

## Episode 38 Mattot-Massei

Many years ago, nine to be exact, I had just finished law school and was studying for the bar exam. I learned something rather fascinating, which, surprisingly, I never had heard before in three years of law school. I learned something about contracts. How is a contract between two people formed? What needs to happen such that legally the contract is valid and binding? All that needs to happen is one person needs to make an offer, and another person to say, “okay, I accept, I agree.” That’s it. They now have a legal contract. Nothing needs to be signed. No lawyers need to get involved. No documents need to be exchanged. Just a simple verbal agreement between two people suffices. Will you do this? Yes, I will. There. You have a contract. And if you don’t follow your part of the agreement, you have broken—breached—the contract.

Many people believe that, in order to make a contract, a document needs to be signed. This is a myth. The reason people sign contracts is just so that, if the matter ever goes to court, there will be evidence of an agreement. The signature is more of just an extra safety measure. It isn’t necessary, at least not in English and American law.

(By the way, a lot of people also believe that once you have signed a document, you are automatically bound by the contract. Let me give you some free legal advice: it doesn’t always work that way. If, for example, you sign a document and you have no idea what it is you’re signing, or you are drunk, or you’ve been deceived in some way, then there’s no contract.)

When I learned that contracts could be formed just through a simple conversation, I was rather shocked. But, in retrospect, I shouldn’t have been surprised. For most of human history, the vast majority of the population was illiterate. There was not a lawyer on every corner like there is today. But agreements still needed to be made. Will you work on my farm? Yes, I will. Great, here’s a shovel. Will you give me your horse in exchange for my shoes? Yes, I will. I will bring the horse over next week. And finally, how about this one? Will you marry me? Yes, I will. I do. In early modern England, even as recent as Henry VIII, a marriage proposal was treated as a contract. Actually, it was even more powerful. Once you promised to marry someone, under the law, you were already married. The ceremony and the party and the vows were all just formalities. It was these original words of agreement which made the marriage valid.

In earlier eras, words, promises, and commitments were taken much more seriously than they are today. Words themselves *were* contracts. They were far more than just words, words, words.

When, nine years ago, I discovered how *legally powerful and binding* mere words can be, I was, as I mentioned, rather surprised. But, as I look back on this moment, I now see it as extremely concerning. What did it say about me that I thought that words between two people shouldn’t be taken seriously? What does it say about our *culture* if we think that agreements and promises don’t really mean anything, won’t be recognized by courts of law? Well, this says quite a lot about our culture, in fact. This says that we have a fundamental lack of trust in other people. This says that, when we speak, we don’t really take ourselves seriously. How can we take ourselves seriously if we know, deep down, that, if we really want to, we can just break our promises and nothing will happen to us?

But if you think about our world today, as compared with the ancient world, it makes sense—tragically—that promises have lost their sacredness. In the ancient world, communities were small and tribal. Everyone knew each other. If you said you were going to do something, and you didn’t follow through, you would basically infuriate everyone you were relying on. Your

reputation would be badly damaged. You would be seen as untrustworthy, selfish, two-faced, and weak. In 1500, London was one of the biggest cities in the world. It had only 50,000 people. 50,000 people is about the average of most American suburban towns, including the town I grew up in. And this was one of the biggest cities in the world. Most communities were as small as a hundred or even a few dozen people. So, you kept your word. Today, London has nine million people, or 180 times more than it had in 1500. If you break your promise to some bloke you happened to meet in Hyde Park, guess what? Nothing is going to happen to you. Your reputation will not suffer, your friends and family won't find out, and no one is going to take you to court.

What's particularly frightening about this phenomenon is that it is unconscious. The sacredness of trust, commitments, promises, verbal agreements, has been very slowly chipped away at over time. We don't take them as seriously anymore, not because we are bad people, but because, unconsciously, we have learned, or unlearned, to no longer stand in awe and reverence before the once-holy promise, the once-holy vow. In ancient times, the opposite was the case. It wasn't as though people kept their promises and commitments because they were calculating what might happen to them if they reneged or weaseled out. Rather, on an unconscious level, they just took verbal agreements seriously—very seriously. Promises and verbal contracts were a bedrock societal institution. People hadn't yet figured out how to undermine them and question them and chip away at them. Unfortunately, our culture today is left with corpse of the once-holy verbal promise. But the corpse seems as natural to us as the vibrant and robust body seemed to the ancients. It's not either of our faults.

About two years, I was staying at an AirBNB in Tel Aviv, Israel, right by the beach. I was staying with a man who was probably in his sixties. He was originally from Yemen, which made sense, as I was in the Yemenite Quarter of Tel Aviv. I don't know how to describe him. He certainly would cause you to quickly throw all of your "stereotypes" about Jews out the window. He was very tan, probably because he was Yemenite and had spent his entire adult life living by the Tel Aviv beach. His hair was on the longer side, tied in a ponytail. He drove around town in a motorcycle and one nearly always noticed a Zenlike smile stretched across his face. He was a kind of mix of hippie, mafioso, and Buddha. I can only dream to one day attain such a combination within myself.

He was also religious. He kept kosher, went to synagogue daily, and kept Shabbat.

Two years ago, I was staying at his place, and the parsha for Shabbat was this week's parsha—Mattot-Massei. He invited me to have Shabbat lunch with him and his girlfriend. We ate lunch and had a pleasant conversation. His girlfriend went into the other room, and my Yemenite friend began to talk to me about the parsha.

Before I tell you what happened, let me give you a little background on the parsha. Mattot-Massei. It begins with God's commandments concerning vows, oaths, and promises. Moses speaks to the heads of the Israelite tribes. Moses states: "If a person makes a vow to God or makes a promise to do something, he must not break his promise, he must not break his oath. *He must carry out all that has crossed his lips, all that has come out of his mouth.*" The person must, in short, do exactly what he has promised. The Torah is clear and unambiguous on this point.

I would imagine that most people read these sentences and don't take much time to consider how important they are. I myself had been reading the Torah scroll-to-scroll for the last several years, and these verses never stood out to me. In the past, I just had thought they involved some ancient custom which had no relevance today.

My Yemenite AirBNB host thought otherwise. I remember that he put down his fork and knife. He read these verses to me. *He must carry out all that has crossed his lips*. What does this mean? He asked me, raising his voice slightly, looking me in the eye. It means that, if you make a commitment to do something, then you do it. You don't waver, you don't cancel, you do what you promised.

At this point, he may or may not have banged the table with his fist. I can't remember. All I know is that he had convinced me to treat promises and commitments as something sacred. I would never look at these words from the Torah the same way again.

My AirBNB host wanted to reveal to me a dangerous and lamentable phenomenon in contemporary society—that we don't take promises seriously any longer. We make commitments which we break all the time. Our word has become cheap and unreliable. This lamentable fact obviously infuriated my host. And he proposed, in his own way, a solution to this societal demise: if you say you're going to do something, then do it. No hesitation, no excuses. That was his solution.

Was he correct? Was he giving good advice?

Our society doesn't esteem people who are loyal, who keep their word, who are dependable, the same way it once did. Today, there is almost a kind of contempt toward those who stand by their commitments. We are encouraged, for example, to "shop around," to put ourselves first, to always be looking for better options. If, for example, you stay at your old job when a better opportunity comes your way, people will mock you. Why are you being loyal to your employer? Your company would fire *you* if someone better came along. And, in a way, they are correct. Our marketplace makes us feel dispensable. We feel like we don't have to be loyal to our employers, because we know that they would probably fire us if they found someone better, too. Let's say you're in a bad marriage, and you are unhappy. Your friends and family may encourage you to get a divorce. Why should you be unhappy? Now, if you were to say, but we have children, or we have been together for so long, this argument they could understand and sympathize with. But imagine if you were to say, "but we took an oath, twenty-five years ago, or whatever, to stay with each other until death. We took an oath. We said 'I do.'" Although I have never personally been in this situation, I would imagine that this response would receive nothing but laughter and mockery from your friends and family. So what if you took an oath? They would say. It was twenty-five years ago. It's just words.

This also, of course, happens all the time today when we make plans. How many times have you said to someone, "sure, I'll get coffee with you," but deep down you knew you never would? Or, "sure, I'll give you a call when I'm in town," but when you arrive, you never pick up the phone? And in turn, how often have people said to you, "I will get coffee, or I will meet, or I will listen to the Schrif and let you know what I think," and then you never hear from them?

At an obvious level, this is problematic because it causes a lack of trust between people and creates animosity and frustration. But it is also problematic on a deeper level. The deeper problem is that, essentially, we say shit all the time suspecting or even knowing we are never going to follow through on it. Friendly, allegedly well-intentioned *deception* has just become a social norm. This is, I think, the deeper issue. This is what sent my AirBNB host into this moment of fury.

In his 1887 work, *On the Genealogy of Morals: A Polemic*, German philosopher Friedrich Nietzsche begins his second essay by discussing the evolution of human promise-making. Nietzsche sees promise-making as perhaps the most essential philosophical question in human history. Nietzsche opens with these lines: "To breed an animal that *is entitled to make*

*promises*—is that not precisely the paradoxical task nature has set itself where human beings are concerned? Isn't that the real problem of human beings?"

When you make a promise, a commitment, you pledge and vow to behave in a certain way *in the future*. Here, Nietzsche must clarify what he means. You will remember in episode eight of *The Schrift*, that Nietzsche saw *forgetting* as one of the healthiest and strongest human virtues. It is strong, happy, healthy people who know how to forget. And here, Nietzsche's views haven't changed. Nietzsche describes forgetfulness as a "porter at the door" of our psyche. Forgetfulness is what allows us to move forward, open ourselves up, rid ourselves of past slights and demons. Nietzsche writes that without forgetfulness, "there could be no happiness, no cheerfulness, no hoping, no pride, no *present*."

Here, Nietzsche recognizes a glaring contradiction. When we make promises and keep our promises, we are fighting against forgetfulness. We are looking back in time at that which we once said and then following through on it. How does Nietzsche resolve this contradiction?

As Nietzsche sees it, in early human history, forgetfulness was rampant. Nobody remembered anything, nobody kept their word, people did whatever the hell they wanted. Essentially, people behaved like animals. Dogs and monkeys are incapable of making or keeping promises. In order to teach people to *remember to do what they said they would do*, punishment was instituted. Punishment and grotesque torture were instituted, so that people wouldn't forget anymore. Minds were rigorously and ruthlessly trained to remember past promises.

This period was, for Nietzsche, a middle phase. Nietzsche writes that at the end of this process, the "tree would at last yield its fruit." The ripest fruit of the tree was, for Nietzsche, the *sovereign individual*. The sovereign individual. He or she is the person who is *entitled to make promises*, who keeps his or her word, not out of fear of punishment, but out of the honor and pride of being able to do so. This individual combines the beauty of forgetting with the power of making commitments. Essentially, this individual decides when he wants to remember something and when he does not. If he gives his word, then he will remember. But if someone insults him or if he suffers some psychological injury, he will forget. He has the power of forgetting and remembering at his full disposal.

Nietzsche absolutely extols the dignity of following through on promises, as though this is the greatest human achievement imaginable. This is someone who is the master of her will, because what she willed in the past will not be shaken by whatever obstacles or changes come between the pledge and the action. Nietzsche writes: "This person who has become free, who really *is entitled* to make promises, this master of *free* will, this sovereign—how is he or she not to realize the superiority he enjoys over everything which is not permitted to make a promise and make pledges on its own behalf, how much trust, how much fear, and how much respect he creates."

It is the noblest people who can keep their promises. Nietzsche writes that these people "give their word as something reliable, because they know they are strong enough to remain upright even when opposed by misfortune, even when 'opposed by fate.'" Moreover, Nietzsche distinguishes these noble people from those who cannot keep their word. Nietzsche refers to these people as "scrawny unreliable men, who make promises without being entitled to." The person who can keep his promise always has "his cane ready for the liar who breaks his word in the very moment it comes out of his mouth."

Let's recap for a moment. In very early human history, pre-history, contracts did not exist, nobody kept their word. In later human history, people became trained through fear of punishment, whether social or physical, to *remember* that which they had pledged. And the

pinnacle of commitment-making was reached when people kept their word out of the dignity, honor, and responsibility of doing so—keeping contracts purely for their own sake.

It seems, however, that in our society, we have the worst of both worlds. Keeping one's word is now seen not as noble but naïve and foolish. And not only that, but, because of the size and disconnectedness of our societies, there is now not even any consequences or punishment of breaking your agreement. We have, in short, erased our progress and reverted to primitive times.

Later in this week's parsha, we see the value and dignity of making agreements with others and sticking to them. As the twelve tribes of Israel are getting ready to cross over the Jordan and conquer the Promised Land, something very strange occurs. Two of the tribes decide that, in fact, they don't want to live in Israel. Instead, they want to live in what is today Jordan; they want to live east of the Jordan river. These are the tribes of Rueben and Gad. The Ruebenites and the Gadites come to Moses and say: we actually don't want to cross over the river. We want to stay here. It's better for us here, because it's cattle country, and we have tons of cows. We can only imagine what Moses must have thought when he heard this. Are you guys meshuga? You're passing up the chance to live in the Land of Milk and Honey?

When Moses gathers himself and responds to the Ruebenites and the Gadites, he dishes out perhaps the best zinger in the entire Torah. He says to them: You're going to let your brothers go into *war*, while you will just sit on your asses here?

What happens? The Ruebenites and the Gadites make an oral contract with Moshe. This is one of the most anti-climactic, and yet also most sensible, oral agreements in the Torah. The Ruebenites and the Gadites say to Moshe: look, how about this? We will send our men into Israel to fight alongside the ten other tribes. But after the war is over, you guys can keep the land, and we will go back to living east of the Jordan, where we are happier.

Well, Moshe can hardly argue with this offer. The Ruebenites and the Gadites are agreeing to fight for the Promised Land, but then to not even take the land which they will conquer. Moshe agrees, and thereby an oral contract is formed. The Ruebenites and the Gadites keep their end of the deal. They fight alongside the other ten tribes, conquer Israel, and then return east of the Jordan.

This story demonstrates, I think, the beauty of direct communication and the honoring of commitments. The Ruebenites and the Gadites could have been cowardly and deceitful. They could have *pretended* like they were going to invade Israel, but then canceled their plans at the last moment. They could have been self-serving and reasoned: why should we invade Israel, if we don't even *want* the land? Why should we risk our necks for something we don't even want? Moshe gives them their answer: because they are your brothers. You have wandered with them for forty years. You *owe* it to them to fight alongside them. In short, Moshe says, your *duty* is more important than your *desire*. The Ruebenites and Gadites agree. They perform their *duty* even though it goes against their self-interest to do so. Counter-intuitively, the Ruebenites and Gadites end up getting exactly what they want—they get to live in this Jordanian land, outside of Israel.

Imagine, instead, if the Ruebenites and Gadites had been sneaky. They could have said: let's wait until the invasion. We will stay back and protect ourselves while the other ten tribes go in. Then we will have this land all to ourselves and we won't risk losing any of our men in war. This may have worked. But they would have then severed their relationship with the other ten tribes and with Moshe. Probably, the other ten tribes, out of vengeance, would have attacked Rueben and Gad from Israel.

The Torah seems to say that when we fulfill our duties and commitments and give up what we “want,” a strange phenomenon occurs. Somehow, we end up getting what we wanted anyway. And when we are sneaky and flaky, we will receive payback for this later on.

Nietzsche said that the essential task of the human is to reach the point in his or her development where he or she is *entitled to make promises*. But what, you may think, if I change my mind? What if circumstances change? Is it really reasonable to follow through on everything which I say I will?

We shouldn't view honoring verbal contracts this way. We should see them not as a burden, but rather as a gift. First, our society is plagued by endless choices and options. We are constantly on the hunt for a “better deal.” If you simply commit to something and then don't fall sway to attractive alternatives, you remove a hefty weight from yourself. You free yourself from the burden of perennial dissatisfaction. If you choose something, and you're not sure if it was the right decision, you can simply say: I made a commitment, I need to follow through on it. Then, you're free.

But what, you may think, if I change my mind? What if I really don't want this anymore?

This is where the real beauty of honoring commitments comes in to play. Once you tell yourself that you are going to follow through on your promises, you will notice that you will begin making far fewer promises to people. You will find yourself saying “maybe” or “no” or “only under these terms” or “I need to think about it” far more often. Because you know that, once you say “Yes,” there is no turning back. I discussed how Nietzsche saw the honoring of agreements as that which only the most noble and strong people were capable of. Yet, Nietzsche also points out that these people make promises *slowly, cautiously, deliberately*. Nietzsche writes: “Those who make promises like a Sovereign do so seriously, rarely, and slowly... they are sparing with their trust, but when they *do* trust, they confer upon someone the greatest honor.”

Making oral agreements, in short, is serious business. And the second reason why you should keep your commitments is because people will perceive you differently. They will perceive you as a Sovereign, as one who is honorable, imperturbable, masterful.

But the third and final reason is, I think, the most compelling, the most important. Tragically, our world has become relativized. There seems to be no center any longer. What is moral and immoral is, for many, merely a matter of personal opinion. There often seems to be no absolute rule or custom to cling to. And this anarchy is, without question, one of the reasons why concepts like honor and duty, once so esteemed and praised, are now mocked and disregarded. Honor to whom? Duty to what? There is no center of gravity, hence I can do whatever I feel. It seems as though there is nothing left to cling to, nothing to hold onto, least of all our word.

No. In fact, when culture and morality reach the anarchy and chaos which they have today, our word becomes a kind of oasis in the desert. Our word can become a kind of north star, a compass, which will provide us with stability, purpose, and direction, when all around us seems to be on shaky and wobbly and relativized ground. We have made the mistake of believing that, as culture and morality have been robbed and desecrated, we should allow our own word to follow happily down the rabbit hole. In fact, it is nihilistic cultural moments like today when our word will serve us as our philosophical lifeline, when we must hold onto our word with all of our strength.