלה בהם מחלוקת מחמת טעות בקבלה או שכחה, ושהאחד צודק בקבלתו והשני טעה בקבלתו, או ששכח, או שלא שמע מרבו כל מה שצריך לשמוע, ומביא ראייה לכך מה שאמרו משרבו תלמידי שמאי והלל שלא שמשו כל צרכן רבתה מחלוקת בישראל ונעשית תורה כשתי תורות, הנה זה חי' ה' דבר מגונה ומוזר מאד, והוא דבר בלתי נכון ולא מתאים לכללים, וחושד באנשים שמהם קבלנו את התורה, וכל זה בטל. והביא אותם לידי השקפה נפסדת זו מיעוט ידיעת דברי חכמים הנמצאים בתלמוד, לפי שמצאו

שהפירוש מקובל ממשוה וזה נכון לפי הכללים שהקדמנו, אבל הם לא הבדילו בין הכללים המקובלים והחדושים שנלמדו [בדרכי העיון].

אבל אתה אם תסתפק במשהו ודאי לא תסתפק במחלוקת בית שמאי ובית הלל באמרם מכבדין את הבית ואח"כ נוטלין לידים או נוטלין לידים ואח"כ מכבדין את הבית, שאין אחת משתי הסברות מקובלת ממשוה ולא שמעה מסיני, וסבת מחלוקתם כמו שאמרו שאחד מהם אוסר להשתמש בעם הארץ והשני מתיר, וכן כל הדומה למחלוקות אלו שהם סעיפי סעיפי סעיפים.

אבל אמרם משרבו תלמידי שמאי והלל שלא שמשו כל צרכן רבתה מחלוקת בישראל, ענין דבר זה ברור מאד, כי שני אנשים שהם שווים בהבנה ובעיון ובידיעת הכללים שלמדים מהם לא תהיה ביניהם מחלוקת במה שלומדים באחת המדות בשום פנים, ואם תהיה תהיה מועטת, כמו שלא מצאנו מחלוקת בין שמאי והלל אלא בהלכות אחדות, לפי שדרכי למודם בכל מה שהיו לומדים אותו באחת המדות היו קרובים זה לזה, וגם הכללים הנכונים שהיו אצל זה היו אצל השני. וכאשר נתמעט למוד תלמידיהם ונחלשו אצלם דרכי הדין בהשוואה לשמאי והלל רבותיהם נפלה מחלוקת ביניהם בשעת המשא ומתן בהרבה ענינים, לפי שכל אחד מהם דן לפי כח שכלו ולפי הכללים הידועים לו. ואין להאשימם בכך, כי לא נוכל אנחנו להכריח שני בני אדם המתוכחים שיתוכחו לפי [רמת] שכלם של יהושע ופינחס, וגם אין אנחנו רשאים לפקפק במה שנחלקו בו מפני שאינם כשמאי והלל או למעלה מהם, כי לא חייב אותנו בכך ה' יתעלה. אלא חייב אותנו לשמוע מן החכמים חכמי איזה דור שיהיה, כמו שאמר או אל השופט אשר יהיה בימים ההם ודרשת. ועל אופן זה נפלה מחלוקת, לא שטעו בקבלתם וקבלת האחד אמת והשני בטלה. וכמה ברורים דברים אלה למי שמתבונן בהם, וכמה גדול היסוד הזה בתורה.

והחלק הרביעי הם הדינים שקבעו הנביאים והחכמים שבכל דור ודור על דרך הגדר והסייג לתורה, והם שצוה ה' לעשותם באופן כללי באמרו ושמרתם את משמרת, ובא בקבלה עשו משמרת למשמרת. והם שקוראים אותם חז"ל גזרות. וגם בהם יש שתהיה מחלוקת, כגון שייראה לאדם לאסור כך משום כך, ואחר לא ייראה לו, וזה הרבה בתלמוד, ר' פלוני גזר משום כך וכך ור' פלוני לא גזר, וזוהי אחת מסבות המחלוקת. הלא תראה שבשר עוף בחלב הוא גזרה מדרבנן להרחיק מן העבירה, ואינו אסור מן התורה אלא בשר בהמה טהורה, ואסרו חכמים בשר עוף כדי להרחיק מן הדבר האסור, ומהם מי שלא נראית לו גזרה זו, לפי שר' יוסי הגלילי היה מתיר אכילת בשר עוף בחלב, והיו אנשי מקומו כולם אוכלים אותו כמו שנתבאר בתלמוד. וכשתהיה הסכמת הכל על אחת מגזרות אלו אין לעבור עליה בשום פנים. וכל זמן שפשט איסורה בישראל אין דרך לבטל אותה גזרה, ואפילו נביאים לא יוכלו להתירה. ואמרו בתלמוד שאפילו אליהו לא יוכל להתיר אחד משמונה עשר דבר שגזרו עליהן בית שמאי ובית הלל, ונתנו טעם לזה ואמרו לפי שאסורן פשוט בכל ישראל.

והחלק החמישי הם הדינים שנעשו בדרך העיון להסדרת הענינים שבין בני אדם, דבר שאין בו הוספה על דברי תורה ולא גרעון, או בענינים שהם מפני תקון העולם בעניני הדת, והם שקוראים אותם חכמים תקנות ומנהגות. ואסור לעבור עליהם בשום פנים הואיל והסכימה עליהם כל האומה, וכבר הזהיר שלמה ע"ה מלעבור עליהם ואמר ופורץ גדר ישכנו נחש, ותקנות אלה רבות מאד נזכרו בתלמוד ובמשנה, מהם בעניני אסור והתר, ומהם בעניני ממונות, ומהם תקנות שתקנו נביאים כגון תקנות משה ויהושע ועזרא כמו שאמרו משה תיקן להם לישראל שיהיו שואלים ודורשין הלכות פסח בפסח, ואמרו משה תיקן להם לישראל הזן בשעה שירד המן, אבל תקנות יהושע ועזרא רבים הם. ומהם תקנות מיוחדות ליחידים מן החכמים, כגון הלל התקין פרוזבול, התקין ר"ג הזקן, התקין ריב"ז, והרבה בתלמוד התקין ר' פלוני. ומהם תקנות מיוחדות לרבים כאמרם באושא התקינו, או תקנו חכמים, או תקנת חכמים, ורבים כיוצא באלה. נמצא שכלל הדינים האמורים במשנה נחלקים לפי חמשה חלקים אלה. מהם פירושים מקובלים ממשוה ויש להם רמז בכתוב או שאפשר ללמדם באחת המדות. ומהם הלכה למשה מסיני. ומהם שנלמדו באחת המדות ובהם נפלה מחלוקת, ומהם גזרות, ומהם תקנות.

אבל סבת קביעתו המחלוקת שנפלה בין שתי סברות בענינים שנפלה בהן מחלוקת, הוא כמו שאסביר. אלו קבעו שמועות מוסכמות שאין בהם מחלוקת והשמיט דברי מי שאין הלכה כדבריו, היה בא דבור שלאחריו מי שקיבל ממי שחלק על אותה סברא, או ממי שסובר כמותו, היפך הדבר שנפסק להלכה למעשה, והיה נכנס בלבנו ספק לומר איך קיבל פלוני שהוא אדם נאמן שדבר פלוני אסור, והנה המשנה ביארה בו שהוא מותר, או להפך, אבל כשיהיו ידועות אצלינו כל הסברות תסתלק הסתירה הזו, ושיאמר מי שהוא שמעתי שכך וכך אסור, נאמר לו צדקת אבל היא דעת פלוני

ורבים חולקים עליו, או פלוני חולק עליו, וההלכה כדעת החולק עליו, או מפני שנראים דבריו יותר או מפני שמצאנו שמועה אחרת מסייעתו.

אבל קביעתו דברי יחיד ורבים, לפי שפעמים תהיה ההלכה כיחיד, ורצה ללמדך שאם היתה סברא נכונה וברורה שומעים אפילו ליחיד ואע"פ שרבים חולקים עליו.

אבל קביעתו סברת אדם מסויים וחזרתו מאותה הסברא כגון אמרו בית שמאי אומרים כך ובית הלל אומרים כך וחזרו בית הלל להורות כדברי בית שמאי, כדי ללמדך אהבת האמת ורדיפת הצדק, לפי שאלו האישים הגדולים החסידים המשכילים, המופלגים בחכמה שלימי הדעת, כאשר ראו דברי החולק עליהם נכונים יותר מדבריהם והגיוניים יותר נכנעו וחזרו לדעתו, כ"ש וק"ו שאר בני אדם כשיראה שיריבו צודק שיכנע ואל יתעקש, וזהו דבר ה' צדק צדק תרדוף, ועל זה אמרו חכמים הוי מודה על האמת, ר"ל אע"פ שאתה יכול לחלץ את עצמך בטענות וכוחיות, אם תדע שדבר יריבך הוא האמת, אלא שטענתך נראית יותר מחמת חולשתו או בגלל יכולתך להטעות, חזור לדבריו וחדל להתוכח.

Appendix 3: Rambam's Hakdamah L'Sefer HaMitzvos: Shores Beis

ספר המצוות לרמב"ם שורש ב

השרש השני שאין ראוי למנות כל מה שלמדים באחת משלש עשרה מדות שהתורה נדרשת בהן או בריבוי:

כבר בארנו בפתיחת חבורנו בפרוש המשנה (בריש ההקד') שרוב דיני התורה יוצאו בשלש עשרה מדות שהתורה נדרשת בהן ושהדין היוצא במדה מאותן המדות הנה פעמים תפול בו המחלוקת ושיש שם דינין הם פירושים מקובלים ממשנה אין מחלוקת בהם אבל הם מביאים ראיה עליהם באחת משלש עשרה מדות כי מחכמת הכתוב שהוא אפשר שיימצא בו רמז מורה על הפירוש ההוא המקובל או הקש יורה עליו. וכבר בארנו זה הענין שם. וכשהיה זה כן הנה לא כל מה שנמצא החכמים שהוציאו בהקש משלש עשרה מדות נאמר שהוא נאמר למשה בסיני ולא גם כן נאמר בכל מה שנמצא בתלמוד יסמכוהו אל אחת משלש עשרה מדות שהוא דרבנן כי פעמים יהיה פירוש מקובל. לפיכך הראוי בזה שכל מה שלא תמצאו כתוב בתורה ותמצאו בתלמוד שלמדוהו באחת משלש עשרה מדות אם בארו הם בעצמם ואמרו שזה גוף תורה או שזה דאורייתא הנה ראוי למנות, שהמקבלים אמרו שהוא דאורייתא. ואם לא יבארו זה ולא דברו בו הנה הוא דרבנן, שאין שם כתוב יורה עליו. וזה גם כן שרש כבר נשתבש בו זולתנו ולכן מנה יראת חכמים בכלל מצות עשה. ואשר הביאו לזה לפי מה שייראה לי מאמר רבי עקיבא (פס' כב ב ו"ג) את י"י אלהיך תירא לרבות תלמידי חכמים וחשב שכל מה שגייע ברבוי הוא מן הכלל הנזכר. ואם היה הענין כמו שחשבו למה לא מנו כבוד בעל האם ואשת האב מצוה בפני עצמה מחוברת אל כבוד אב ואם וכן כבוד אחיו הגדול. כי אלו האישים למדנו שאנו חייבין לכבדם ברבוי. אמרו (כתובות קג א) את אביך לרבות אחיך הגדול ועוד אמרו את אביך לרבות בעל אמך ואת אמך לרבות אשת אביך, כמו שאמרו את י"י אלהיך תירא לרבות תלמידי חכמים. אם כן מפני מה מנו אלו ולא מנו אלו. וכבר הגיע בהם הסכלות אל יותר קשה מזה וזה שהם כשמצאו דרש בפסוק יתחייב מן הדרש ההוא לעשות פעולה מן הפעולות או להרחיק ענין מן הענינים והם כלם בלא ספק דרבנן ימנו אותם בכלל המצות ואעפ"י שפשטיה דקרא לא יורה על דבר מאותם הענינים עם השרש שהועילו בו עליהם השלום והוא אמרם ז"ל (יבמות יא ב, כד א שבת סג א) אין מקרא יוצא מדי פשוטו והיות התלמוד שואל בכל מקום ויאמר גופיה דקרא במאי קא מדבר כשמצאו פסוק ילמדו ממנו דברים רבים על צד הבאור והראיה. ונסמכים במחשבה זו מנו בכלל מצות עשה בקור חולים ונחום אבליים וקבורת מתים בעבור הדרש הנזכר באמרו יתעלה והודעת להם את הדרך ילכו בה ואת המעשה אשר יעשון והוא אמרם בו (ב"ק ק א ב"מ ל ב) את הדרך זו גמילות חסדים ילכו זה בקור חולים בה זו קבורת מתים ואת המעשה אלו הדינין אשר יעשון זו לפנים משורת הדין. וחשבו כי כל פועל ופועל מאלו הפעולות מצוה בפני עצמה ולא ידעו כי הפעולות האלו כלם והדומים להם נכנסות תחת מצוה אחת (ע' רי) מכלל המצות הכתובות התורה בבאור והוא אמרו יתעלה (קדושים יט) ואהבת לרעך כמוך. ובזה הדרך בעצמו מנו חשוב תקופות מצוה בעבור הדרש הנאמר בהיא חכמתכם ובינתכם לעיני

העמים (ר"פ ואתחנן) והוא אמרם (שבת עה א) אי זו היא חכמה ובינה שהיא לעיני העמים הוי אומר זה חשוב תקופות ומזלות. ואילו מנה מה שהוא יותר מבואר מזה ויחשוב מה שהוא יותר ראוי למנותו והוא כל דבר שנלמד במדה משלש עשרה מדות שהתורה נדרשת בהן היה עולה מנין המצות לאלפים רבים. ואולי תחשוב שאני בורח מלמנותן להיותן בלתי אמתיות והיות הדין היוצא במדה ההיא אמת או בלתי אמת, אין זו הסבה אבל הסבה כי כל מה שיוציא אדם הם ענפים מן השרשים שנאמרו לו למשה בסיני בבאור והם תרי"ג מצות. ואפילו היה המוציא משה בעצמו אין ראוי למנותם. והראיה על זה כלו אמרם בגמר תמורה (יו א) אלף ושבע מאות קלין וחמורין וגזרות שוות ודקדוקי סופרים נשתכחו בימי אבלו של משה ואף על פי כן החזירן עתניאל בן קנז מפלפולו שנ' ויאמר כלב אשר יכה את קרית ספר ולכדה וגו' וילכדה עתניאל בן קנז. וכשהיו כך הנשכחות כמה היה הכלל שנשכח ממנו זה המספר. כי גם כן מן השקר שנאמר שנשכח כל מה שנודע ובלא ספק שהיו אותם הדינים המוצאים בקל וחומר ובזולתו מן המדות אלפים רבים. ואלו כולם היו נודעים בימי משה רבנו כי בימי אבלו נשתכחו. הנה נתבאר לך שאפילו בימי משה נאמר דקדוקי סופרים. כי כל מה שלא שמעו בסיני בבאור הנה הוא מדברי סופרים. הנה כבר התבאר כי תרי"ג מצות שנאמרו לו למשה בסיני לא יימנה בהן כל מה שיילמד בשלש עשרה מדות ואפילו בזמנו ע"ה כל שכן שלא יימנה בהן מה שהוציאו אותו באחרית הזמן. אבל אמנם יימנה מה שהיה פירוש מקובל ממנו והוא שיבארו המעתיקים ויאמרו שזה הדבר אסור לעשותו ואיסורו דאורייתא (על"ת קלה קצד קצט) או יאמרו שהוא גוף תורה (על"ת שלו) הנה נמנה אותו כי הוא נודע בקבלה לא בהקש. ואמנם זכרון ההקש בו והביא הראיה עליו באחת משלש עשרה מדות להראות חכמת הכתוב כמו שביארנו בפירוש המשנה (הוב' בראש השרש):