

PARSHAS YISRO

by Gedalia Litke

In the Torah's discussion of the proper way of building a mizbeyach (altar) near the end of our Parsha (20:22) Rashi quotes R' Yishmael as saying that there are three occurrences of 'eem' (if) which really mean 'ka'asher' (when). This means that even though the Torah expresses itself in a contingent or non-definitive way nonetheless the Torah in these instances means to impart something non-contingent and definitive. The three examples are:

(i) Our Parsha where the Torah says 'if' you will build a mizbeyach, but really it means 'when' you will build a mizbayech, meaning that there is no choice but to build one, (ii) in Parshas Mishpatim where the Torah says 'if' you will lend money to the poor, but really it means 'when' you will lend money to the poor, meaning there is no choice but to lend and (iii) in Parshas Vayikro where the Torah says 'if' you will offer a minchas bikurim (first-crop offering), but really it means 'when' you will offer a minchas bikurim, meaning that there is no choice but to bring this offering.

[This is not our topic, but it is certainly worthwhile to address the interesting question of why the Torah chooses to express itself in this non-explicit or somewhat 'misleading' way in these instances.]

Notwithstanding that R' Yishmael's list of three instances strongly implies that these are the only three such instances, and notwithstanding Rashi's unqualified quote of R' Yishmael, there seems to be one glaring omission. In Parshas Mishpatim concerning one whose animal has killed a person the Torah says 'if' the owner will pay 'kofer' (atonement payment). However, it is well established that paying kofer is not optional, it is an obligation upon the owner of this animal. To make matters worse, Rashi himself says that this 'if' of kofer really means 'when', and Rashi compares this 'if' to the 'if' of lending money to the poor elsewhere in Parshas Mishpatim, as noted above. Why doesn't R' Yishmael include this fourth case in his list, and why does Rashi go along with him, choosing merely to compare it to one of R' Yishmael's examples rather than simply articulating a list of four instances? Also, regardless of the answer to this question, why does Rashi choose to compare the example of kofer to the example of money lending as opposed to the other two examples on R' Yishmael's list?

The fundamental difference between kofer and the other three instances is that for kofer to apply something else had to first occur, namely that the animal killed someone. Really the owner's responsibility is to see to it that the animal doesn't kill at all - that responsibility is absolute and non-contingent. However, once that unfortunate event has occurred, as a secondary matter the owner must pay kofer. The other three instances have no such contingency applicable to their enforcement or validity. The mizbeyach must be built, the poor must be lent money and the minchas bikurim

must be brought in their own right without any other event first occurring. Because of this R' Yishmael doesn't consider the instance of kofer strong enough or absolute enough to make the list, and Rashi understands this and quotes R' Yishmael without reservation.

Nonetheless the 'if' of kofer does mean 'when' because once the situation reaches that point kofer is an obligation. Rashi chooses to compare kofer to money lending because, of the three definitive instances on R' Yishmael's list, money lending is the least definitive. In order to lend one must have money and one must have proximity to someone in need. This makes money lending a bit less absolute a requirement than the mizbeyach and the minchas bikurim, and for this reason Rashi chooses money lending as his comparison.

Beyond answering the questions, to me this helps us appreciate the precision, depth and elegance of Rashi. See also the M'forshay Rashi for more analysis of the points discussed above, including Mizrachi and Maskil L'Dovid.

[There is another example of this three-but-not-quite-four construct in Rashi, strikingly similar in every way. Here's a very short version; I'll just ask the question and leave the answer for another time: Rashi says in Parshas Ha'Azinu (32:48) that there are three instances of 'b'etzem hayom hazeh' which indicate that something was done in broad daylight, so to speak, so as to prove that the event was unstoppable. The three events listed by Rashi are the mabul, yetzias mitzrayim and the petirah of Moshe Rabbeynu. Yet we find a fourth example in Lech Lecha (17:23) at the bris milah of Avrohom Avinu where 'b'etzem hayom hazeh' is used and Rashi himself says it was done in broad daylight to show that noone would be able to stop him. Why doesn't bris milah make the list?]

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