

Building a Fence Around the Torah

Moses received the Torah from Sinai and gave it over to Joshua. Joshua gave it over to the Elders, the Elders to the Prophets, and the Prophets gave it over to the Men of the Great Assembly. They [the Men of the Great Assembly] would always say these three things: Be cautious in judgment. Establish many pupils. And make a fence about the Torah.
(m.Avot 1:1)

Later in Avot we read that Rabbi Akiva said “Tradition is a fence to Torah” (Akiva Avot 3:13)

What does it mean to “make a fence about the Torah”? Rambam explains it like this:

“Make a hedge about the Torah”, refers to the decrees and enactments of the Sages—these keep a man far from transgression, as the Blessed One said, ‘Therefore shall ye keep what I have given you to keep (Lev. 18:30),’ which the Talmud (Yebamot 21a) interprets to mean; add protection to what I have already given you as protection.”
(Maimonides on Avot 1:1)

A good example of such a fence can be found in the very first Mishnah of the Talmud:

1:1 From what time may they recite the Shema in the evening?
From the hour that the priests enter [their homes] to eat their heave offering.
“until the end of the first watch” the words of Rabbi Eliezer.
But the sages say, “Until midnight.”
Rabban Gamliel says, “Until the rise of dawn.”
M’SHE’SH: His [Gamliel’s] sons returned from a banquet hall [after midnight].
They said to him, “We did not [yet] recite the Shema.”
He said to them, “If the dawn has not yet risen, you are obligated to recite [the Shema].
And this applies not only [in] this [case]. Rather, [as regards] all commandments which sages said [may be performed] ‘Until midnight,’ the obligation [to perform them persists] until the rise of dawn.”
[For example,] the offering of the fats and entrails—their obligation [persists] until the rise of dawn [see Lev. 1:9, 3:3-5].
And all [sacrifices] which must be eaten within one day, the obligation [to eat them persists] until the rise of dawn.
If so why did sages say [that these actions may be performed only] until midnight?
In order to protect man from sin.
(m.Berakhot 1:1)

Making a Fence Around Murder

Yeshua begins by citing the commandment against murder:

You have heard what was said to them of old time,
You shall not murder: (Ex 20:13; Deut 5:17)
and whoever commits murder,
the same will be condemned to the judgment.
(Matthew 5:21 HRV)

Yeshua builds a fence around this Torah command, saying not to even be angry with your brother.

22 But I tell you, that whoever shall be enraged against his brother, he will be condemned to the judgment. And whoever says to his brother, You are nothing: he will be condemned to the council of the synagogue. And whoever says to him, You impious one: he will be condemned to the fire of Gey Hinnom.

23 And if you present your offering at the altar, and there remember that your brother has something against you:

24 Leave your offering there before the altar, and go you first, to atone to your brother, and then come and give your offering.

25 Come to terms with your adversary quickly, while you are with him on the way: lest HaSatan deliver you up to the judge, and the judge deliver you up to the officer, and you be cast into the jail.

26 Amen, I tell you, you will not go out from there, until you have paid the last penny.
(Matt. 5:22-26)

Making a Fence Around Adultery

Next Yeshua cites the Torah commandment against adultery:

You have heard that it was said to them of old time,
You shall not commit adultery: (Ex 20:13(20:14); Deut. 5:18)
(Matt. 5:27 HRV)

Yeshua then builds a fence around this commandment as well, saying:

28 But I tell you, that whoever sees a woman and covets her, has already committed adultery with her in his heart.

29 And if your right eye offends you, pluck it out and cast it from you: for it is better for you that one of your members should perish, than that the whole body should be cast into Gey Hinnom.

30 And if your right hand offend you, cut it off and cast it from you: for it is better for you that one of your members should perish, than that your whole body should be cast into Gey Hinnom.

(Matthew 5:28-30 HRV)

Yeshua makes a fence around this commandment, telling us not to even lust after another man's wife to commit adultery even in our hearts. The Talmud places a similar hedge saying "Unchaste imagination is more injurious than sin itself..." (b.Yoma 29a).

Making a Fence Around Divorce

Next Yeshua quotes the Torah concerning divorce:

It was also said concerning him that would put away his wife that he should write her a bill of divorcement, and give it to her, and send her away from his house: (Deut. 24:1) (Matt. 5:31 HRV)

Yeshua makes a fence once again saying:

But I tell you, that whoever shall put away his wife, except for the cause of fornication, commits adultery with her, and whoever takes her that is cast off, commits adultery. (Matt. 5:32 HRV)

Here Yeshua tells us not only that we must not put away a wife without issuing her a bill of divorcement, but that we should also only do so for the cause of fornication. (Here Yeshua agrees with the House of Shammai m.Gittin 9:10)

Making a Fence Around Vows

Next Yeshua cites the Torah in regards to keeping ones vows:

Again, you have heard that it was said to them of old time,
You shall not forswear yourself,
but shall pay to YHWH your vow:
(Lev 19:12; Num. 30:3(30:2); Deut. 23:22(23:21))
(Matt, 5:33 HRV)

Yeshua then goes on to make a fence around this commandment as well:

34 But I tell you, you shall not swear by a confirming word—not by heaven, for it is Elohim’s throne,
35 And not by the earth, for it is the footstool of His feet, and not by Yerushalayim, for it is the city of the great king.
36 And you shall not swear by your head, in that you have no power to whiten one hair or turn it black again.
37 But let your words be, Yes, yes; No, no: for whatever is more than these words, is of evil.
(Matt. 5:24-37 HRV)

So to make sure we do not break our vows, Yeshua says not to even make them in the first place. This was in fact the practice of the Essenes in those days. Josephus writes:

...swearing is avoided by them [Essenes],
and they esteem it worse than perjury;
for they say, that he who cannot be believed
without [swearing by] God, is already condemned.
(Josephus; Wars; 2:8:6)

And we read in the Dead Sea Scrolls:

A man must not swear
either by Aleph and Lamedh (Elohim)
or by Aleph and Daleth (Adonai)...
(Damascus Document Col. 15, 1)

Making a Fence Around Loving our Neighbor

Next Yeshua cites the commandment to love our neighbor, but adding a false conclusion to it:

You have heard that it was said,
You shall love your neighbor, (Lev. 19:18)
and hate your enemy,
(Matt. 5:43 HRV)

The additional phrase “and hate your enemies” was drawn from a false Essene interpretation. The Damascus Document interprets Lev. 19:18 as follows:

As for the passage that says,
“Take no vengeance and bear no grudge
against your kinfolk” (Lev. 19:18)
any covenant member who brings against his fellow
an accusation not sworn to before witnesses
or who makes an accusation in the heat of anger
or who tells it to his elders to bring his fellow into repute,
the same is a vengeance-taker and a grudge-bearer....
(Damascus Document 9, 2)

Note that this Qumran interpretation of Lev. 19:18 would limit “neighbor” in Lev. 19:18 to “any covenant member” i.e. a member of the Yachad (Essene community). In fact the Essenes taught:

...bear unremitting hatred towards all men of ill repute...
to leave it to them to pursue wealth and mercenary gain...
truckling to a depot.
(Manual of Discipline 9, 21-26)

But Yeshua makes a fence around “love your neighbor” saying:

44 But I tell you, Love your enemies. Do good to them that hate you, and pray for them
which persecute you and despitefully use you: b
45 In order that you may become the sons of your Father which is in heaven, who makes
His sun to rise on the good and on the evil, and sends rain on the righteous and on the
wicked.
46 For if you love only them which love you, what reward have you: do not even the
transgressors do this?
47 And if you ask after the shalom of your brothers only, what do you exceed: do not
even the Goyim do this?
48 You therefore be wholehearted, like your Father which is in heaven, who is
wholehearted.
(Matt. 5:44-48 HRV)

Yeshua make a fence, telling us not just to love our neighbor, but to love everyone, even those not already in the Torah observant community. This is like the words of Hillel:

Be disciples of Aaron, loving peace and pursuing peace,
loving people and drawing them near to the Torah.
(m.Avot 1:12)

Making a Fence Around Liability

Next Yeshua cites the Torah in regards to the laws of liability:

You have heard what was said,

An eye for an eye; a tooth for a tooth. (Ex. 21:24; Lev. 24:20; Deut. 19:21)

(Matt. 5:38 HRV)

This passage is part of Yeshua's teaching on the proper meaning of the Torah passage which says "An eye for an eye; a tooth for a tooth." (Ex. 21:24; Lev. 24:20; Deut. 19:2)

Here Yeshua also builds a fence around "en eye for an eye, a tooth for a tooth" (as a law of liability rather than revenge) by paying double damages, more than an eye for an eye. Thus, two garments, two miles, and two cheeks... not that the cheeks are literally smiten, but the financial value of two smiten cheeks rather than just one.

In this teaching Yeshua said:

38 You have heard what was said, An eye for an eye; a tooth for a tooth.

39 But I tell you, that you not withstand evil: but if one would smite you on the right cheek, turn unto him the other.

40 And whoever wishes to contend you in judgment, and wishes to take from you your coat, leave him the cloak also.

41 And he that impresses you for one mile, go with him even two.

42 And whoever asks of you, give to him: and from him that would borrow of you, turn not you away.

(Matthew 5:38-42 HRV)

Now to understand this teaching one must understand that in the first century there was a great debate between Pharisees and Sadducees regarding the interpretation of the phrase "an eye for an eye, a tooth for a tooth."

The Sadducees took this very literally as a law of revenge. They maintained that the court should be knocking out teeth and putting out eyes.

The Pharisees, on the other hand, understood the passage, in light of the Oral Law, to be a law of liability and not a law of revenge. Thus if a man caused another to loose a tooth or an eye he was liable to compensate that man financially as we read in the Talmud:

Why [pay compensation]? Does the Divine Law not say 'Eye for eye'? Why not take this literally to mean [putting out] the eye [of the offender]? — Let not this enter your mind, since it has been taught: You might think that where he put out his eye, the offender's eye should be put out, or where he cut off his arm, the offender's arm should be cut off, or again where he broke his leg, the offender's leg should be broken. [Not so; for] it is laid down, 'He that smiteth any man. . .'

‘And he that smiteth a beast . . .’ just as in the case of smiting a beast compensation is to be paid, so also in the case of smiting a man compensation is to be paid.
(b.Baba Kama 83b)

Yeshua seems to have understood this passage in the light of Oral Torah, as did the Pharisees, as a law of liability rather than as a law of revenge. This is a good example of how the “letter of the law” kills but the “spirit of the law” gives life. (see also notes to Lk. 10:29-36)

Yeshua begins by saying:

But I tell you, that you not withstand evil:
but if one would smite you on the right cheek, ‘
turn unto him the other.

You may notice that the KJV has “That ye resist not evil”. However the actual Hebrew reads: meaning literally “You will not stand before evil” (שלא לעמוד נגד הרע) The KJV understands this verse to mean “you will not stand against evil” but it is actually meant to be understood “you will not stand for evil” or “you shall not withstand evil”. It is telling us not to allow evil in our presence.

Next Yeshua addresses the idea that “eye for an eye” is a rule of revenge. He tells us “if one would smite you on the right cheek, turn to him the other.” Not that the cheeks are literally smiten, but the financial value of two smiten cheeks rather than just one, just as the text speaks of two garments or two miles.

Yeshua continues:

And whoever wishes to contend you in judgment,
and wishes to take from you your coat,
leave him the cloak also.
And he that impresses you for one mile, ‘
go with him even two.

Here Yeshua discusses the Torah command concerning collateral on a loan. As the Torah says:

10 When you do lend your neighbor any manner of loan, you shall not go into his house to fetch his pledge.

11 You shall stand without, and the man to whom you do lend, shall bring forth the pledge without unto you.

12 And if he be a poor man, you shall not sleep with his pledge.

13 You shall surely restore to him the pledge, when the sun goes down, that he may sleep in his garment, and bless you, and it shall be righteousness unto you before YHWH your Elohim.
(Deut. 24:10-13 HRV)

Yeshua is telling us that this general principle of liability means that borrowers must be the

financial liability.

Finally Yeshua says:

And whoever asks of you, give to him:
and from him that would borrow of you,
turn not you away.

Telling lenders that they may freely lend knowing that they are protected by the same law of civil liability.

Yeshua's point in these verses is not to nullify the Torah precept of "an eye for an eye and a tooth for a tooth" with a teaching of pacifism, to the contrary just a few verses earlier Yeshua tells us that he did not come to nullify the Torah (Matt. 5:17-18). Instead Yeshua supports the idea that "an eye for an eye" is a Torah principle of financial liability.