

Parashat Mishpatim 5771, 2011:

Chesed (Kindness): The Universal Action

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Dedicated to the sacred memory of my sister-in-law, Ruchama Rivka Sondra, and the *refuah shlaimah* of Sarah bat Rachel, Yosef Shmuel ben Miriam, and Sheva bat Sarah Rivka.

Toward the end of our *parasha*, Hashem commands Moshe to ascend *Har Sinai* (Mount Sinai) in order to be given “the stone tablets.” The text also specifies “*v’haTorah v’hamitzvah*” as part of that which he will receive: “And the L-rd said to Moses, ‘Come up to Me to the mountain and remain there, and I will give you the stone tablets, the Law and the commandments, which I have written to instruct them.’” (*Sefer Shemot* 24:12, this and all Bible translations, *The Judaica Press Complete Tanach*)

Our *pasuk* (verse) is utilized by the *Talmud Yerushalmi*, *Berachot* 6a (41b) as the source for the obligation of reciting a *bracha* (blessing) prior to performing a mitzvah:

And from where do we know that all commandments require a *bracha* prior to their performance? Rabbi Tanchuma and Rabbi Aba bar Kahana said in the name of Rabbi Elazar: “and I will give you the stone tablets, the Law and the commandments.” Herein, the text equates Torah and mitzvah. This means that just as Torah requires a *bracha* prior to engaging in its study, so, too, all other commandments require a blessing prior to their performance. (Translation and underlining my own)

The final words: “all other commandments require a blessing prior to their performance,” are actually quite problematic. True, mitzvot such as succah, lulav, tefillin, mezuzah, and shofar most definitely require a benediction prior to their performance. Yet, mitzvot such as *tzedaka* (the equitable redistribution of financial resources), and the entire class of mitzvot known as “*gemilut chasadim*” (“the performance of loving-kindness”) do not require a *bracha* prior to performing them. This difference was noted and codified by the Rambam (Maimonides, 1135-1204) in *Mishneh Torah*, *Hilchot Berachot* 11:2:

All positive commandments that are between man and the Omnipresent (*l'Makom*), whether it is a mitzvah that is not purely obligatory in nature, or it is a mitzvah that is absolutely mandated – in either case, one has the obligation to recite a *bracha* prior to its performance. (Translation and underlining my own)

The essential criterion in this instance is the category of the positive commandment. If it is a positive mitzvah between man and his Creator (*bein adam l'Makom*) it requires a blessing. Since, however, the Rambam explicitly formulates the halacha in this fashion, it stands to reason that if it is a positive commandment between man and his fellow man (*bein adam l'chaveiro*), it does not require a benediction. (See Kesef Mishneh ad loc.) The question, of course, is why? Why is it the case that positive *mitzvot bein adam l'Makom* require a *bracha* prior to their performance, and positive *mitzvot bein adam l'chaveiro* do not?

Many of the greatest minds within the world of Halacha wrestled with this exact problem. In my estimation, one of the clearest answers to this question was formulated by Rabbi Baruch Halevi Epstein (1860-1941), in his trail-blazing Torah commentary entitled, *Torah Temimah*:

A major discussion has already taken place in the works of the Rishonim (early halachic decisors) and Acharonim (later halachic decisors) as to exactly why we do not recite a benediction on many commandments such as *tzedaka*, *gemilut chasadim*, returning lost objects to their owners, visiting the sick, and others that are similar in kind. Indeed, they have produced many reasons and rationales for this practice.

In my opinion, however, the reason for this practice is quite simple. [If one analyzes the text of the blessings recited prior to performing a positive commandment *bein adam l'Makom*,] one finds that the expression “*asher kiddashanu b'mitzvotov*” (“Who has sanctified us via His commandments”) is employed within the *bracha*. This phrase comes to teach us that as a result of the performance of the mitzvah, we are sanctified and separated from the rest of the nations of the world who do not practice this commandment. This is uniquely the case regarding the category of positive *mitzvot bein adam l'Makom*, such as tefillin, tzitzit, succah, lulav, and others that are similar in kind, that are not practiced by the nations of the world. This is not the case, however, regarding mitzvot bein adam l'chaveiro, like those that I have listed above, that are, in fact, performed by the nations of the world. Therefore, regarding this class of commandments, it would be irrelevant and incorrect to say “*asher kiddashanu b'mitzvotov*,” - i.e. He has

separated and sanctified us from the other nations of the world. This is the case, since regarding this class of mitzvot, we are not separated from the rest of the righteous nations of the world (*m'shaarei haumot hametukanot*). (Translation, brackets, underlining, and italics my own)

In summary, the language of a *birkat hamitzvah* (blessing before performing a mitzvah), “*asher kiddashanu b'mitzvotov*,” serves to differentiate the Jewish people from the rest of the world, and recognizes our uniquely chosen and holy status. By definition, this terminology applies solely in scenarios wherein we, and no other nation, are in fact sanctified. Hence, its use in regards to positive *mitzvot bein adam l'Makom*. In contrast, *chesed*-oriented (kindness-oriented) mitzvot that are in the category of positive *mitzvot bein adam l'chaveiro* do not warrant the expression “Who has sanctified us via His commandments,” since they are universal in nature. Thus, only positive *mitzvot bein adam l'Makom* require the recitation of a *birkat hamitzvah*.

Rav Epstein published the *Torah Temimah* in 1902, when he was 42 years old. He lived in Pinsk, Belorussia and worked as an accountant and banker rather than serving as a rosh yeshivah or synagogue rabbi – even though he was blessed with an eidetic memory. In his position, he surely had practical knowledge of all manner and variety of people, both Jews and non-Jews. In addition, he must have been well aware of the *chesed* that all people can perform. In my opinion, this perception was a primary factor, if not the primary factor, in his illuminating explication as to why positive *mitzvot bein adam l'Makom*, alone, require the recitation of a *birkat hamitzvah*. In sum, he saw all of mankind as created in G-d's holy image and endowed, therefore, with the potential to pursue and perform powerful acts of *chesed*.

May we, G-d's uniquely chosen nation, learn from Rav Epstein and recognize the *tzelem Elokim* (image of G-d) that each and every person potentially represents. Moreover, may we all make substantive acts of *chesed* a major part of our life's agenda and a practical part of our daily actions. *V'chane yihi ratzon*.

Shabbat Shalom

Past drashot may be found at my new website:

<http://reparashathashavuah.weebly.com/>

The email list, *b'chasdei Hashem*, has expanded to hundreds of people. I am always happy to add more members to the list. If you have family or friends you would like to have added please do not hesitate to contact me via email at rdbe718@gmail.com.