

בס"ד

THE RASHI OF THE WEEK

Week of

Parshas Teitzei

14 Elul, 5779 – September 14, 2019

Compiled from the works of
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**An Outline of the Rebbe's Explanation of Rashi
Parshas Teitzei**

Likkutei Sichos Volume 24, Pages 152 – 156

Rashi in His Own Words

דברים כ"ה, א': כִּי־תִגַּע רִיב בֵּין אַנְשִׁים וְנִגְשׂוּ אֶל־הַמִּשְׁפָּט וְשִׁפְטוּם וְהַצְדִּיקוּ וְהַצְדִּיקוּ אֶת־הַצְדִּיק וְהַרְשִׁיעוּ אֶת־הַרְשָׁע:
דברים כ"ה, ב': וְהָיָה אִם־כָּן הַכּוֹת הַרְשָׁע וְהַפִּילוֹ הַשֹּׁפֵט וְהָפְהוּ לְפָנָיו כְּגִי רִשְׁעוֹ בְּמִסְפָּר:

Devorim 25:1: If there is a quarrel between men and they approach the court, the judges shall judge them. They acquit the innocent one and condemn the guilty one.

Devorim 25:2: If the guilty one has incurred the punishment of lashes; the judge shall make him lean over and flog him in front of him. The number of lashes will be commensurate with his crime in number.

Synopsis

In this week's Torah portion, Teitzei, we are told the following. If two people argue, they are to go to a Jewish court. The court should acquit the one that it finds innocent, and condemn the one it finds guilty. Furthermore, if the guilty party's sin is punishable by lashes, he is to receive the appropriate number of lashes.

We have discussed many times that Rashi's purpose in his commentary of the Chumash is to explain Peshat. He supplies all of the information which a beginning student needs in order to understand what the Torah is saying. There are times that we come to a verse in the Torah which seems to contain a difficulty, yet Rashi does not offer any explanation. There are two possible reasons for this. One possibility is that according to Peshat there is actually no question whatsoever. The other is that Rashi already explained the reason for the apparent difficulty.

Here we find just this situation. For the Torah to say that the innocent party should be acquitted and the guilty party condemned is clearly obvious. Likewise saying that if the punishment for the crime committed is lashes, the guilty party is to receive lashes is obvious. Yet Rashi does not offer any explanation for the fact that the Torah finds a need to tell us these two obvious facts!

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Rashi answers this question based on the comments he makes on this very same verse. Rashi cites the words “if there is a quarrel” and explains as follows. “They will eventually go to court. We learn from this that peace cannot result from quarrel. What caused Lot to leave the righteous man (Avrohom)? Clearly, it was quarrel¹.” The commentaries, why is going to court is such a negative thing? Going to a Bais Din, a Rabbinic court, is indeed a good thing!

With this explanation, Rashi is explain this, and answering our question as well. The Hebrew for the word “quarrel” which Rashi cites from the verse is “Riv - ריב - fight.” The implication of this word is that there was not merely a quarrel, there was a physical fight as well. No good can come from a fight of that sort. When two people have a verbal argument, they are likely to reach a compromise or an agreement. There may very well not be a need to go to court. However, in this case, for an argument of this magnitude, the court must seek the truth. They must come to a clear verdict, who is innocent and who is guilty.

Rashi’s Explanation

This week’s Torah portion is Teitzei. It tells us that² “if there is a quarrel between men and they approach the court, the judges shall judge them. They, (the judges), acquit the innocent one and condemn the guilty one. If the guilty one has incurred the punishment of lashes, the judge shall make him lean over and flog him in front of him. The number of lashes he receives will be commensurate with his crime.”

In other words, the Torah is telling us that if two people argue, they are to go to a Jewish tribunal, i.e. a Rabbinic court made up of judges ordained according to Torah law. It is for those rabbis to issue a verdict; one of the litigants is to be found guilty and the other innocent. One of the punishments for a guilty party is lashes³. In case this is the appropriate

1. Parshas Lech, Bereishis 13:7-12.

2. Our Parshah, Devorim 25:1-2.

3. All punishments issued by a Torah court have very strict guidelines. Two witnesses must see that the litigants are about to commit a crime. The warning must be issued in a very specific manner. The guilty parties must be told what the crime is and what punishment it would entail. The litigants must also perform the act immediately after the warning is issued.

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punishment, the guilty party shall be flogged.

Difficulties in Understanding Rashi

There are instances where Rashi writes in his commentary “I do not know the explanation.” This is despite the fact that other commentators offer an explanation for the same exact thing. Why is this so? Rashi is explaining Peshat, the simple explanation of the Torah. In fact, he teaches everything which a beginning student needs in order to understand Peshat. A beginner does not need to look at any other commentary. When Rashi says “I do not know,” what he means is that he doesn’t know an explanation according to Peshat. The other commentators that do offer explanations are answering the question, but not according to Peshat⁴.

This is true in our verse. The Torah is telling us that if a court finds someone innocent, he is to be acquitted. If they find him guilty, he is to be condemned. Why does the Torah tell us this? It is obviously the case. Likewise, it is equally obvious that if one is judged guilty, and the appropriate punishment by lashes, he is to receive lashes. Yet Rashi offers no explanation for this whatsoever.

What exactly does it mean when there seems to be a difficulty in understanding Peshat which Rashi does not explain? There are two possible reasons. It may be that in reality it is not a difficulty at all. On the other hand, it may pose a difficulty. However, Rashi explained it elsewhere. Which of these two possibilities is the case here? How can we explain our difficulty?

We might attempt to answer this question by explaining that here the Torah is giving us yet another⁵ positive commandment to assure that all courts are righteous. However, if that was the case, why did Rashi not say so?

The Explanation

Rashi answers this question based on comments he makes on this very same verse.

4. For an example see Parshas Toldos, Bereishis 28:5. More examples can be found in the footnotes to Likkutei Sichos Volume 5, Page 1.

5. There are already two positive commandments; Parshas Devorim, Devorim 1:16 and Parshas Re’ah, ibid. 16:18.

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Rashi cites the words “if there is a quarrel.” He explains it as follows. “(If there is a quarrel,) they will eventually go to court. We learn from this that peace cannot result from quarrel. (We find this elsewhere). What caused Lot to leave the righteous man (Avrohom)? Clearly, it was quarrel¹.”

There commenters question Rashi’s words here⁶. Why is going to a Rabbinic Court something negative? It is quite to the contrary. Going to a court according to Torah is a positive thing! A Torah true court with righteous judges brings about peace.

The explanation is that Rashi is answering another question as well. The Hebrew for the word “quarrel” which Rashi cites from the verse is “Riv - רִיב - fight.” Most often, it implies a physical fight between two people. That is what is going on according to Rashi. The quarrel which is under discussion is not a difference of opinion between two people over money or land, it is not an argument. The quarrel here refers to two people coming to blows. Rashi says that good does not come out from a fight of that sort. When two people have an argument, they can reach a compromise or an agreement. They do not even necessarily need to go to court. However, the case of a physical fight is too extreme. The court must seek the truth. They must come to a clear verdict, who is innocent and who is guilty.

When there is a “Riv - רִיב – fight,” peace cannot be the result. Even going to a proper Jewish court will not bring about peace. We are not discussing litigants who are righteous. They do not seek a *true* judgment, which would consequently bring peace between them. Rather as these verses begin, we see that one is innocent, and the other guilty. The entire point of the litigation is to uncover which is the innocent and which is guilty.

Furthermore, since this is a fight which they are both perpetuating, at least one of them must be guilty. As we find in the words of our Sages⁷, “... When the litigants stand before you, consider them both guilty.”

The Torah continues, that “They shall acquit the *innocent* one and condemn the

6. See Gur Aryeh, Maskil L’Dovid and others.

7. See Pirkei Avos, Chapter 1 Mishnah 8.

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guilty one.” It is possible that in terms of the fight they are both equally guilty. However, regarding the law “they shall acquit the *innocent* one ...” The judges are totally correct. One of the litigants is completely correct, and the other is completely incorrect.

We can look at it through the Talmud’s eyes. The Torah says that “They shall acquit the *innocent* one ...” The Talmud says⁸ that “he was innocent to begin with.” At times a Torah true holy court declares someone completely righteous. It will ultimately be discovered that from the beginning of the conflict, fight or argument he was correct. The fight came from, and was perpetuated by the guilty one. The other one began innocent and remains innocent.

(Adapted from a talk given on Shabbos Parshas Teitzei 5741)

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8. See Talmud Makos Page 2, Side 2.

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Passed away on Shabbos Parshas Beshalach, 13 Shevat, 5779

May His Soul be bound in the Eternal Bond of Life

*

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