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PARASHAT HASHAVUA

Parashat Shemini

Laws of Animals: The Impure and the Pure that can and cannot be eaten (chapter 11)

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A. Structure of the Chapter and its Difficulties

At the end of our parasha, in chapter 11, pesukim 1-47, we find a lengthy unit devoted to the laws of the various animals in two different spheres: eating and tum'a - the fact that the carcasses of some of them render anyone who touches them ritually impure. The chapter begins with a general introduction:

(1-2) "And Hashem spoke to Moshe and to Aharon, saying to them, Speak to Bnei Yisrael saying...."

It ends with a conclusion touching both spheres:

(46-47) "This is the law of the animals and of the birds and of every living creature that moves in the water and of every creature that creeps upon the earth; To make a distinction BETWEEN THE IMPURE AND THE PURE, BETWEEN THE ANIMAL THAT MAY BE EATEN AND THE ANIMAL THAT YOU SHALL NOT EAT."

The chapter is divided into two equal halves at the point where we find the transition from the subject of food to that of impurity. The first half (pesukim 1-23) discusses which animals we are permitted to eat and which are forbidden. It begins with the words, "These are the animals that you may eat...." The second half (pesukim 24-47) concerns those animals whose carcasses render one impure. It begins (24), "And for these you shall be impure...."

Each half is comprised of four units, with each unit devoted to a different group of animals with some common characteristic (fish, birds, flying creatures, creeping creatures etc.), and to the laws pertaining to those animals regarding permissibility to eat them or their characteristic of impurity. The following table represents the structure:

A. (1-23) Laws of Animals for Food

(1-2a) General introduction

(2b-8) Signs of pure animals and a list of 4 impure animals

(9-12) Signs of fish that are permitted

(13-19) List of forbidden birds

(20-23) Prohibition of flying insects and permissibility of 4 specific ones.

B. (24-47) Laws of Impurity

(24-28) Impurity of the carcass of an animal that does not have signs of kashrut

(29-38) Impurity of the carcass of 8 creeping creatures and the things that become impure from them

(39-40) Impurity of the carcass of an animal that is permissible to eat

(41-45) Prohibition of eating any creeping creature

(46-47) General conclusion

Our first glance at the composition of the second half gives rise to a question concerning the unifying theme of the subjects under discussion: the fourth unit (41-45) deals with the prohibition of EATING "every creeping creature that creeps upon the earth." This being the case, it would seem to belong to A., which deals with the laws of which animals can and cannot be eaten, rather than to B., which deals with the laws of impurity.

Is there anywhere in A. an exception to the general discussion of the laws of permitted animals? Indeed such an instance does exist, but it is so brief that we hardly notice. In the first unit, when the Torah summarizes the prohibition against four animals that bear only one sign of kashrut, we are told:

(8) "You shall not eat of their flesh AND YOU SHALL NOT TOUCH THEIR CARCASSES; they are impure for you."

The emphasized words patently belong to the laws pertaining to the impurity of the carcasses of these animals – the subject of the second half. This is not the only problem that arises from a study of the order of the subjects discussed in the two halves, but the dual problem concerning the confusion of subjects is perhaps the most obvious question, and it has great significance for the clarification of our next question.

A.

Is there any real connection between the two subjects discussed in our chapter, or are they contained within the same literary unit only because both deal with laws pertaining to animals?

A comparison of the two halves of our chapter reveals that the two categories are not identical - only the first unit of A., dealing with the large mammals – those that are permissible to eat as well as those that are forbidden – is dealt with in B.. The first unit of B. deals with the impurity of the carcasses of those animals that are devoid of signs of kashrut, and the third unit deals with the impurity of the carcasses of "the animals that you may eat." In contrast, the three types of animal discussed in the continuation of A. – the fish and insects of the sea, birds, and flying creatures – have no law of impurity upon contact, neither those that are permitted nor those that are prohibited.

We find a similar phenomenon in relation to the creeping creatures of the earth. This is the biggest group of the types of animals that are not to be eaten: "Whatever walks on its belly and whatever walks on four (legs) or whatever has many legs" (pasuk 42). But only eight of them, as listed in pesukim 29-30, bring impurity upon contact with their carcasses, while all the other thousands of species of "creepy crawlies" are forbidden as food, but do not render one impure after their death.

It is clear that the prohibition of eating does not necessarily cause impurity, while permissibility of a species does not prevent impurity. But it is true that no animal transfers impurity after death in a situation where it would previously have been permissible to eat it, for a kosher animal that died by some process other than ritual slaughter (neveila) is forbidden as food because it is a carcass.

B.

Let us now examine the terms used in our chapter to describe the status of the animals.

In B., the first three units, dealing with the laws of animals that render one impure after their death, are governed by a single term: "impure" (tamei). This word is repeated there 18 times, with regard to both the animals themselves ("they are impure for you") and the people or objects that have contact with them ("he shall be impure until the evening").

In A., in contrast, the animals that are forbidden as food are indicated by two different terms: "impure" (tamei) and "abomination" (sheketz). It would seem that these two terms express the same thing: the rejection and loathing of the animal that is forbidden as food. If this is so, the two terms should be interchangeable. Indeed, there are instances in the Torah where something that in our chapter is called "sheketz" is elsewhere called "tamei." But the use of these two terms in our chapter seems precise and intentional, and attention should be paid to it specifically because the word "tamei" appears in two different contexts.

In A. the word "tamei" appears only in the first unit, where it is repeated 5 times with reference to four forbidden animals: once for each animal mentioned individually, and a fifth time for the group collectively. No other term is used for forbidden animals in this unit.

But with reference to forbidden fish and other sea creatures the text uses only the term "sheketz" (as a noun or as a verb) 4 times, with reference to forbidden birds another twice (in the opening pasuk 13), and with reference to flying insects twice more (at the beginning of the unit and at its conclusion). **THE WORD "TAMEI" DOES NOT APPEAR EVEN ONCE IN THE COURSE OF THESE THREE UNITS.**

Is it coincidental that only the species mentioned in the first unit of A. as "impure" (tamei) are themselves – or others like them – mentioned in B. as "rendering impure" (metamei) through contact or transfer, while the species that in the continuation of A. are defined as "sheketz" are not mentioned at all in B. because they do not render one impure after their death?

The connection between the "impurity" of those species, both with regard to their consumption and with regard to contact with them, is made explicit in the pasuk that summarizes the prohibition of the four impure animals mentioned above: (8) "You shall not eat of their flesh nor shall you touch their carcasses; **THEY ARE IMPURE FOR YOU.**"

It is clear that the fact that "they are impure for you" has two ramifications: the prohibition of eating their flesh, as well as impurity arising from contact with them. This phrase, "it is (they are) impure for you," appearing 5 times in this unit, also appears in B.:

(26) "They are impure for you, anyone who touches them will be rendered impure.

(27) They are impure for you, anyone who touches their carcasses will be impure until the evening."

It appears again in pesukim 28 and 31.

We are forced to conclude that the connection between the two subjects of discussion in our chapter is the opposite of what we suggested above: it is not the prohibition of eating that causes the impurity, but rather the impurity of those species that represents the reason for the prohibition against eating them! The prohibition of eating these species results from the fact that they are **IMPURE BY DEFINITION** (according to the laws of impurity by contact), and the Torah prohibits the **CONSUMPTION** of something that is "tamei" (even though one is not forbidden to become ritually impure through contact with it).

Thus it may be that the prohibition of eating a carcass (neveila - Devarim 14:21), too, may arise from the definition of the carcass as something that is "impure" and therefore as something that is not suitable as food for a "holy nation."

C.

Thus we find that the prohibition of eating various species of animals can be based on one of two reasons, depending on the essence of those species: forbidden fish and other sea creatures, the forbidden birds and flying insects are all prohibited because they are defined as "sheketz" (an abomination). R. Yosef Bekhor Shor explains their prohibition as follows:

"It may be compared to a man who tells his servant, 'You are around me all the time, so do not defile yourself with loathsome and defiled foods'... A person who is defiled is not worthy of standing before the Holy One."

The term "sheketz" indeed expresses loathing and disgust, as expressed in Chazal's definition of these animals: "They cut short a person's soul." Chazal likewise prohibited other things that they considered abominable:

"Rav Ahai said, He who waits to ease his bowels transgresses the prohibition of 'You shall not make your souls abominable' (Vayikra 20:25). Rav Bibi bar Abaye said, He who drinks from the vessel used to draw blood – transgresses the prohibition of 'You shall not make your souls abominable.'" (Makkot 16b)

But as regards the large animals that are forbidden as food, such as the camel, the rabbit, the pig and the horse and other mammals, some of which are kept by man for produce while others live in nature and man hunts them – for these man does not feel disgust and loathing as he does for the "sheketz" that is prohibited by the Torah. The reason for the prohibition is explicit in our chapter - "they are impure for you."

The phrase that is repeated over and over, "it is impure for you," represents here the **REASON** for the prohibition of eating these animals rather than the definition of the prohibition. The concluding pasuk may be interpreted as follows: "You shall not eat of their flesh **BECAUSE** you may not touch their carcasses, for they are impure for you," and it is not proper for you to eat food that renders you impure upon contact with it.

D.

This gives us the key to solving a question that greatly troubled the early commentators. The Torah lists only four prohibited animals. At the beginning of the chapter we are told, "all with split hoofs and that chew the cud among the animals **YOU SHALL EAT.**"

"I understand (from this) that anything that does not chew the cud or have split feet is forbidden, and a prohibition that derives from a positive command has the status of a positive commandment."

Thus concludes the Rambam in his Laws of Forbidden Foods, chapter 2 law 1 based on the Sifra to our pasuk. He continues, again following the Sifra:

"And regarding the camel, the pig, the rabbit and the hare we are told, 'But this you shall not eat of those that chew the cud or those that have split feet' – this is

teaching us a negative mitzva, even though (these animals each) have one of the signs. HOW MUCH MORE, IN THE CASE OF THE OTHER IMPURE ANIMALS THAT HAVE NEITHER SIGN AT ALL, (DO WE LEARN) THAT THE PROHIBITION OF EATING THEM IS BASED ON A NEGATIVE COMMAND, over and above the positive mitzva that arises from the general rule that "of these you shall eat."

The Ramban (11,3) maintains that the derivation of the Rambam, based on deduction, would not suffice for a punishment for other non-kosher animals, and he therefore proposes a different source.

If we look at the unit that opens the SECOND half of the chapter we find that the animals mentioned as rendering impure upon contact or transfer are the following:

(26) "The carcass of any animal that has a split hoof but is not clovenfooted is impure to you; anyone who touches them will become impure.

(27) And whatever walks on its paws, of all the animals that walk on four legs, these are impure to you..."

From the point of view of a categorization of mammals, this unit completes the unit with which the first half began; there we learned about animals that had both signs of kashrut (and they correspond to the seven animals listed in Devarim 14:4-5) as well as the four animals that bear only one sign. In the opening unit of B., pasuk 26 discusses animals that have one imperfect sign: animals that have only a partially split hoof, such that it is not properly divided into two – the horse, the donkey and their like – while pasuk 27 deals with the rest of the mammals that have no sign of kashrut at all – they walk on paws - the cat, the dog, the bear, the lion, the leopard, the monkey etc. The combination of both units gives us the complete set of all tall land mammals.

But then we are told explicitly with regard to those animals that bear only one sign of kashrut that "they are impure to you" (8), and with regard to those that have one imperfect sign that "they are impure to you" (26), and again with regard to those that have no sign at all, walking as they do on paws, that "they are impure to you" (27). According to what we have said above, this phrase indicates the same thing in each of these three instances: they are impure when dead and they render one impure upon contact with their carcasses. But, again according to what we have said above, this has one additional result: all are forbidden as food precisely because they are impure species! If this is so then there are explicit pesukim according to which we may prohibit all of these impure "hayot" and include all of them in a single category: "they are impure to you."

F.

Up until this point, we have ignored the "sheratzim" (rodents and insects) and the expressions with which the Torah describes the prohibition against their consumption towards the end of our chapter. In this context, we do not find the distinction between "sheketz" and "tamei" that we encountered in the first half of the chapter:

"All the things that swarm upon the earth are an abomination [sheketz]; they shall not be eaten. Anything that crawls on its belly... or anything that has many legs... you shall not eat, for they are an abomination. You shall not draw abomination upon yourselves through anything that swarms; you shall not make yourselves impure therewith [titam'u] and thus become impure [v'nitmetem']... you shall sanctify yourselves and be holy... you shall not make yourselves

impure through any swarming thing that moves upon the earth." (41-44)

These verses employ the term "sheketz" (abomination) three times, the same number of times as the "tamai" in its various forms appear. Why?

The group of animals classified as "sheretz" has the unique characteristic of consisting of some creatures who transmit ritual impurity through contact with their corpses, as well as those who do not. All animals ("behemot" and "chayot") transmit impurity, while all birds and fowl do not. Only the "sheretz" group consists of both types.

It would thus seem that two different reasons for the prohibition against eating "shekatzim" exist. More specifically, there are two underlying reasons for the prohibition against eating the eight "sheratzim" that transmit impurity (29-31), thus accounting for the double expression: "... for they are an abomination. You shall not draw an abomination upon yourselves ... you shall not make yourselves impure [titam'u] therewith and thus become impure." These creatures contain both the element of "sheketz" - which warrant a prohibition against their consumption - and a component of "tum'a," which renders one impure upon contact with their carcasses.

One question, however arises. The subcategory of creatures that transmit impurity is infinitely smaller than its counterpart - the group of "sheratzim" that do not. After all, only eight creatures transmit impurity, while all other insects in the world do not. Why, then, does the Torah equate the two components - mentioning both "tum'a" and "sheketz" three times - when the component of "tum'a" applies to only eight out of all the insects on earth!

The answer to this question relates to the underlying reason behind the tum'a ascribed to these insects and the designation of specifically these eight species. Certainly, the creatures' death and subsequent contact with them cause ritual impurity. But only the death of those creatures who live near and among human beings and whom man deems important can transmit tum'a. Creatures whose lives are considered of "lesser" value or who reside far away from human residence or activity (such as fish and birds), do not generate impurity upon their demise.

The death of the human being generates the most severe form of tum'a; a person's death is the strongest source of ritual impurity. Next come the large, land-dwelling mammals, with whom man shares the earth (Tehillim 104:20-23). Even among the small, "swarming creatures" there exist some significant creatures. They live among or near the human being and have earned their place in his awareness. Man hunts them regularly for their flesh and skin (see mishna Shabbat 14:1). Given the particular prominence of these eight species, our statistical question regarding the disproportionate attention afforded to them can be answered. In fact, the prohibition against eating "sheratzim" was issued primarily regarding these eight, which apparently were more commonly eaten by humans (see Yeshayahu 66:17).

We can now explain the problem presented at the beginning of the shiur - why do verses 41-45, prohibiting the EATING of "sheretz," come out at the end of the second section. This section, as we have seen, includes a compound prohibition, based both on "sheketz" and on "tum'a." This distinction is only comprehensible after we have learnt that eight species engender tum'a, while the other species in this category do not. Therefore, only after concluding the section of tum'a does the Torah return to complete the eating prohibition of this category.

One could suggest another reason as well. Our section begins with the words, "This is the animal that you may eat." Unlike the

other categories, the "sheretz" has no permitted species. Therefore it is not included in the opening of "which you may eat," but is added as an appendix at the end.

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