

MITZVOT 43 – 46 THE FEMALE HEBREW SLAVE

SEFER HACHINUCH 43

מצות יעוד של אמה העבריה - ליעד אמה העבריה, כלומר שאותו ישראל שקנה אמה העבריה שישאנה לו לאשה או יתננה לבנו לאשה, שנאמר (שמות כא ח) אם רעה בעיני אדוניה אשר לו יעדה והפדה, ואמרו ז"ל (רש"י שם) כאן רמז לך שמצוה ביעוד. ובפרוש אמרו ז"ל (בכורות יט א) מצות יעוד קודמת למצות פדיה.

The commandment of designation of a Hebrew bondwoman: To designate a Hebrew bondwoman, meaning to say that the Israelite that acquired a Hebrew bondwoman marry her as a wife or give her to his son as a wife, as it is stated (Exodus 21:8), "If she is bad in the eyes of her master, who designated her for himself, he must let her be redeemed." And they, may their memory be blessed, said (Rashi on Exodus 21:8) that here is a hint for you that there is a commandment of designation. And they, may their memory be blessed, explicitly said (Bekhorot 19a) that the commandment of designation is before the commandment of redemption.

It is from the roots of this commandment that God had mercy on the poor one that is sold and upon her father who needed to sell her. And [so] He commanded the one who acquires her to marry her as a wife and to make her a patroness - as He is a graceful and merciful God. And if the acquirer does not want her for himself, [he is commanded] to marry her to his son, as she will also be happy and rejoice [to be married] to the son of her master; or - in any event - to reduce her redemption [price] and help her that she should go out from slavery. And, in any case, he should not cause her to stay under his hand until the time of her sale [is completed] - even if her work is very [good] in his eyes. And all of this is from the kindnesses of God upon his creatures and from His elevated traits.

The laws of the commandment ... that she cannot be sold by her master, meaning to say that even if he transgressed and sold her, his sale is nothing (ineffective); ... how many more ways out she has than the [male] slave; and the rest of its details - are [all] elucidated in the first [chapter] of Kiddushin.

And [it] is only practiced at the time that the Jubilee is practiced (Gittin 65a). And one who transgresses it and does not designate her - not for him, and not for his son - and does not help with her redemption, has not performed this commandment.

SEFER HACHINUCH 44

מצות פדיון אמה העבריה - לפדות אמה העבריה, שנאמר (שמות כא ח) והפדה. וזו מצות עשה, כלומר שיסיע האדון הקונה אותה בפדיונה ויתן לה מקום לשוב לבית אביה, כמו שאמרו ז"ל (קדושין יד ב) שמגרע פדיונה ותצא, כלומר שאם לקחה בששים דנרים לשש שנים ועבדה שלש וקמצה שלשים דנרים,

שיקחם וישלחנה ולא יטעון עליה שתשלים שנות עבודתה על כל פנים, או שיאמר מעותי היו בטלות אצלה, תוסיף לי רוח אם תרצה לצאת, שאין זה אלא רע לב, ולבני ישראל שהם בני מלכים רחמנים בני רחמנים, ראוי להם לעשות חסד עם הבריות, אף כי לאשר עבדום, ואפילו יום אחד

The commandment of redemption of a Hebrew bondwoman: To redeem a Hebrew bondwoman, as it is stated (Exodus 21:8), "he must let her be redeemed." And that is a positive commandment, meaning to say that the master that acquired her, help her in her redemption and give her room to go back to the house of her father. (Kiddushin 14b), "He reduces the price and she leaves." [This] means to say that if he took her for [the price of] sixty dinars over six years and she worked three years and gathered thirty dinars, that he should take them and send her away. And he should not claim about her that she must finish the years of her bondage regardless, or say, "My money was sitting idly with you; if you want to leave, add the profit to me [that the money should have produced while it was idle]" - as this is only evil-heartedness. And for the Children of Israel who are the children of kings, merciful ones [who are] the children of merciful ones, it is fitting to do kindness with the creatures, even those who serve them, and even [if it is] for one day.

SEFER HACHINUCH 45

שלא ימכר אמה עבריה הקונה אותה מיד האב - שכל מי שיקנה אמה עבריה לא ימכרנה לאדם אחר לעולם, שנאמר (שמות כא ח) לעם נכרי לא ימשל למכרה וגו', ופרושו כתרגומו, לגבר אחרן. ולהרחיק הדבר נאמר בלשון זה, כלומר שדומה לעניה הקטנה אם מוכרה לאדם אחר שנית כאלו ימכרנה לעם נכרי.

That the one who acquires the Hebrew bondwoman from the father not sell her: That anyone who acquires a Hebrew bondwoman not sell her to another man ever, as it is stated (Exodus 21:8), "he shall not have the right to sell her to a foreign people, etc." And the explanation [of the phrase] is like [Onkelos' Aramaic] translation, "to another man." And it was stated with this wording to distance this thing - meaning to say that if he sells her to a second man, it is for this poor little one similar to if he sold her to a foreign people.

SEFER HACHINUCH 46

שלא לגרע שאר כסות ועונה - שכל קונה אמה העבריה ויעדה שלא יגרע לה שארה כסותה ועונתה ופרוש (כתובות מז ב) שאר מזון, וכסות כמשמעו, ועונה דרך ארץ. ובכלל לאו זה כל בנות ישראל (גם כן) שלא לגרע להן דבר מאלה. קל וחמר הדברים, אם לזו לא יגרע, כל שכן לאחרות בנות חורין. וזה שכתוב (שמות כא ט) כמשפט הבנות יעשה לה, אמרו במכילתא (שם) שהוא בא ללמד ונמצא למד, שהבנות למדות ממנה.

Not to reduce her flesh, covering and time period: That anyone who acquires a Hebrew bondwoman and designates her may not reduce her flesh, her covering and her time period. And the explanation (Ketuvot 47b) of "flesh" is food, of "covering" is like its simple understanding and of "time period" is the way of the world (conjugal rights). And included in

this negative commandment are all daughters of Israel (as well), not to reduce from them anything from these [categories]. [This inclusion] is a fortiori (kal ve'chomer): If he does not reduce for [bondwomen], all the more so for free [women]. And [about] that which it is written (Exodus 21:9), "like the statute of the daughters he shall do for her" - they said in the Mekhilta d'Rabbi Yishmael 21:9:2 that it came to learn [from the others], but it ends up to teach, as the [law of the other] daughters are learned from her.

From the laws of this commandment - that which our Rabbis, may their memory be blessed, said (Ketuvot 56a) what is the law of one who stipulates [to marry] his wife "on condition that you do not have [the rights] from me of flesh, covering and time period"; that which they said (Ketuvot 61a), "A woman rises with [the economic standards of a new] husband, but does not descend," and hence we calculate her food and clothing [allowance] according to his elevation; the matter of the differentiation of time periods, which is according to the strain of the man's profession, to the point where they, may their memory be blessed, said (Ketuvot 62b) that the time period of a sailor is twice a year, a camel rider once a month and a Torah scholar once a week and it is fitting for him that it be on Shabbat night; and the rest of its details - are [all] elucidated scattered in the Order of Nashim.

RAMBAM, MISHNEH TORAH, HILCHOT ISHUT 12: 1 – 2

When a man marries a woman, whether she is a virgin or a non-virgin, whether she is above the age of majority or a minor, and whether she was born Jewish, is a convert or a freed slave, he incurs ten responsibilities toward her and receives four privileges. With regard to [the husband's] ten responsibilities [toward his wife], three stem from the Torah. They include she'erah, kesutah ve-onatah. She'erah means providing her with food; kesutah means supplying her with clothing; and onatah refers to conjugal rights.

The seven responsibilities ordained by the Rabbis are all conditions [of the marriage contract] established by the court. The first is the fundamental requirement of the marriage contract. The others are referred to as tena'ei ketuba, the conditions of the ketuba. They are: a) to provide medical treatment if she becomes sick; b) to redeem her if she is held captive; c) to bury her if she dies; d) the right for her to continue living in his home after his death as long as she remains a widow; e) the right for her daughters to receive their subsistence from his estate after his death until they become betrothed; f) the right for her sons to inherit her ketuba in addition to their share in her husband's estate together with their brothers [borne by other wives, if she dies before her husband does].

SHEMOT 21: 9 - 10

וְאִם-לְבָנוּ יִיעָדְנָה כְּמִשְׁפֵּט הַבָּנוֹת יַעֲשֶׂה-לָּהּ:

And if he designated her for his son, he shall deal with her as is the practice with free maidens.

אם־אחרת יקח־לו שְׂאֲרָה כְּסוּתָהּ וְעֹנֹתָהּ לֹא יִגְרַע:

If he marries another, he must not withhold from this one her food, her clothing, or her conjugal rights.

RASHI

כמשפט הבנות [HE SHALL DO UNTO HER] AFTER THE MANNER OF DAUGHTERS — who may claim food, clothing and marital duty (Mekhilta d'Rabbi Yishmael 21:9:2).

MECHILITA D'REBBE ELIEZER

כמשפט הבנות וכי מה למדנו על משפט הבנות. אלא, הרי הוא בא ללמד, ונמצא למד. מה זה שארה כסותה ועונתה לא יגרע, אף בת ישראל שארה כסותה ועונתה לא יגרע, דברי ר' יאשיה. רבי יונתן אומר, בעבריה (הכתוב מדבר). אתה אומר כן, או אינו אלא בבת ישראל. כשהוא אומר אם אחרת יקח לו, הרי בת ישראל אמור, ומה תלמוד לומר כמשפט הבנות, בעבריה הכתוב מדבר

"according to the ordinance of the daughters shall he provide for her": Now what do we learn from "the ordinance of the daughters? __ It (apparently) comes to "teach" (about a maid-servant), but it ends up "learning" (about daughters in general), viz.: Just as this one (the maid-servant), (10) "her food, her clothing, and her (conjugal) time he shall not diminish," so, a Jewish daughter (in general), her food, her clothing, and her time he shall not diminish. These are the words of R. Yoshiyah.

IBN EZRA

וענתה. יש אומר דירתה וכמוהו לפי דעתם וענה איים וענתה שמה. ולפי דעתי כי וענה איים כמשמעו. כמו וענית ואמרת דרך משל. כי שם כתוב ושעיר על רעהו יקרא. גם וענתה שמה. תנגן. כמו ענו לה' בתודה.

SFORNO

לא יגרע שאין מותר להרבות נשים אלא היכא דמצי למיקם בספוקייהו (יבמות פרק הבא על יבמתו) באופן שלא יגרע את הראוי לראשונה

HEZKUNI

The letter מ in the word מעון having been replaced similar to the way it has been in the words: מזון, מלון, and מדון our verse then would prescribe that the departing female "slave," be provided by her former master with food, clothing and an abode wherein to set up house.

פלא יועץ ק"ט:ו

והנה בענין הזווג ידוע שהיא מצוה ממצוות דאורייתא (עיין כתובות מז א) דכתיב (שמות כא י) ועונתה לא יגרע. לזאת יכון האדם ויכלכל דבריו במשפט על פי התורה כמפרש בספרים ויחזר על הדינים כפעם

בפעם. ואשרי איש שיזהר שיהא עונתו משבת לשבת אחר חצות, אמנם בזה הכל לפי מה שהוא אדם ולפי מה שרואה שאשתו משתוקקת אליו מרציא ארצו קמה

פלא יועץ ער"ב:א'

עונה - עונה היא אחת מתרי"ג מצות דכתיב (שמות כא י) ועונתה לא יגרע. ועל כגון זה נאמר (הושע יד י) כי ישרים דרכי ה' וצדקים ילכו בם ופשעים יכשלו בם. ואחר כונת הלב הן הדברים, שאם יכון לשם מצוה הרי זה מצוה ונוטל עליה שכר כמניח תפלין וכשאר מצות שבתורה, ואם מכוון להנאתו להשביע יצרו, הרי זה נעשה נבל ברשות התורה,

JEREMIAH 2:2

הֲלֵךְ וְקִרְאתְ בְּאָזְנֵי יְרוּשָׁלַם לֵאמֹר כֹּה אָמַר יְהוָה זְכַרְתִּי לָךְ חֶסֶד נְעוּרֶיךָ אֲהַבְתְּ כָּל־יְלֻלְתֶיךָ לְכַתֵּךְ אַחֲרַי
בַּמִּדְבָּר בְּאֶרֶץ לֹא זְרוּעָה:

Go proclaim to Jerusalem: Thus said the LORD: I accounted to your favor The devotion of your youth, Your love as a bride— How you followed Me in the wilderness, In a land not sown.

BIRKAT ASHER

וקצת קשה למה אין שכר על הציות העיוור והמוחלט ללכת לארץ בלתי-ידועה, לכאורה אין ציות זה פחות מציות של ישראל בצאתם ממצרים, שעליו אומר הנביא "לכתך אחרי במדבר בארץ לא זרועה" (ירמיה ב, ב). (פ' לך תשמ"ט)

ור' בחומש תורת חיים הע' 12 גירסה: על כל פסיעה ופסיעה! אך לא את כולה הבינותי. (פ' לך תשס"ד)

TA'ANIT 9A

Three good leaders arose for the Jewish people, namely, Moshe, Aharon, and Miriam, and three special gifts were given to the Jewish people through them: the well, the cloud, and the manna. The well was in Miriam's merit, the cloud in Aharon's merit, and the manna in Moshe's merit. When Miriam died, the well ceased... When Aharon died, the clouds of glory disappeared... but these two returned in Moshe's merit.