

PARASHAT ACHAREI-MOT

Forbidden Unions (Arayot) – Vayikra 18

By Rav Elchanan Samet

A. Structure of the parasha of arayot – types of arayot

The parasha of arayot covers the 30 pesukim of chapter 18. There is an introductory speech of 5 pesukim and a concluding warning consisting of 7 pesukim. These 12 pesukim point out to us the special significance and great severity of the laws of arayot included within this rhetorical framework. This is conveyed both by the content of these "outline" pesukim and their lofty style, as well as by the quantitative relationship between them and the laws themselves.

Chapter 18 can be divided into two almost equal halves:

A – pesukim 1-16: Introductory speech (1-5), prohibitions of arayot that are "of the same flesh" (6-16).

B – pesukim 17-30: prohibitions of various arayot which are not "of the same flesh" (17-23), concluding speech (24-30).

This structure highlights two principle types of arayot: the larger group (11 pesukim) is found in the first half (6-16). Since there is single reason for the prohibitions included in this group, it is preceded with a title:

(6) "No man shall approach anyone who is of his same flesh to uncover nakedness; I am Hashem."

And from here the Torah proceeds to list all those women who are considered "the same flesh" – i.e., close relatives of the "man" whom the parasha addresses in the second person. These relatives include some who are truly blood relatives, such as mother, sister and granddaughter, while others are the wives of blood relatives – the wife of one's father who is not one's mother, the wife of one's brother, and one's daughter-in-law.

In B. we find a smaller group of arayot (7 pesukim, 17-23). The common denominator here is the negative: these women are forbidden NOT because they are "of the same flesh" – they are not close relatives of the "man" whom the parasha addresses (- but rather for some other reason). There is no heading since there are different types of prohibitions here with no single reason underlying them.

The first sub-group (pesukim 17-18) includes arayot based on the blood relation to the WIFE of the man addressed by the parasha. Since the prohibitions of family relations apply here too, there is some stylistic similarity to the prohibitions of the first group. In pesukim 19-20, two independent prohibitions appear: the prohibition of the menstruant (nidda), and that of a woman who is married to someone else. In pasuk 21 we find a pasuk that stands out in its difference - "And you shall not allow any of your seed to be passed to Molekh...", and the group concludes with the prohibitions of relations that are unnatural: homosexuality and bestiality (pesukim 22-23).

A discussion of the structure of the parasha and of the types of prohibitions included in it was necessary before we could address the reasons for arayot. It becomes apparent that we cannot speak of "reasons for arayot" in a general sense, for as we have seen, the various prohibitions differ from one another by their definition and by their position within the parasha; hence also by their reasons.

Most of the prohibitions included in this parasha are explained in the text itself, with reasons that follow immediately after the negative command (the significance of the reason must be properly understood, but we shall discuss

that later). We may distinguish between the reasons that are repeated over and over in the prohibitions of the first group and those that appear in the second group: the reasons in the first group (found together with almost all of the prohibitions of that group) concern the actual family relationship that exists between the man addressed by the parasha and the women who are forbidden to him:

(7) ... She is your mother; you shall not uncover her nakedness.

(8)... It is the nakedness of your father

(10) ...For it is your own nakedness

(11) ... She is your sister; you shall not uncover her nakedness

(12) ... She is of your father's flesh

(13) She is of your mother's flesh

(15) She is the wife of your son; you shall not uncover her nakedness

(16) ... It is the nakedness of your brother.

The reasons in the second group are different: in general they highlight the moral repulsiveness of trespassing on these prohibitions, at times in technical terms that are not entirely clear to us:

(17)... they are of her own flesh (she'erah), it is lechery (zimah)

(20, 23) ...to become impure through her (le-tam'ah bah)

(22) ... It is an abomination (to'evah)

(23) ... it is perversion (tevel)

We shall limit our discussion of the prohibitions of arayot to those in the first group – those that are prohibited because they are "of the same flesh." We shall discuss these firstly because of their single common denominator, and secondly because it is specifically these whose motivation is hidden from us and

concerning which many scholars have found difficulty in fathoming the reason. The prohibitions of the second group have wide-ranging reasons, some of which are obvious and easily understood such that they present no problem.

B. Do belong to the category of chukkim or mishpatim?

The phrase "statutes and judgments of Hashem" appears three times in the context of the parasha of arayot: twice in the introductory speech and once in the conclusion:

(4) "You shall perform My judgments and observe My statutes, to follow them

(5) And you shall observe My statutes and My judgments which a person shall do and live by them

(26) And you shall observe My statutes and My judgments

A famous beraita in Massekhet Yoma (67b, as well as in the Sifra) notes the distinction between the two parts of this compound:

Our Rabbis taught: "You shall perform My judgments" – this refers to those things that, had they not been written, would seem logical that they be written as laws. These include idolatry, adultery, murder, stealing and blasphemy.

"And you shall observe My statutes" – this refers to those things for which the Satan provokes, including the eating of pork and wearing sha'atnez, the freeing of a levirate marriage, the purification of the metzora and the goat that is sent into the wilderness.

Lest you say, "These (chukkim) are a meaningless creation," the Torah comes and teaches, "I am Hashem" – I, Hashem, legislated these laws and you have no right to question them.

Thus we deduce that the prohibitions of arayot are in fact judgments – "mishpatim" (since they are not listed as chukkim), which "had they not been written (in the Torah), it would seem logical that they be written down."

But this is not the opinion of the Ramban in his commentary on pasuk 6, after he differs with the opinion of the Ibn Ezra and the Rambam with regard to the reasons for the arayot:

Behold, the arayot fall under the category of statutes; they are matters decreed by the King. A decree is something that is decided at the King's discretion, for He is wise in the rule of His kingdom and He knows the need for and purpose of the mitzvah that He is commanding, but He does not tell it to the nation, only to the wisest of His advisors.

The Rambam, too (who, in his Moreh Nevukhim provides a reason for the prohibitions of arayot; a reason that will be discussed below), seems to believe that arayot falls under the category of statutes, as it appears from the sixth chapter of his "Eight Chapters." There he quotes the Sifra on parashat Kedoshim (20:26):

R. Elazar ben Azaria said: From where do we learn that a person should not say, 'I do not wish to wear sha'atnez; I do not wish to eat the flesh of a pig; I DO NOT WISH TO APPROACH A FORBIDDEN SEXUAL PARTNER', rather, he should say, "I do wish to, but my Father in heaven has so decreed upon me...."

The Rambam explains that there is no contradiction between the words of this beraita and the opinion of the philosophers that a lofty person "is one who ... performs good deeds, and desires and longs for them, while a person who desires to do bad, even if he does not act (according to his des), is on a lower level." Why is there no contradiction?

Because the bad deeds that are so called among the philosophers – those which they say that someone who does not desire to perform them is better than one who does desire them but holds himself back – these are the things that are universally considered bad: murder, theft, robbery... etc. These are the mitzvot concerning which our Sages of blessed memory said, "were they not written down, they would be considered worthy of being written...." But those things that our Sages said that if a person does desire but he holds himself back he is better, and his reward is greater – these are the mitzvot which are not intellectually perceived, for were it not for (what is written in) the Torah, they would not be (considered) bad at all, and therefore they taught that a person should allow his soul to love them, and only abstain because of the Torah. These and the other mitzvot like them are what Hashem calls "My statutes," saying, "These are statutes that I have decreed upon you, and you have no right to question them, and the nations of the world answer for them, and the Satan prosecutes for them, such as (the laws of) the red heifer and the goat that is cast off into the wilderness.

Several different explanations have been offered with a view to resolving these words of the Rambam in his Shmonah Perakim with the beraita in Massekhet Yoma. But in truth the contradiction exists between the two sources of Chazal themselves: between the beraita in Yoma (and its parallel in the Sifra on parashat Acharei-Mot) and the beraita in the Sifra on parashat Kedoshim.

It would appear that there is no need for explanations, for the contradiction between the two definitions of the prohibitions of arayot (as "chukkim" or as "mishpatim") is a fundamental one and arises from the genuine difficulty involved in their definition.

On one hand, obviously the prohibitions of arayot cannot be defined as statutes that "the nations of the world answer for them." Anthropological study reveals that "in every human society there is a prohibition of forbidden sexual relations (incest)... there is no society in which sexual relations are permitted between a man and his mother or his sister or his daughter; likewise there is no society in

which the prohibition is limited only to first-degree relations. Rather, it is extended to secondary relations in different ways in each society."

On the other hand, when we attempt to indicate the reason for the prohibitions of arayot – which are so deeply rooted in human society and so close to every individual member thereof – we sense that the explanations given are generally unsatisfying. This applies both to commentators on the Torah, in their attempts to give reasons for the prohibitions of arayot (and the weakness of the reasons quoted by the Ramban in his commentary and the difficulty with them, which led him to define the prohibitions of arayot as "chukkim"), as well as to the attempts by various scientific scholars (anthropologists, psychologists, biologists etc.) to explain this universal human taboo:

We may assume that there is no single reason for this taboo, but rather that it is bound up with various bio-social processes and remains an enigma both in mythology and in science. (Dr. Harvey Goldberg, Hebrew Encyclopedia, "arayot, gilui" – volume 27 p. 202).

Anyone who senses that he is encountering an enigma whose solution drifts somewhere in the mists of the historical-philosophical-spiritual sphere will certainly accept a definition of the prohibitions of arayot as a "statute" – as a decree made by the King of the universe, "and HE knows the need for and the purpose of the mitzvah that he is commanding."

It seems that the distinction between those mitzvot of the Torah that are "mishpatim" and those that are "chukkim" is not as clear as we may have believed. There are mitzvot – such as arayot – which lie somewhere between the two spheres: they have aspects that attach them to the category of chukkim, while other aspects would seem to categorize them as mishpatim. There are mitzvot which one commentator or philosopher regards as chukkim while another would define them as mishpatim (again, as we have seen in the case of arayot).

The Rambam's view concerning the reason for the mitzvot (as explained in Moreh Nevukhim part 3, chapter 26) is:

The mitzvot ALL have a reason, and they were commanded for their benefits... those that are called "chukkim" such as sha'atnez and kashrut and the goat that is sent into the wilderness, concerning which Chazal explained that Hashem declared, "The things which I have decreed for you, you have no right to question; and the Satan prosecutes for them and the nations of the world answer for them" – most of the Sages do not believe that they are matters which have no reason at all... rather... they have a reason... but it is hidden from us, either because of our limited intelligence or for our lack of knowledge... those (mitzvot) whose benefits are clear TO THE MASSES are called mishpatim, while those whose benefit is not clear TO THE MASSES are called chukkim.

To this view, the distinction between chukkim and mishpatim exists only for the benefit of the recipients of the Torah. The Torah distinguishes between these two categories only for educational reasons, because of the difficulty of observing the mitzvot and because of the need to strengthen us in our observance of those that we perceive as "chukkim."

In light of all that we have said above, the line dividing chukkim and mishpatim is dynamic in the historical sense as well: a general consensus in one generation that a certain mitzvah is a "chok" may change in a different generation, where the reason for the mitzvah is revealed, such that it is from then on considered as falling within the category of "mishpatim." This may work in the opposite direction as well: a change of perceptions and views in the course of the generations can bring about a situation in which mitzvot whose reasons were regarded as clear and obvious in earlier generations may face the "prosecution of the nations of the world" in another generation, with the accusation that the Torah of Israel does not suit the spirit and progress of the times.

C. The Rambam and Hillel Zeitlin on the reasons for arayot

In his Moreh Nevukhim (part 3, chapter 49) the Rambam provides the following reason for those prohibitions of arayot that are "of the same flesh":

The prohibition of arayot – the message in all of them is to limit sexual relations and to convey abhorrence for them, and to be satisfied with the very minimum... and the whole of arayot are all one single matter... for each of these (women) is a permanent fixture in a man's home, and she is easily found and attainable; it requires no effort to find her... and if the law concerning (those women who are defined as) "ervah" was the same as any regular single woman – in other words, that it was permissible to marry her, and the only prohibition that would arise would be if she was already married, then most people would continually debase themselves with prostitution of them. Since sexual relations with them are completely forbidden and we are warned against them with dire warnings... and there is no way in which relations with these (women) are permitted, we are safe in our access to them and our thoughts concerning them are cancelled.

The Ramban attacks this view and writes (in his commentary on pasuk 6):

This is a very weak reason for the Torah sentencing one to "karet" because of them only because they are sometimes with him, while permitting one to marry many wives – even hundreds or thousands. What would be the harm in marrying only one's daughter, as is permitted to the sons of Noah (Sanhedrin 58b), or marrying two sisters as Yaakov our forefather did? There is no more appropriate marriage than for a man to marry off his daughter to his older son, such that they will inherit from him and will be fruitful and multiply in his house, for "He did not create the earth a wasteland; he formed it to be inhabited" (Yishayahu 45:18). We have no tradition in this regard, but it is that this is one of the secrets of creation.

Let us now skip some 700 years and see how Hillel Zeitlin z"l explained these prohibitions of arayot, in his eleventh letter to Jewish youth:

It astonishes me how some of the major Jewish Sages (such as the Rambam in Moreh Nevukhim, part 3, chapter 35) invent their own reasons for the prohibitions of arayot, while others (such as the Ramban, Vayikra 18) claim that the prohibitions of arayot may be explained only in terms of secrets beyond our comprehension, while the Torah itself explains the real reason in clear and simple language.

The Torah states quite clearly: "You shall not uncover the nakedness of your father and the nakedness of your mother – she is your mother; you shall not uncover her nakedness," "You shall not uncover the nakedness of the wife of your father – it is the nakedness of your father," "you shall not uncover the nakedness of the daughter of your father's wife, born of your father – she is your sister; you shall not uncover her nakedness," and so on concerning all the rest of the arayot as they are listed, with the second half of the pasuk explaining the reason for what is written in the first half. If the woman is your mother or your sister etc. you are forbidden to conduct sexual relations with her. If you conduct sexual relations with your sister or with one of the other female relatives listed by the Torah, you offend the sisterliness of your sister; you damage the honor of the relationship with that female relative. If you approach a woman out of desire and sexual attraction, it is not possible that you will continue to relate to her with the proper honor due to her. To relate to any woman with respect and profound appreciation and at the same time to conduct sexual relations with her is, truly, a contradiction, although people are not prepared to admit this.

A few of the Mussar scholars understood a little of this. It was Tolstoy who understood it thoroughly and in all its profundity. Until Tolstoy there was no one who saw with such clarity the extent to which regular sexual love does not permit one to honor the personality within a woman. Sexual desire sees a woman as an object, a means, a plaything and not a personality with her own life and her own desires, not a purpose unto itself, not a person. When Tolstoy teaches a person not to relate to a woman out of sinful thoughts and sexual desire, it is as if he is teaching him to regard every woman as his sister. Where there is love of a person insofar as he is a person, there is no room for sinful relations and desire...

If we were to realize this view consistently, then there is no choice but to arrive at Tolstoy's conclusion (concerning celibacy), but the Torah cannot arrive at such conclusions, for they oppose life and Torah – the living Torah. Therefore the Torah exercises this principle in all its severity only in those instances

where it may exercise it. It also exercises it with respect to arayot. A person should regard his family relations exclusively as people, and not as a means for the satisfaction of his sexual desires.

The Torah categorizes three types of female relations: there are those who are forbidden in order that the honor of their own integrity not be harmed ("she is your mother," "she is your sister," etc.), others are prohibited because the integrity of other people would thereby be harmed ("it is the nakedness of your father," "she is of your father's flesh," etc.), and still others are prohibited because this would involve some sin that harms the integrity of the man himself ("they are your nakedness").

After each woman who is prohibited, the Torah gives a fairly clear explanation of the significance of the prohibition: "she is your sister," "she is of your father's flesh," "it is your own nakedness" – as if to say, in an instance where you are obligated to maintain a purely Platonic connection, you are not allowed to conduct sexual relations. Why, then, should we seek to invent reasons when the Torah itself clarifies the reasons in short, clear and simple words? Is it not entirely clear that this was the Torah's intention? Are all those half-pesukim, understood thus far, no more than unnecessary repetition?

There is an element that is common to the approach of the Rambam and of Zeitlin, an approach that influenced the reasons that they give for the prohibitions of arayot: both express in their words an outspoken "anti-sexual" philosophy. Both regard man's sexual activity as something to be deprecated.

This approach does not flow from the ancient Jewish sources – neither from Tanakh nor from the words of Chazal. It is a foreign heritage, the fruit of the encounter of both these thinkers with western culture: the Rambam, with the roots of this culture in the writings of Aristotle, and Hillel Zeitlin, with one of its later representatives in Russian culture – Lev Tolstoy. In truth, it is difficult to understand how this approach could have been acceptable to most of the Jewish Sages of the Middle Ages while the Holy Writings include such a book as Shir Ha-Shirim and the midrashim of Chazal generally express a fundamentally different approach.

Since the basic approach of the Rambam and of Zeitlin is unacceptable in our generation, it would seem that the reasons that they give for the prohibitions of arayot, too, are no longer valid. Nevertheless, their words provide an opening for further discussion.

D. Man vs. animals

Like other things, sexual activity exists among people just as it does among animals. This was emphasized in its negativity both in the writings of Aristotle and by those medieval Jewish sages who followed him. But Aristotle's depiction of human sexuality as an animalistic characteristic, and the Rambam's theory that actions based on the sense of touch have no hint of humanity, were not correct.

Animals have a natural regularity of sexual activity, and such activity takes place among them by inborn instinct. This is not so in humans.

Let us explain: in animals, sexual activity is influenced by the hormonal periodicity of the female – i.e., her states of oestruation in a fixed periodicity. But in man, sexual activity is not naturally limited to a certain time related to the female's period.

The types of sexual contact between male and female animals (permanent connection between a particular male and a particular female, incidental contact, male at the head of a female herd, etc.) are fixed in every type of animal as part of the genetic structure of that species. But this is not so of human beings: the different types of contact between males and females is not dictated by some genetic code.

What does this emancipation from subjection to a fixed natural periodicity and to predetermined types of sexual contact mean to man? The answer is not

simple: a person is free to mould his own sexual behavior, for the good as well as for the bad.

Human culture as created in human society over the course of many generations serves as a voluntary alternative to the predetermined biological periodicity of animals with regard to their sexual behavior. And this represents man's superiority over animals: he, by his choices, by his social and cultural creations, by his legal and scientific thought, by his psychological and religious understanding, creates modes of contact between men and women, and he creates boundaries for sexual activity such as befit his outlook and his variegated needs as a thinking, social being.

Like all man's biological activity, his sexual activity can also be elevated to a precious human act that distinguishes him from animals, when such activity is performed as part of his human culture, as part of his definition as a person with choice.

At this point we can return to the subject of our study, to the laws of arayot, and say that these represent an important part of that cultural regulation of sexual activity. One of these laws – that of nidda – accomplishes this in the dimension of time during which the sexual contact between man and woman is permitted, while most of the other laws limit the people with whom one is permitted to engage in sexual co.

But man, having free choice, may throw off the cultural and social limitations and devote himself to the fulfillment of his sexual appetite without any boundaries. Here, too, he is acting as a person, for a lifestyle of genuine sexual licentiousness does not exist in nature. Among animals there is strict subjugation to the unchanging laws of nature, while only man is free to chart his own path in the sphere of his sexual activity (as in other activities). In doing so – in consciously throwing off human culture, the laws of society, the tradition of his forbears, the commandments of his religion – he is not acting as an animal; rather, he is putting himself on a lower level, for there is nothing that will protect him from his self-destruction and from the degeneration that comes with unbounded sexual activity.

The above applies on the individual level. But human society as a whole also has choices, and society can also choose to remove sexual boundaries, creating a society that madly pursues sex. Then the unrestrained human sexual activity becomes a destructive force with the power to destroy human society and to bring upon it both internal and external destruction: "Wherever you find prostitution, turmoil comes to the world." This is illustrated in Tanakh in a number of incidents, beginning with the generation of the flood, via the destruction of Sodom and the incident of the "concubine in Giv'ah," and the Torah warns us in the parasha of arayot that the land will vomit out its inhabitants if they break the bounds of acceptable sexual behavior.

According to Dr. Harvey Goldberg, "There are anthropologists who regard the taboo of forbidden sexual relations as the cornerstone of human culture." This statement will be properly understood in light of our discussion below.

E. The human family

The human family is perhaps the most important cultural achievement of mankind in the sphere of his social life and in the sphere of the cultural regulation of his sexual activity. It is different from any other permanent contact between male and female that exists in the animal kingdom. A person is not naturally bound to maintain it or to belong to it; this depends on his decision. The partnership between its elements is not automatic but rather depends on continued and complex human effort.

We may point to many other profound differences between the human family and its corresponding modes, as it were, in the animal kingdom (especially among birds), but we shall suffice with just one more difference: the human family is multi-generational. Three or four generations belong simultaneously within the framework of the extended family, know each other and maintain mutual and variegated contact between themselves. In the animal kingdom, as we know, the male and female care for their mutual direct offspring for some period of time, and the young then leave

their parents' nest forever. The parents no longer recognize their own offspring, and certainly have no relationship with the third generation.

Life in the family framework is what the Torah prescribes for man (Bereishit 2:25): "Therefore a man shall leave his father and his mother and shall cleave to his wife, and they shall become a single flesh." The family framework is surrounded with an entire system of mitzvot which regulate it and protect its proper maintenance.

The prohibitions of arayot are the negative aspect of the maintenance of the family. The existence of the family, from both the biological and psychological perspective, demands the restraint of the sexual relations within it and their limitation to a man and woman who are married to one another, forming the foundation of the family. Without the laws of arayot, the human family would have no existence. This is expressed by one of the major social anthropologists of the twentieth century, B. Malinovsky:

"In every human culture we find first of all some well-defined taboo systems, strictly separating the two sexes of whole groups and not allowing contact between them. The most important prohibition prevents any possibility of marriage between close relatives of the same family... The second most important law of the taboo of forbidden sexual relations concerns adultery ("the wife of a man"). While the aim of the first prohibition is to protect the family, the second protects marriage."

The Rambam was therefore correct in explaining the reason for the prohibition of arayot as being because "each of them is always present in his home," and Hillel Zeitlin was correct in his sensitivity to what is explicit in the Torah as the reason for each individual prohibited sexual union: "She is your mother," "she is your sister," etc., except that according to what we have explained above, the reasons are different from those proposed by each of them.

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