

BETWEEN RIGHTS AND RESPONSIBILITIES

A commentary on *Parashat Matot*
By Robin Moss

The beginning of *Parashat Matot* (“Tribes”) distinguishes between two different concepts, in Hebrew a *neder* and a *shevua*. If you open a standard English translation of the text, you will usually see the former translated as a “vow” and the latter as an “oath”. In English they are essentially synonyms, but in Hebrew, they refer to different things.

Rav Joseph Soloveitchik offers us the following way to understand the distinction. A *shevua* creates an obligation upon a *person* to do (or not do) something – for instance, if I said “No chocolate for me please. I’m on a diet”, the focus is on *me*. A *neder* changes the status of an object – for instance, in the diet example above, the chocolate has now become a forbidden item. It might seem like a narrow, technical separation, but it is important and also might help us thinking about rights and responsibilities.

In his classic work of political philosophy *Anarchy, State, and Utopia* (1974), Robert Nozick (who, incidentally, was Jewish) lays out a theory of rights as what he calls “moral side-constraints”. By this, he means that the crucial feature of a right is that it imposes an obligation on all other people (and, by extension, institutions such as governments) not to violate that right. In other words, when we say “Person A has a right to life”, what we really mean is “every other person has an obligation not to kill Person A” (and of course, by reciprocity, Person A has an obligation not to kill every other person).

Nozick therefore frames rights, usually thought of as the “property” of each human by dint of being human, instead as placing moral responsibilities onto the rest of humanity. I don’t so much carry around a basket of goodies as a set of invisible shields. In the language of *Matot*, rights are *neder*, not *shevua*. They act on

everyone else, not on me. They *impose responsibilities*, rather than *granting privileges*.

Now to be sure, there are many in the philosophical world who have challenged Nozick’s understanding of rights. For one thing, in his conception, it is unclear how there can be different categories of rights, for instance the “qualified”, “limited” and “absolute” classifications within the UK Human Rights Act (1998). For another, if rights are moral side-constraints, what happens when rights come into conflict? (In fairness, Nozick and neo-Nozickeans have more or less convincing answers for these and other challenges).

The *neder/shevua* distinction illuminates something else profound about human rights. A *shevua* version of rights, as being my property, places the onus on me to claim/assert my rights. If rights are *neder*, really it is everyone else who should be feeling a duty towards me. It totally changes the focus of human rights education and advocacy. It is the difference between asking people to listen to the small, downtrodden voice of the victim of a human rights abuse as opposed to feel the obligation we have to them. Reactive versus proactive. About *them* versus about (all of) us. Rights as “protecting the little guy” versus rights as binding us together in mutual ties of societal obligation.

I recognise that sometimes, rights as *shevua* might be the only option. Many people just do not feel some forms of moral obligation to others, and it has to be legally asserted/forced upon them. But I wonder what the whole discourse around rights might be if we started first and foremost as

talking about them as *neder*, as responsibilities on all of us, to everyone else. An inspiration, aspirational model for our society, and a valuable Jewish insight into universal human rights.

It is the difference between asking people to listen to the small, downtrodden voice of the victim of a human rights abuse as opposed to feel the obligation we have to them