

Torah Musings I Samuel 25

נבל ברשות התורה There is No Law Against It

We have heard and perhaps even spoken a permutation of the phrase "there's no law against it." This phrase usually informs one who is critical of your actions that you do not feel that you are doing anything wrong. Are some actions wrong even if there is nothing to prohibit them? I Samuel 25 is a ripe text for an analysis of this issue.

David is on the run, trying to escape King Saul's madness and wrath. He and his mercenaries are living in caves and in dire need of provisions. David directs one of his footmen to go to Naval, a well to do farmer, and request the much-needed food and provisions. David had little doubt that Naval would provide the requested assistance because he and his men were providing Naval and the others farmers in the region protection from invaders. When approached, Naval spurns David's request and this angers David. In moment of impassioned rage David resolves to kill Naval and his men. Naval's wife, Abigail, humbly comes to David and intervenes. Appealing to David's reason, she reminds David that although Naval is indeed a fool (this is the meaning of his name) he has not broken the law. She continues to gently prod David's analytical side and tells him that if he carries out his intended act of unnecessary bloodshed, he would be committing a gross wrong. David realizes the error of his resolve and accepts Abigail's gifts in lieu of bloodshed. Abigail returns home and the gluttonous Naval eats himself to death.

Naval was under no legal obligation to provide anything to David and his

entourage for it was Naval's property and he could dispose of or share it as he pleased. The medieval commentator Nachmanides (the Ramban)¹ coined the phrase נבל ברשות התורה "a fool (naval) with the permission of the Torah." This is a person (fool) who believes that he/she may or may not do something simply because it is not legislated. Ramban reminds us that the law will only guide us to the bare minimum standard of conduct, however we should always strive to take the higher ground.

In a baraita² or additional teaching Rabbi Yohanan taught the same concept that the spirit of the law overrides the letter of law of the law.³ He suggests that one of the reasons that the second Temple was destroyed was because judicial cases were adjudicated and decided on the basis of the *letter of the law* rather than the *spirit of the law*.

אשר יעשון זו לפנים משורת הדין דאמר ר' יוחנן לא חרבה ירושלים
אלא על שדנו בה דין תורה אלא דיני דמגזתא לדיינו אלא אימא
שהעמידו דיניהם על דין תורה ולא עבדו לפנים משורת הדין:

It was taught in the *baraita*: “**That they must perform**”; that is referring to acting **beyond the letter of the law, as Rabbi Yoḥanan says: Jerusalem was destroyed only for the fact that they adjudicated** cases on the basis of **Torah law in** the city. The Gemara asks: **Rather**, what else should they have done? **Should they rather have adjudicated** cases on the basis of **arbitrary decisions [demagizeta]**? **Rather, say: That they established their rulings on** the basis of **Torah law and did not go beyond the letter of the law.**

Naval was within the letter of the law but certainly not abiding by its' spirit. There are no laws against gluttony but should we overeat? Not one law exist that prohibits me from ostracizing certain family members, but should I? The law codes do not prohibit over imbibing in the privacy of the home but is this something that one should do? We may have a checklist of all of the 365 negative

commands that we did not transgress but if this is merely a rote exercise then we have obviously missed the spirit and the intent of Torah legislation. We are all familiar with "holier than thou" people who openly display their pride in obeying the letter of the law, but at every turn spurn the spirit of the law.

We are enjoined to embrace the totality of Torah. חסד *Hesed/steadfast love*, רחמים *reḥamim,/mercy* and צדק / *tzedek justice* are three concepts that cannot be legislated, however these qualities are the parameters by which we are measured. A written law may never exist prohibiting an action but does that make it right or the correct thing to do? Yes, there are some standards that cannot be legislated. Let us never act as Naval, becoming a נבל ברשות התורה - a fool who thinks he/she has the permission of the Torah. May we always think and act within the spirit of the law.

חסד - steadfast love
רחמים - mercy
and
צדק - justly

שבת שלום מביתנו לביתך
Shabbat Shalom From Our House to Your House

Rabbi Malchah

Shevat 13 February 4th 2023
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Endnotes

¹ Nachmanides -Moshe ben Nachaman commonly known as The *Ramban*. (1194-1270). The Raman is a Torah scholar and halakhist (legal authority).

² Baraita. **בְּרַיְוֹת** An additional teaching. The oral traditions of law that are not included in the six orders of the Mishnah

³ Baba Metzia 30b. Baba Metzia is the second tractate in the Talmudic order Nezekin. **נְזִיקִין** (damages).

This tractate deals with civil/tort law.