



OD YOSEF HAI NEWSLETTER

ROSH YESHIVAH AND COMMUNITY RABBI
DAYAN ABRAHAM DAVID SHLI"TA

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Thoughts on MISHPATIM

Year 24

by Dayan Abraham David

'VeEle HaMishpatim asher tasim lifnehem', and these are the laws that you should place before them. Rashi brings an explanation from the Talmud: To place before them like a *'Shulchan Aruch'*, a laid out table ready to eat from. He goes on to explain: *'Lo ta-aleh al da-atcha lomar eshne lahem haPerek veHalacha shtayim oh shalosh pe-amim ad shtehe sedura befihem kemishnatah ve-eini matriyach atzmi leHabenam ta-ame hadavar vePerusho lekach ne-emar asher tasim lifnehem keShulchan HaAruch uMuchan leEchol lifne haAdam'*. Do not think you can just teach it to them to be fluent verbatim like it is set out in the Mishna, but you must make them understand the reasoning behind it and its explanation so that it should be like a ready spread out table for people. The difficulty with the comparison of the Midrash is that, to make one understand the reasoning and explanations of a Mishna or Halacha should be compared to the needs of a chef who needs to know of the ingredients to make up the dish in a kitchen not someone who comes to a table to eat. The Talmud is giving an insight and lesson for our day where we have all the abridged versions of Halachot: *'kitzurim on kitzurim'*, abridged on abridged. And we think

that, that is all the Halacha. Of course there are times when we are stuck and need to know what to do on the spot and these can be most helpful but this is not the *'Limud of Shulchan Aruch'*, the study of Halacha. The Torah expects us to learn the Halacha with its reasoning, understanding and explanations so that we will not be caught out with seeming contradictions, but learn the correct conclusions and connections to other Halachot. For all the Laws of the Torah are connected and in harmony with each other. As it says in Tehillim: *'Mishpatei Hashem emet tzadku yachav'*, the Laws of Hashem are true and are righteous altogether. A Kitzur is for reference only but the study of the Halacha should be with understanding, depth and proper appreciation. The *'Shulchan Aruch'* is not a fast food counter, but a table spread out to be appreciated and seen for what it is. We appreciate food when we understand what it is and all the delicate tastes and aroma in it and not just as a lump of food. The ready spread food on a table becomes a banquet to be eaten and savoured and not just consumed as the *'Halitani na min Ha=adom haze'* of Esau when he saw only the colour of the pot of lentils and did not appreciate its contents. It is an obligation on those who teach Halacha to understand the reasoning and depth behind each Halacha themselves then to give it over clearly with explanation in its entirety as Moshe was asked to do. Another

explanation for the comparison to the 'Shulchan Aruch', the ready table is not just knowing the Halachot Pesukot by heart, but knowing the principals and reasoning behind the Halacha so that they can be applied to new cases and circumstances we may come across not mentioned in the Halachot Pesukot. It must be ready to be applied as a 'Shulchan Aruch' is ready and prepared for whatever food needs to be laid on it. The Talmud in Sota stresses this importance which is called 'Shimush Talmidei Chachamim', to apprentice and serve the Chachamim who could explain the reasoning and understanding behind the words of the Mishna thoroughly to their students. This was how the Halacha was to be given over. Someone who did not have this 'Shimush' was called an 'Am Ha-aretz.

GEMS

Chap 21:37 If a person steals the ox or sheep of another and then slaughters it for food or sells it, he then pays the owner 5 times its value for the ox and 4 times its value for the sheep. Rashi brings down 2 opinions for the difference between an ox and a sheep, Rebe Yochanan ben Zacai said that G-d takes into account the embarrassment even of a thief. For when he steals an ox he leads it away without embarrassment so he pays five times its value but for a sheep which he has to carry in order to steal which is embarrassing, his punishment is discounted and he pays only 4 times its value. Rabbi Meir said come and see how G-d values work since the owner works with his ox (ploughing), when it is stolen he cannot work, hence the thief pays more. The thief cannot work he pays more, he pays five times its value but for sheep which the owner doesn't work with anyhow he pays only 4 times. What is difficult to understand is, why is his embarrassment

discounted from 5 to 4 for the sheep now that he slaughters or sells it when really the embarrassment of carrying the sheep was when he stole it, he should be discounted for it in the punishment for stealing which is "kefel" double and we do not find any distinction in "kefel" for everything stolen the payment is double? This is also a difficulty according to Rebe Meir who says because he has stopped the master from work that by an ox it is 5 times, but that happened when he stole it already and he still only pays double for stealing an ox? We should try to understand why an ox or sheep are treated differently and there is a punishment of 5 or 4 times when sold or slaughtered whereas by any other article the punishment is always double kefel, even though it is sold or eaten up, we don't care what happens to it afterwards he is punished only for the act of stealing. The difference could be because these are means for parnassah livelihood. The thief is depriving the owner of his parnassah and both Rebe Yochanan and Rebe Meir agree with this. Rebe Meir adds that since with an ox he is causing the owner "Bitul Melacha" stopping him from working the punishment is more severe. We could add that with an ox it is harder to replace, we need to train the ox to work etc and get it used to its master, so even though it was stolen as long as it has not been sold or slaughtered it could be returned and the man would have his ox back, the damage would not be permanent he has his parnassah back, it is left at kefel like other articles. Even the sheep is different to other articles. He has an attachment to them having to look after them and special feelings for them as a means of parnassah, so as long as the thief has not sold them or slaughtered them then he could give them back but once sold or slaughtered cannot be given back he is punished 5 or 4 times their value. Both Rebe Yochanan and Rebe Meir

agree that for the punishment of *kefel* which is more general and covers all his possessions the Torah treats them all the same but only when we have an added punishment as regards 5 or 4 for permanently damaging his *parnassah* the Torah discounts the sheep because of embarrassment according to Rebe Yochanan and '*bitul melacha*' of the owner according to Rebe Meir.

INSIGHTS

Vu maka abi ve imo mot yumat. Vegonev Ish vumcaro ve nimitza beyado mot yumat. Vumekallel abi veimo mot yumat.

A person who strikes and wounds his father or mother is given the death penalty. Even if he curses his father or mother is also given the death penalty. In between, these two halachot about abusing parents, it squeezes in about a person who steals a Jew and sells him as a slave, is also given the death penalty. The obvious question is why does the Torah interrupt the two Halachot about abusing his parents with the law of stealing a person and selling him?

Another question, why does it refer to this as stealing when a person kidnaps another, he is doing it with force in the presence of the person he is capturing hence it is really *gezelah* not *ganevah*. As our Chachamim explain in Baba Kama (79:2), that a person when he steals quietly, "*Ganavah*", is showing more fear of people than he is showing of G-d who is omnipresent and sees everything hence he pays double. Whereas someone who grabs or steals by force in front of the owner is showing no fear for both, not G-d and not man, so he only pays for what he has stolen. If so, here when he captures someone it is always in the presence of the person so it should be called "*Vegozel Ish Wumcaro*" not "*Gonev Ish*"?

The Ibin Ezra brings down from Rav Saadia Gaon that the reason why this Halachah is put between the two Halachot of children abusing their parents is because it is usually children who are kidnapped and sold when they are quite young and grow up not knowing their parents or appreciating them, they would be the most likely ones to strike or curse their parent not having been brought up by them so the thief is being punished as they would be for abusing their parents. With this explanation of Rav Saadia we could answer our second question, since the children are being stolen it would usually not be in the presence of their parents that is why it is "*Ganevah*" and not "*Gazelah*". A father would give up his life to save his son if he was there so it must have been done in secret. Hence he is considered a *Ganav*. The reason the thief is punished so severely with the death penalty could be because he is taking a Jew away from the service of G-d, by selling him to slavery. He is destroying a Jewish life.

STORIES OF TZADDIKIM

In 1943, certain groups began circulating predications of *Mashiach's* imminent arrival. A non-religious storeowner in Toronto, who had until that time remained open even on Rosh Hashanah and Yom Kippur, was swept up in enthusiasm, and decided to close his store on Shabbat in anticipation of *Mashiach's* coming. Rabbi Yaacov Kamenetsky called the man in and explained to him the sanctity of Shabbat and the necessity to remain closed for business regardless of when *Mashiach* comes. He then told the man that while we pray and have reason to believe that he would arrive in the near future but he could delay for another fifty years. Reb Yaakov's son-in-law, Rabbi Hirsch Diskind, asked him why he had disillusioned the

storeowner, since the man would now in all likelihood give up Shabbat observance. Reb Yaakov answered that while the violation of the Sabbath is compared to the violation of the entire Torah, nevertheless one who believes in the coming of *Mashiach* still has a place in the World-to-Come, even if he violates the Sabbath. "If *Mashiach* does not come as predicted, he will lose his belief in *Mashiach* too, and I would not take responsibility for depriving him of his *Olam Haba*".

Shabbat Shalom

HALACHOT – Tefillah

1) When the '*Sheliach Tzibbur*' is repeating the Amida, the congregation should be quiet, paying attention to his words and answering the berachot. If there are no nine men who listen and answer, the '*berachot*' could be '*Le Batala*' with dire consequences. One should always imagine himself as one of those nine. According to the Kabbalah, the '*Chazarah*' of the '*Sheliach Tzibbur*' is even more important than the individual Amida.

2) The '*Sheliach Tzibbur*' must raise his voice for the whole '*beracha*' not only for the end, so as to be heard by everyone. Those responsible should not appoint a '*Sheliach Tzibbur*' with a soft voice who cannot be heard by the whole congregation present.

3) Those who finish the Amida early and are awaiting the '*Sheliach Tzibbur*' to repeat the Amida should be silent and not talk to anyone.

4) One should pay attention and hear the whole '*Chazarah*' and not even study Torah and definitely not talk then. We are allowed to reproach someone in public to stop him, for there are warnings of great punishment for those who talk during '*Chazarah*' and '*Keriat HaTorah*'.

5) It is recommended to stand during the repetition unless one is weak or infirm or feels he can concentrate better sitting.

**We have a regular Youth
Minyan organised by
David Douer followed by a
kiddush**

***Avot vu banim is one and a half
hours after Shabbat
Please try to attend***

***If you wish to sponsor a
Kiddush
Please contact
Nathaniel Bendayan
07825 871749
For Seuda Shlishit
or to rent the
Nancy Reuben Hall
for a Simcha
Please contact
Yanki David 07725 408724***

SHABBAT TIMES

Shabbat commences	4:33 pm
Shabbat terminates	5:44 pm
Mincha Erev Shabbat	4:20 pm
Followed by Kabbalat Shabbat	
Shacharit	8:30 am
Mincha on Shabbat followed by Seuda Shlishit & Arbit	4:10 pm
Shacharit Weekdays with netz	7:00 am
Shacharit Sundays with netz	7:00 am
Mincha	1:30 pm
Arbit	7:30 pm