

Zera Shimshon

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Chapter LVII: Kinnot (Lamentations)

Essay 12: The punishment for denial of justice for the orphan and widow.

רַבִּים מקשים על פסוק בונה ירושלים ה' נדחי ישראל יכנס. והא פסק הרמב"ם (בפרק כ"א מהלכות סנהדרין) אם היו לפני הד"י [נים] דינים מרובים מקדימים לשפוט את דין התום קודם לאלמנה, ודין אלמנה קודם וכו'. וכן פסק השלקו ערוך חושן משפט (סימן ט"ו), ואם כן היה לו לומר קודם נדחי ישראל יכנס ואחר כך בונה ירושלים, והניחו בצריף עיון.

Many question the verse, “The L-rd rebuilds Jerusalem; He gathers in the outcasts of Israel” (Ps. 147:2). The order seems reversed, for King Cyrus allowed Jews to return from Babylonian exile to Israel, and only afterward they began to rebuild the Temple.

The order also seems reversed when the verse is interpreted metaphorically. Jerusalem is described as a widow following the destruction of the Temple, as Jeremiah wrote, “Alas! Lonely sits the city [that was once] great with people! She who is [now] like a widow, was [once] great among the nations” (Lam. 1:1). The people of Israel are described as orphans, as Jeremiah wrote, “We have become orphans and fatherless” (Lam. 5:3). **The Rambam holds (in chapter 21 of the Laws of the Sanhedrin, law 6): “If before the judges there are many cases, they should advance to judgment the case of the orphan before that of the widow, and advance to judgment the case of the widow before that of the Torah scholar” The Shulchan Aruch ruled the same way, in Choshen Mishpat, siman 15, se’if 2): “[If] before [the judge] there were many lawsuits [awaiting a legal decision], we give priority to the orphan’s lawsuit over the lawsuit of the widow, and the lawsuit of the widow takes precedence over the lawsuit of a Torah scholar” If so, and if we interpret the orphan as Israel, and the widow as Jerusalem, then the psalmist should have first said, “He gathers in the outcasts of Israel,” and afterward said, “[The L-rd] rebuilds Jerusalem.” They leave this in need of investigation.**

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ולדידון נראה לתרץ בפשיטות דהא קרא כתיב יתום לא ישפטו וריב אלמנה לא יבוא אליהם. ופירש הרד"ק שם, וכל המפרישים, שהדיינים לא עשו משפט ביתום שבא לפניהם, ואלמנה היתה פוגעת ביתום, ואומר לה שלא עשו בו דין והיא היתה נמנעת ללכת לפניהם עכ"ל. ומכאן נראה שאם לא עשו דין באלמנה, אינו כל כך גדול ענשם כמו שהיא בדין יתום, שהרי דין אלמנה לא בא לפניהם, ולכן מתחילה בונה ירושלם ה' דהיינו דין אלמנה שאין להם בו כל כך פשע. ואחר כך נדחי ישראל יכנס דהיינו דין יתום שפשעו בו שלא שפטוהו כראוי להם.

For us, we will see to solve it extensively, for after all, Scripture writes, “The [case of the] orphan they don’t judge, and the widow’s complaint doesn’t reach them” (Isaiah 1:23). The Radak interpreted there, [as did] all the commentators, that the judges did not conduct a trial for an orphan who came before them, and then a widow met the orphan, and he said to her that they didn’t execute justice for him, and that she should refrain from going before them.¹ Thus, from the judges’ viewpoint, while they refused to hear the orphan’s case, they weren’t even aware that there was also a widow’s case.

From here, it appears that if [the judges] didn’t administer justice for the widow, their punishment is not as great as it is in the case of the orphan, for the case of the widow didn’t even come before them. Therefore [the verse] begins, “The L-rd rebuilds Jerusalem,” which refers to the case of the widow, for [the judges] have no great intentional rebellious act regarding her [case]. Afterward, “He gathers in the exiles of Israel,” which is the case of the orphan, for they injured him by not judging [his case], as they properly should have done. That is, the order of Ps. 147:2 is reversed, paralleling the fact that according to Isaiah 1:23, the orphan (metaphorically representative the exiles) was treated even more harshly than the widow (metaphorically representing Jerusalem).²

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¹ Rabbi David Kimchi (“Radak”) (1160–1235), was a Provencal rabbi, biblical commentator, grammarian and philosopher. His comment on Isaiah 1:23 was that the judges don’t want to judge her case and get involved in her quarrel with those who oppress her, therefore she shouldn’t bring the quarrel before them, because it would be to no avail. The commentary brought by Zera Shimshon appears to be closer to the commentary of Rashi, who wrote: “A widow would come to bring a case, and she would meet an orphan coming out. She would ask him, ‘How did your case go?’ and he would say, ‘All day I have toiled over it and in the end, I was not successful.’ She would turn away and say, ‘If he, who is a man, was not successful, I will definitely not succeed.’ Thus: They do not judge the orphan, and the case of the widow does not even appear before them at all.”

² The translator has struggled a bit with this essay. It is not the fault of the orphan that he was treated harshly, but rather it was a rebellious act of the judges. Thus, since Ps. 147:2 refers to a future action of G-d, why wouldn’t He follow the law and first help the orphan, i.e., the Jewish people? As always, the translator welcomes input from others.