

THE RASHI OF THE WEEK

Week of

Parshas Teitzei

Elul 9, 5783 – August 26, 2023
Shnas Hakhel

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 רֵיב בֵּין אַנְשִׁים וְנִגְשׂוּ אֶל־הַמִּשְׁפָּט וּשְׁפָטוּם וְהַצְדִּיקוּ וְהַצְדִּיקוּ אֶת־הַרָשָׁע:

דברים כ"ה, ב': וְהָיָה אִם־כָּן הַכּוֹת הַרָשָׁע וְהַפִּילוּ הַשֹּׁפֵט וְהִכּוּהוּ לְפָנָיו כְּגֵרִי רִשְׁעָתוֹ 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

We are told the following in this week's Torah portion, Teitzei. If two people argue, they are to go to a Jewish court. The court should acquit the one it finds innocent and condemn the one it finds guilty. Furthermore, if the guilty party's sin is punishable by lashes, he will 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 that a beginning student needs to understand what the Torah is saying. Sometimes, we come to a verse in the Torah that 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 no question. The other is that Rashi already explained the reason for the apparent difficulty.

Here we find just this situation. That the innocent party should be acquitted and the guilty party condemned is 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 apparent facts!

Rashi answers this question based on the comments he makes in this verse Rashi cites "Is

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that peace cannot result from a quarrel. What caused Lot to leave the righteous man (Avrohom)? It was a quarrel¹." The commentaries ask why going to court is so negative. Going to a Bais Din, a Rabbinic court, is indeed a good thing!

With this explanation, Rashi is explaining this and answering our question. Rashi cites the Hebrew word "quarrel" from the verse: "Riv - ריב - fight." This word implies 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 verbally argue, they will likely reach a compromise or an agreement. There may very well not be a need to go to court. However, in this case, the court must seek the truth for an argument of this magnitude. 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,² "If there is a quarrel between men and they approach the court, the judges shall judge them. They (the judges) acquit the innocent and condemn the guilty. 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 tells us that if two people argue, they are to go to a Jewish tribunal, i.e., a Rabbinic court of judges ordained according to Torah law. Those rabbis must issue a verdict; one of the litigants is found guilty, and the other innocent. One of the punishments for a guilty party is lashes³. If this is the appropriate punishment, they administer lashes to the guilty party.

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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Difficulties in Understanding Rashi

There are instances where Rashi writes in his commentary, "I do not know the explanation." This is even though other commentators *do* explain the same thing. Why is this so? Rashi is explaining Peshat, the simple explanation of the Torah. He teaches everything which a beginning student needs to understand Peshat. A beginner does not need to look at any other commentary. When Rashi says, "I do not know," he means that he doesn't know an explanation, according to Peshat. The other commentators that offer explanations answer the question, but not according to Peshat⁴.

This is true in our verse. The Torah tells 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? This is obviously so. Likewise, it is equally apparent that if one is judged guilty and the appropriate punishment by lashes, he is to receive lashes. Yet Rashi does not explain why the Torah needs to write this.

What does it mean when there seems to be difficulty 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, there may be a problem. 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 the Torah gives us yet another⁵ positive commandment to ensure all courts are righteous. However, if that was the case, why did Rashi not say so?

The Explanation

Rashi answers this question based on his comments on this verse. 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 a quarrel. (We find this elsewhere). What caused Lot to leave the righteous man (Avrohom)? It was quarrel¹."

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

The explanation is that Rashi is answering another question as well. Rashi cites the Hebrew word "quarrel" from the verse: "Riv - רִיב - fight." Most often, it implies a physical fight between two people. That is what is going on, according to Rashi. The quarrel under discussion is not a difference of opinion between two people over money or land; it is not an argument. The dispute here refers to two people coming to blows. Rashi says that good does not come out of a fight of that sort. When two people argue, 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 *sound* judgment, which would consequently bring peace between them. Instead, 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 innocent and which is guilty.

Furthermore, since this is a fight, they are both perpetuating, at least one 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, "They shall acquit the *innocent* and condemn the guilty." 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 correct. One of the litigants is entirely right, and the other is altogether 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 proper

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

7. See Pirkei Avos, Chapter 1 Mishnah 8.

8. See Talmud Makos Page 2, Side 2.

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Torah holy court declares someone completely righteous. We will ultimately discover that he was correct from the beginning of the conflict, fight, or argument. The dispute 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)

I hope you gained as much by reading this as I did by translating and adapting it.

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