

Thinking Torah

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Parashat Mishpatim

Judges and Gods

Chavruta Sources

a. Shemot 22:27

Look at the passuk.

- How do you translate it?
- What is the meaning of the terms: “Elohim” and “Nasi”, and how do the two connect? Use mepharshim. Make sure you see the interesting interpretations of Ramban and Hizkuni.
- How might this passuk fit into the wider context of 23:1-8? See the Ibn Ezra’s (Peirush Aroch) understanding.
- See the Seporno where he gives the rationale for this mitzvah as an expression of the “greater good.”

b. The meaning of the term “Elohim”

1. Bereshit 6:1-5 and the usage of the Phrase “Bnei Elohim” there. Who are these people?
See Rashi, and other commentators

2. Parshat Mishpatim. How is the term “Elohim” used in 21:6, 22:7, 8. See Rashi and other mepharshim

3. Tehillim 82. Who are the “Elohim” in verse 1. Again, see mepharshim.

In all the above cases, note the Judicial context.

Shiur

Sometimes, one encounters an impossibly ambiguous verse. When one studies its content, one discovers such a multiplicity of meaning that it is virtually impossible to translate it into a single English translation. I would say that this is true regarding a brief and inconspicuous passuk in Parshat Mishpatim:

אלהים לא תקלל ונשיא בעמך לא תאָר (22:27)

Loosely translated, we would say: “Do not Curse God, and the president amongst your people, you shall not curse.” I hear you asking, what is so difficult here? Seems like a fine translation! But when we look at the commentators and Talmudic sources, we realise that the phrases here are open to a fundamental debate. The main questions:

- What is the meaning of the term: Elohim?
- What is the meaning of the term: Nasi?
- Why are they connected?

ELOHIM

The majority of commentators (Onkeles, Ibn Ezra, Rasag, Rashbam and Rashi’s second reading) interpret the word “Elohim” to mean “Judge.” Now this might seem to be a strange translation; as we know, Elohim is a word that generally denotes God Himself. However, we have already seen the term “Elohim” as used as a term for the Judiciary three times in Parashat Mishpatim (21:6, 22:7,8) .

ELOHIM = JUDGES

How do the Judges come to be referred to as “Elohim”?

In truth, the term Elohim is a plural form of El. What does El mean? Interestingly enough, it is not limited to the notion of a deity. It is usually used as a reference for gods, as in “*Mi Chamocha ba’Elim, Hashem!*” (Shemot 15:11) But actually, it means, “a power” or a “force.” Hence the word El used in the following passuk, spoken by Lavan to Yaakov: “I have the power (El) to do you harm.” There, “El” means power or capability. How then does the term “El” begin to refer to gods, or Gods? The Ramban (Bereshit 1:1) says that Elohim is a plural and it refers to God. Why because “God is the master of all powers and forces.”

To summarise, the term “El” is not exclusive to God. El is simply indicative of “force” or “power”. This could refer to other forces, recognized by other nations hence “*Mi Camocha ba’Elim, Hashem!*” and it can also refer to Judges.

Rashi says (Bereshit 6:2): “All usage of the term “Elohim” in Tanach indicates a position of authority” - and he quotes the verse where God appoints Moshe as senior to Aharon (Shemot 4:16 and also see Shemot 7:1.)

So it is then, quite natural for the term “Elohim” to be used for the Judiciary who have power over society and authority over people’s lives and monetary effects.

BACK TO THE PASSUK

If we return then to our passuk, we see a unity in the verse. Elohim denotes the Judges. The term Nasi refers to the King (Ibn Ezra, Rashbam) or Head of Sanhedrin.

Accordingly, we will read this passuk as:

“Do not curse the Judge, and do not curse the King of your people.”

“The Torah related to the norms of society. Since kings and judges pronounce law on monetary and capital cases, people will be likely to curse them.” (Rashbam)

GOD AND THE JUDGES

Rashi in his commentary HERE IN Parshat Mishpatim quotes the Gemara (Sanhedrin 66a) which reads this verse about God himself. But Rashi doesn't stop there. He then immediately brings the second reading, regarding the Judges:

“This is a warning about cursing God, **and also** a warning against cursing a judge.”

It is interesting that the two comments are uttered in the same breath! Maybe this goes to the foundation of the phraseology here. After all, if the passuk is referring to a human judge, why does the Torah use the term Elokim? What does it add here?

Shadal comments:

“There is no doubt that the prohibition against cursing God emerges by deduction (kal vachomer) from the prohibition of cursing a judge. The honour and status of a judge is precisely because they uphold God's law, hence their words are considered as God's word. This is why they are called Elohim”

And there are echoes of this idea elsewhere. In a severe chapter of rebuke to a corrupt Judiciary, Sefer Tehillim makes the statement:

“I said that you were divine beings, sons of the Most High” (Tehillim 82:6)

The Malbim comments:

“Just as it is God's actions that bring the world, and mankind into existence, it is the work of Law and Judges that sustain mankind and the world itself. Since man is social in nature, and it is impossible that people will not have conflicts and disputes, oppression, and violence. These threaten to undermine the cohesion and collective living of society, if there is no law or regulating norm, no law or Judicial powers. From this aspect, one may see Judges as if they were Gods, creators of the world, because they are partners; God created the world and they sustain it. Hence the Rabbis –Talmud Shabbat 10a - state: Every Judge who pronounce a true judgment is considered if they are a partner to God in the Creation of the World.”

So the name “Elohim” for a judge is much more than a linguistic connection. The notion of Godliness lies at the very heart of the Judiciary.

The HaEmek Davar, Rav Naftali Tzvi Yehuda Berlin, takes this rather narrow application of cursing a judge or king and widens it to an ethical imperative regarding dangerous language and incitement especially regarding figures responsible for government and national leadership. Here are a few quotes from his commentary:

“ELOHIM LO TEKALLEL: “Lo Tekallel” is to be understood as not to ridicule or to disparage, and this is the way that Onkeles translates the phrase ...

This verse is saying that a person who is in a position of leadership – denoted by the title Elohim – the norm is that the public will look for faults and flaws in their leadership and to gibe them, as it says in Proverbs (24:21) “‘Fear the Lord, my son, and the king, and do not mix with dissenters.’ This refers to people who seek to change the leadership agenda And here the Torah instructs regarding any person in a position of authority ... Lo Tekallel – to not scorn and put them down. ... People have the tendency to try to bring down any leader who fails to satisfy their own interests, hence this law.

... but it should be understood that similarly one is prohibited from deriding any Jew, the leader was singled out because people are more prone to this practice, and because it breaks down the essence of society.”

Here the Netziv widens the discussion greatly. We are not dealing with the technical problem of curses but any verbal assault, ridicule etc. Second, we are talking about any leader. Thirds, in truth we are talking about any person¹. We can confront a person and challenge their policies, we can engage in debate, but it doesn't need to get “personal.” Personal attacks when we are dealing with the government and sources of law enforcement are likely to undermine the very foundations and fabric of civil society.

The Torah is warning us here that our speech, the way we talk and express ideas, is critical to the ability of society to function, indeed for a country to exist and flourish. May we only succeed in this exceedingly important mitzvah.

Shabbat Shalom

¹ See the Mishne Torah Hil. Sanhedrin 26:1-2 where the Rambam agrees that there is an issur to curse any Jew but that the source is Vayikra 19:14 – “Lo Tekalel heresh.”