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"Taking Responsibility for Torah"

ZOMBIE TORAH

By Rabbi Aryeh Klapper

It's hard to give a riveting shiur without a satisfying conclusion, especially if you advertise that lack in advance. My first weekly shiur was titled "I didn't get pshat in this Yerushalmi, but neither has anyone else". Two dear friends attended. In rotation.

As a graduate student in Talmud, I often found myself unable to find a compelling and coherent definition of the terms I studied. Professor Yaakov Elman z"l would assure me that "a negative result is also a contribution". Eliminating a false *hava amina* is progress and helpful to other scholars even if you don't reach a *maskono*.

Professor Elman held that negative results should be just as publishable as positive ones. But he understood that this was not reality. Moreover, negative results are often ignored even when published. The result is that appealing theses often survive being conclusively disproven. In fact, they become indestructible zombies.

Here's an example from an early (yes, unpublished) paper. The Talmudic phrase "koach d'hetera adif", literally "the power of leniency is preferable", is often understood and used to mean that taking a lenient position requires "bigger shoulders" than taking a stringent position, and therefore poskim who tend toward leniency (and have their leniencies accepted as legitimate by the observant community) are more authoritative than poskim who tend toward stringency. This is based on Rashi to Beitzah 2b, s.v. "koach d'hetera adif lei":

It is better for him to inform us of the extreme of the permitting position,

who relies on his tradition and is not afraid to permit,
but the extreme of the forbidding position is no proof,
since anyone can be stringent, even about things that are permitted.

טוב לו להשמיענו כח דברי המתיר,
שהוא סומך על שמועתו ואינו ירא להתיר,
אבל כח האוסרין אינה ראייה,
שהכל יכולין להחמיר, ואפילו בדבר המותר.

However, this interpretation is contextually impossible. The "permitting position" here is Beit Shammai, and the "forbidding position" is Beit Hillel, and Rashi certainly accepts the metahalakhic rule that Beit Shammai's positions have no halakhic weight at all when up against Beit Hillel's.

A careful read of Rashi suggests an alternative. The issue is not halakhic weight but rather editorial preference.

When an abstract dispute is presented via a single case, that case can convey the extreme of either position, but not of both. For example, a dispute about whether playing Scrabble constitutes prohibited writing on Shabbat can be presented via the deluxe set, which holds the pieces on the board in place (and therefore is more easily forbidden, and therefore conveys the extreme of the permitting position), or via the ordinary set (which is more easily permitted, and therefore conveys the extreme of the forbidding position). So *koach d'hetera adif* might mean: Because the extreme of the forbidding position may reflect a refusal to decide rather than a firm halakhic decision, editors of Tannaitic texts preferred to present the extreme of the permitting position.

Why not use two cases? The Talmud asks this once, and has no answer. But it makes intuitive sense that in an oral/memorization culture, intellectual storage space is at a premium.

The problem is that the Talmud does not consistently hold that Tannaitic editors preferred presenting the extreme of the lenient position. In fact, the Talmud explains more Tannaitic single-cases presentations as conveying the extreme of forbidding than of permitting positions. I never found a consistent difference between the cases where the Talmud accepts such explanations, and those where it explains that the reverse choice was made because "*koach d'hetera adif*".

As you've probably guessed, this has been a longwinded introduction to a similar failure with regard to this week's parshah.

The phrase *ויראת מאלקיך* (*you must fear your G-d*) appears five times in Torah, all in Vayikra: 19:14 and 32, and 25:17, 36, and 43. On 19:14, where the phrase follows prohibitions against cursing the dead and tripping the blind, Rashi comments that the "blind" here are those who are blind about a particular matter, and can therefore be misled by someone giving self-serving advice. He adds:

Because this matter is not given over to the populace to know if
this person intends well or ill,

and he can escape by saying that he intended well,
therefore the Torah says regarding it *and you must fear your G-d*;
and similarly all matters given over to the heart of the human who
does them,

with the rest of the populace not perceiving what he is doing,
the Torah says regarding them *and you must fear your G-d*.

לפי שהדבר הזה אינו מסור לבריות לידע אם דעתו של זה לטובה או לרעה,
ויכול להשמש ולומר לטובה נתכוונתי,

לפיכך נאמר בו ויראת מא-להיך המכיר מחשבותיך.

וכן כל דבר המסור ללבו של אדם העושהו ואין שאר הבריות מכירות בו
נאמר בו ויראת מא-להיך:

This claim seems absurd. The Torah contains many commandments that can be violated secretly, and several that are most likely violated by an experience known only to the violator, e.g. “Do not hate your brother in your heart”. Yet our phrase occurs only five times!

A possibility suggested by the (Freudian?) misquotes in some acharonim is that we have here an “intellectual Spoonerism”, and the intent really is that *and you must fear your G-d* appears only in the context of such commandments. This solves our issue – the existence of many more such commandments - at the expense of begging the question of why the phrase appears in the context of *some* but not all such commandments.

But even this limited claim seems shaky. In the one context we’ve seen, Rashi seems compelled to reinterpret the verse non-literally to accommodate the claim. Let’s now consider the four other cases.

19:32 requires standing up in the presence of the elderly. Rashi comments:

May he close his eyes as if he did not see (the elderly person)?
Therefore it says: *and you must fear your G-d*,
as this matter is given over to the heart of its doer,
since no one else can perceive what he is doing,
and regarding all matters given over to the heart it says: *and you must fear your G-d*.

Closing one’s eyes to avoid seeing someone is actually a highly perceptible action to anyone watching. But perhaps the point is that it may be imperceptible to the elderly person themselves, just as it may be evident only to third parties that someone is giving you self-serving advice. So we can revise the rule to: “The phrase *and you must fear your G-d* appears only in the context of prohibitions that harm a third party who may be fooled by your pretending good will.”

25:17 contains a generic prohibition against oppression. Rashi comments that this refers to verbal oppression (*onaat devarim*), such as insulting someone or – giving them self-serving advice. This preserves the rule at the price of creating redundancy. Rashi adds:

Lest you say: Who knows that I intended ill?
The Knower of Thoughts – He knows!

Every matter given over to the heart, that cannot be perceived except by the person whose thoughts are relevant – it says regarding it *and you must fear your G-d*.

25:36 prohibits taking interest on loans to fellow Jews. Rashi comments:

Because the human mind is drawn after interest, and it is hard to separate from it,
and he convinces himself that it is permitted because of his otherwise idle capital,

It needed to say: *and you must fear your G-d*.

Or:

One who disguises his capital as a nonJew’s in order to lend to a Jew at interest -

this is a matter given over to the heart and thought of a person,
therefore it needed to say: *and you must fear your G-d*.

Let’s discount the first theory, which would disprove the rule, and focus on the second. Are financial shenanigans really given over to the hearts of people, rather than to forensic accountants? Perhaps we can say, however, that the borrower is unaware that the lender is Jewish. Since borrowing at interest from a Jew is also forbidden, the lender is therefore engaged in a form of tripping the blind. But this seems a very esoteric case to justify adding in our phrase.

25:43 prohibits dominating a Jewish *eved* by giving him *perach* work. Rashi explains that *perach* refers to

purposeless work, in order to afflict him.

Don’t tell him: “Warm this cup for me” when you have no need of it;

“Hoe under that grape until I come”.

Lest you say:

No one perceives whether the matter is needed or not, and I will say that it is needed -

The matter is given over to the heart, therefore it says: *and you must fear . . .*

Here I suggest that the core of this violation is expressing dominance over the *eved*, and therefore requires the *eved* to understand what is happening. This is the polar opposite of our argument in the previous cases that *and you must fear* is used in cases where the victim is unaware of what is happening to them, or of who is perpetrating the action. Limiting the verse banning the assignment of make-work to cases where the victim is unaware is a choice to illustrate with the weakest case, although I suppose one could say that it illustrates the extreme of the prohibition.

My bottom line is that I don’t see a plausible way of making these five cases special so that they and only they justify or require the Torah adding the phrase *and you must fear your G-d*. Even claiming that these cases have a common feature related to being “given over to the heart” requires Rashi to create a redundancy and to appeal to niche cases within broad prohibitions. I have not found any solution by looking at Rashi’s sources. Please send me suggestions!

Nonetheless, I hope we share a disinterest in eliminating the instinctive response “ויראת מאלקיך” whenever anyone suggests an evil scheme that one can get away with undetected by other humans. So this is one zombie that I’m happy to leave undead and impervious.

Shabbat shalom!