

# A Seven Year Stretch

- Basil Herring.

Freeing the eved ivri after seven years, annulment of all loans at the end of the Shmittah year and the institution of pruzbul.

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A few weeks ago, the New York Times carried the following shocking Op-Ed piece, by Charles Jacobs and Mohammed Athie: "Today, in the former French colony of Mauritania in North Africa, where slavery was ended on paper in 1980, the U.S. State Department estimates that 90,000 blacks still live as the property of Moslem Berbers. Perhaps 300,000 freed slaves continue to serve their former masters because of psychological or economic dependence. Black Africans in Mauritania were converted to Islam more than 100 years ago, but while the Koran forbids the enslavement of fellow Muslims, in that country race outranks religious doctrine. The blacks are chattel: used for labor, sex, and breeding. They may be exchanged for camels, trucks, guns or money. Their children are the property of the master... To the East in the Sudan, slavery is making a comeback, the result of a 12 year war waged by the Muslim north against the black Christian and animist south. Arab militias, armed by the government, raid villages, mostly those of the Dinka tribe, shoot the men, and enslave the women and children. These are kept as personal property, or marched north and sold, for a price in 1990 of \$15. One 13 year old girl had been captured with 24 other children, marched north, and given to a farmer. Throughout the day she worked in his fields, and at night in his bed. During the march she was raped and called a black donkey. Finally she escaped with the help of the master's jealous wife, to tell her story to the world." But in the face of such ongoing travesties, the American media, once so articulate in denouncing apartheid in South Africa, is silent, as is the Washington Congressional Black Caucus. As the article put it, for such American liberals, freedom in Johannesburg apparently counts for more than it does Nouakchott and Khartoum.

I share this story with you this morning, not because it demolishes the Arab claims over the years in the war against Israel to be free of racism against Black Africans and natural allies against a supposed Judeo-Christian/Zionist oppression; neither do I repeat it because as an ex-South African do I in any way regret the end of apartheid in South Africa. I tell it to you, on this particular shabbas, because, by way of contrast, it is a marvelous illustration of the compelling grandeur, the abiding validity, and the essential truth, of our incomparable halakhic legacy, as practiced through the ages, up to and including our own day, in spite of the mass defections from that precious legacy by our fellow Jews, and sometimes even by our own selves.

Listen, therefore, to the following splendid passage written also in North Africa, in a Moslem country known as Egypt, in about the year 1185, by Maimonides:

It is permitted (in the Torah) to work a heathen slave with rigor. But even though such is the rule, it is the quality of piety and the way of wisdom that a man be merciful and pursue justice, and not make his yoke heavy upon the slave or distress him, but to give him to eat and to drink of all foods and drinks. The Sages of old were wont to let the slave partake of every dish that they themselves ate of, and to give the meal of the cattle and of the slaves precedence over their own.

Is it not said “as the eyes of slaves to the hand of their master, as the eyes of the female servant to the hand of her mistress (Ps. 123:2)?” Thus also the master would not disgrace them by hand or by word, because Scriptural law has delivered them only to slavery and not to disgrace. Nor should he heap upon the slave oral abuse and anger, but should rather speak to him softly, and listen to his claims.... Cruelty and effrontery are not frequent, except with heathen who worship idols. The children of our father Abraham, however, i.e., the Israelites, upon whom the Holy One Blessed be He, bestowed the gift of the Torah, and laid upon them statutes and judgments, are merciful people who have mercy upon all. Thus also it is declared by the attributes of the Holy One Blessed be He, which we are required to imitate, “and His mercies are over all His works. (Ps. 145:9.)” Furthermore, whoever has compassion, will receive compassion, as it is said “and He will show you mercy, and have compassion upon you, and multiply you. (Deut. 13:18.) Maimonides, MT, Hil. Avadim 9:8

What a sublime statement of Jewish sensibilities in practice! The Rambam, you can be sure, knew whereof he spoke, given the practices of the Islamic slave trade of North Africa, which must have been even worse than they are reported to be today. That a Jew is to feed his slave before himself, and the best food in the house at that, addressing him with respect and sensitivity, paying attention to his concerns with exquisite sympathy, all in spite of the fact that, as Maimonides says at the outset, the Torah technically permits the rigorous exploitation of the pagan slave—is truly a remarkable and abiding tribute not just to the heart of the Jew, but to the humanitarian profundity of the rabbinic tradition in successive generations.

But if all of the above might seem to most of us to be somewhat hypothetical, and removed from our own lives, there is another, more practical and immediate side to these laws, one which derives in the first place from a central passage in our parshah. A few moments ago we blessed the new month of Elul, for this Shemittah year, which will occur over the next several days. Now there is a special obligation upon the Jew that occurs during this particular month, i.e., to be carefully performed during this one month out of 96, and that is the signing of a so-called prozbul, a living testament to the creativity and moral conscience of Hazal. The basis, and rationale of the prozbul, happens to be right here in this very parshah. Permit me to explain.

The Torah here states roughly as follows: At the end of 7 years there shall be a shemittah, or release. This is the law: Any creditor to whom a debt is owed by his fellow, shall not exact payment of his fellow, inasmuch as it is a shemittah for the Lord. You shall exact such a debt from a non-Jew, but not from your fellow-Jew... If there will be a poor man among you, do not close your heart or clench your fist against him, but open your hand unto him, and extend a loan to him according to his needs. Be very careful lest there be wickedness in your heart at the approach of the shemittah year that will prevent you from extending a loan (because it will not be repaid.) God will consider this a sin. You must surely extend the loan, for then God will bless you in all of your deeds, and all that you will undertake. Deut. 15: 1-11

Thus it is a positive mitzvah of the Torah that if a fellow Jew owes you money when the end of the shemittah year rolls around, the debt is, as explained by Rabbi Ahron Lichtenstein, frozen in place, to be forgiven by you before the end of the shemittah year. Only thus, says the Torah, can the inevitable and vicious cycle of poverty be broken, with the poor growing ever poorer, and the rich richer. By giving the impoverished peon a chance to start again, free of crushing debt, he has a fighting chance to achieve self-sufficiency in the marketplace. So much for the Torah. The

problem, however, was that by the first century of the common era, a time of great economic hardship and social dislocation, the prescribed solution itself had become a problem. In spite of the Torah's demand and expectation, the relatively rich turned away from making loans to the poor with the approach of the 7th year, knowing as they did that they could never recover their capital, which, it should be noted, was always to be extended as an interest-free loan, as the Torah required. The result placed the poor between the proverbial rock and hard place. But then the rabbis found a creative solution. Hillel the Elder, some 50 years before the destruction of the Temple, proposed the prozbul. Because this law of the Torah addresses only private debt, not the public variety, a solution could be found: before the end of the shemittah year, every creditor could hand the outstanding debt over to the court, and then collect the monies in due course as a messenger of the court. The problem was thus solved: the rich made interest-free loans to the poor, which were repaid in due course. But did Hillel not thereby eviscerate a mitzvah of the Torah? Technical issues aside, the answer is surely that in his wisdom, and compassion for the poor, Hillel understood that the larger purpose of the mitzvah required a creative by-passing of the classic format of the mitzvah itself. He essentially responded to the socio-economic realities of his time, and indeed, as the Gemara Gittin 36a puts it, those of all subsequent generations. If you will, he reformulated the mitzvah to achieve its greater realization, and in so doing paradoxically, if not miraculously, established what became the embodiment of a living, growing, and truly flexible halakhah, that at the same time did not undermine the foundations of the law, or the uncompromised adherence of the masses to the life of mitzvah. Allevai that we had the leaders, the wisdom, and the compassion, to emulate that model in our own time, in addressing the many areas of Jewish law that are, sadly enough, honored, for the most part, in the breach.

But be that as it may, the law of the prozbul, remains in effect down to our own time. Thus, starting the day after tomorrow, if any one has monies owing to him or her from a fellow Jew, where payment can legally be demanded during what remains of this shemittah year, you must sign a prozbul in the presence of 2 kosher witnesses, or, better yet, albeit not required, a bet din. Exceptions include debts incurred for goods taken on credit, pledges to charity, or long-term loans which have a specific collection time due after the shemittah year. If you in such a position, please contact me, and I will be happy to make a copy of the prozbul available to you, or for that matter, assist in its implementation, prior to Rosh Hashanah, 4 weeks from now.

With each passing day, as we see and read more and more of the assorted injustices and inequities perpetrated on human beings who are unfortunate enough to find themselves at the mercy of their fellow, in North and Central Africa as in Southern Europe, in South America as in South East Asia, we have ample opportunity to recognize and marvel anew at the surpassing wisdom and beauty of the faith and way of life that is the Torah Yiddishkeit that is our very own treasure. There may indeed be times when we doubt the wisdom or utility of one or another detail of the halakhah, and we may well long to see more imaginative halakhic responses to some of the contemporary woes that confront, and conflict, our people. Yet, as the case of prozbul so amply illustrates, rooted as it is in the matrix of Parshat Re'eh, the ways of the Torah and Hazal are indeed darkei noam, highways leading to blissful fulfillment, and netivoteha shalom, her by-ways conducive to harmony and compassion, and peace. Let us, in this coming month of Elul, by way of preparation for the imminent inception of the Yamim Nora'im, strive to make ourselves worthy of that gift from God, so that He in turn in His enduring mercies will see fit to forgive our

incalculable indebtedness to Him, and instead extend to us another 7 years of undeserved credit, filled with life, and prosperity, and spiritual responsibility.