

# Zera Shimshon

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## Chapter XXIV: Vayikra (Lev. 1:1–5:26)

### Essay 3. The ownership of an animal brought as a burnt offering

**פסוק** "אדם כי יקריב מכם". פרש רש"י, כשיקריב; בקרבנות נדבה דבר הענין. אדם, למה נאמר? מה אדם הראשון לא הקריב מן הגזל — שהפל היה שלו — אף אתם לא תקריבו מן הגזל עכ"ל.

There is a verse: “Speak unto the children of Israel, and say unto them: **When any man of you will bring an offering** unto the L-rd, you shall bring your offering of the cattle, of the herd, or of the flock” (Lev. 1:2).

**Rashi explains:** “‘When any man of you will bring’—[This means,] when he offers: **It’s free-will offerings that this matter was speaking about.**<sup>1</sup> ‘Man’ (אדם) (*adam*): **Why is this said? Just as the first man [Adam] did not offer sacrifice of anything acquired by robbery—since everything was his—so you, too, shall not offer anything acquired by robbery.**”<sup>2</sup>

מקשים למה היפך רש"י, שמתחלה היה לו לפרש מילת אדם ואחר כך כי יקריב דמזיב בקרבנות נדבה.

Question No. 1: **People question why Rashi reversed** the order of the verse in his explanation, **for first he should have explained the word “man” and afterward explained “will bring.”**

ועוד יש להקשות מה צורך ללמוד זה מאדם הראשון ונלא בתורת פהנים אמרו "קרבנו" להוציא את הגזל ועוד קרא כתיב "שנא גזל בעולה".

Question No. 2: **Further, one can question why it was necessary to learn this lesson not to sacrifice stolen goods from the first man, i.e, Adam, and not from Torat Cohanim,**<sup>3</sup> which teaches that **it’s said “his sacrifice”** in the next verse, Lev. 1:3, **to exclude the stolen,**<sup>4</sup> **and also,**

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<sup>1</sup> Cf. Sifra, Vayikra Dibbura d'Nedavah, Section 2.4.

<sup>2</sup> See Lev. Rabbah 2:7.

<sup>3</sup> Sifra, Vayikra, section 5 (which follows chapter 6) in the edition with the commentary by the Ravad (Constantinople 1552).

<sup>4</sup> Lev. 1:3, “If *his offering* is a burnt offering from the herd, he shall make his offering a male without blemish. He shall bring it to the entrance of the Tent of Meeting, for acceptance in his behalf before the L-rd.”

the lesson can be learned from the fact that **Scripture writes, “For I, the L-rd, love justice, hate robbery with a burnt offering”** (Isaiah 61:8).

ועוד מהו הטעם שנתן שהכל הנה שלו, וכי לא הנה די לומר מה אדם הראשון לא הקריב מן הגזל ותו לא שאנו יודעים שהכל הנה שלו?

Question No. 3: **Further, what is the sense given by the interjection “since everything was his,” for wouldn’t it have been enough to say “just as the first man [Adam] did not offer sacrifice of anything acquired by robbery [so you, too, shall not offer anything acquired by robbery]” and to say nothing more, since we know that everything was his?**

ובאמת שגם על הקרא גופיה יש להקשות דמהו הלשון "שנא גזל בעולה", אם איתא ד"קרבונו" להוציא את הגזול? פשיטא ששנא אותו ועוד לא יחשב לו כלל לקרבן. ומדכתיב "שנא גזל בעולה", נראה שהגם שהוא קרבן אף על פי כן שונא אותו והדבר צריך ביאור.

Question No. 4: **In truth, one can even question Scripture itself, for what is the reason for the language “[I] . . . hate robbery with a burnt offering” in Isaiah, if it was brought that the word “his sacrifice” in Leviticus is to exclude the stolen? It’s obvious that G-d would hate [the offering of a stolen animal as a sacrifice]. Further, perhaps one can say that [a stolen animal] wouldn’t even be considered to be a burnt offering, but from what is written, “[I] . . . hate robbery with a burnt offering,” it appears that indeed [the sacrifice brought in Isaiah] is also [considered] a burnt offering, despite the fact that [G-d] hates it. The matter requires investigation.**

ויש לומר דמלת אדם דהקא דמשמע מה אדם הראשון לא הקריב מן הגזל כמו שפירש רש"י הוא פירוש לפסוק "שנא גזל בעולה". ומפרש במאי קמירי, דאי בגזל ממש פשיטא דלא איצטריך דמ"קרבונו" נפקא.

**It can be said that the word “man” here means that just as the first man, Adam, did not offer sacrifice of anything acquired by robbery—since everything was his—so you, too, shall not offer anything acquired by robbery, as Rashi explained, which is the same explanation applied to the verse “[I] . . . hate robbery with a burnt offering.” It’s clear what we’re saying: that it’s obvious that with an actual robbery it’s not necessary for Rashi to explicitly state that a sacrifice should not be brought with actual stolen property, for it’s derived from the word “his sacrifice” in Lev. 1:3.**

אֵלָא הָכָא מִיָּרִי בְּמִזְמוֹן הַמוּטָל בְּסִפְקָא דְאִמְרִינָן הַמוֹצִיא מִחֲבִירוֹ עָלָיו הַרְאָהָה, כְּגוֹן הֵיכָא דְפָרְק ח' דְמִצִּיעָא הַמְחַלִּיף פָּרָה בְּחִמּוֹר וְנִלְדָה זֶה אוֹמֵר מִשְׁלֵקְתִּי וְזֶה אוֹמֵר עַד שְׁלֵא מְכַרְתִּי דְלִרְבִּנָן הַמוֹצִיא מִחֲבִירוֹ עָלָיו הַרְאָהָה וְכֵן פְּסִק הַשְּׁלֵטָן עָרוּד סִימָן רכ"ג ועיי"ש.

**Rather, to answer Question No. 2, here in Lev. 1:2, Rashi's view is that we are talking about the property of uncertain ownership for which the burden of proof relied upon the claimant, as the case in the eighth chapter of tractate Bava Metzia (100a): "[Regarding] one who exchanges a cow for a donkey [such that by virtue of the cow owner's act of acquisition on the donkey, the donkey's erstwhile owner simultaneously acquires the cow, wherever it happens to be located,] and [afterward the cow is found to have] calved . . . If the buyer says, [the birth occurred] after I purchased [the cow], but [the seller] says [the birth occurred] before I sold [the cow, so the calf is mine], that according to the rabbis, the one who presently has the calf has presumptive ownership, and the one extracting [property] from another has the burden of proof, and thus ruled the Shulchan Aruch, Choshen Mishpat, siman 243, se'if 1, and see there.**

וְאִם כֵּן זֶה הָעֵגֶל הַבּוֹלֵד בְּרִשְׁוֹתָיו שֶׁל מוֹכֵר הוּא שְׁלוֹ, וְלִמָּה הוּא שְׁלוֹ לְפִי שְׂאִין לְחֲבִירוֹ רְאָהָה. אֲבָל אֵין הָכִי נִמְי אֶפְשֵׁר שֶׁהוּא שֶׁל הַלּוֹקֵחַ, שְׁבוֹלֵד לְאַחַר שְׁלֵקָה וְהוּי גָזֵל בְּיַד הַמוֹכֵר. וְאִם הַמוֹכֵר מְבִיא זֶה הָעֵגֶל לְקֶרְבֵּן חוֹבְתוֹ הָאִי וְדָאִי לֹא נִתְמַעַט מְקַרְבְּנוֹ, שֶׁהָרִי אֵינּוּ גָזֵל הוּאִיל שֶׁעֲפָבּוּ בְּיָדוֹ בְּרִשְׁוֹת בֵּית דִּין, אֵלָא שְׁלֵא יֵצֵא שְׁפִיר יְדֵי חוֹבַת גְּדוּר.

**If so, this calf born in the possession of the seller is his, and why is it his? Because the other has no evidence. But also, it is possible that it really belongs to the buyer, that it was born after he acquired [the cow], and thus it's stolen property in the possession of the seller. If the seller brought this calf as a burnt offering, his obligation to bring a burnt offering is certainly not diminished, for this calf is not literally stolen, since it was forced into his hand by the authority of the court, but still the obligation of his vow to bring a burnt offering was not met in a nice way.**

דְּוָמִיָּא לְמָאִי דְאִמְרִינָן בְּפָרְק קַמָּא דְחִגִּיגָה כֹּל דְבָר שְׁבַחְוָה לֹא יָבֵא אֵלָא מִן חַוּלִין, וְאִי פָאֵן הַחוֹבָה שִׁישׁ לּוֹ צְרִיף שְׁיִבִיאָהָה מִשְׁלוֹ בְּנִדְאִי. וְאִם יְבִיאָהָה מִהַסְפֵּק לֹא יֵצֵא יְדֵי גְדוּר אֵלָא מִסְפֵּק, אֲבָל אִם יְבִיא זֶה הָעֵגֶל בְּתוֹרַת גְּדָבָה הָנָה סְלֵקָא דְעֵתָהּ לּוֹמֵר דְקֶרְבֵּן חֹשִׁיב הָנִי. מִשּׁוּם הָכִי כְּתִיב "אָדָם": מָה אָדָם הָרֵאשׁוֹן לֹא הִקְרִיב מִן הַגָּזֵל — שֶׁהַכֹּל הָיָה שְׁלוֹ — שְׁלֵא הָיָה לּוֹ סִפְק בְּשׁוּם דְבָר דִּילְמָא הוּא מִשְׁל חֲבֵהְרוֹ.

**This is similar to what is said in the first chapter of tractate Chagigah (7b), anything that is an obligation must come only from unconsecrated [animals],<sup>5</sup> and even then, his obligation must be brought specifically from him. If it had come from a doubtful situation of ownership, the obligation of his vow would not have been met, but if he brought this calf as a voluntary offering, it might have entered your mind to say that this was considered a sacrifice. Because of this, it was written “ ‘Adam’: Just as the first man [Adam] did not offer**

<sup>5</sup> This principal is also presented at Chagigah 8a, Beitzah 19b, and Pesachim 71a.

sacrifice of anything acquired by robbery—since everything was his”—that there was no doubt at all that perhaps [the sacrifice] belonged to his fellow. This answers Question No. 3.

אף אתם לא תקריבו מן הגזל, ולא מן הגזל ממש שְהָרִי לְזֶה כְּתִיב "קָרְבָנוֹ" וְלֹא מִן הַגְּזוּל, אֲלֵא מִדְּבַר שֶׁהוּא סֶפֶק גְּזוּל, וְלִקְרָבָן חֻבָּה לֹא אֵי צִטְרִיד כַּנ"ל, אֲלֵא כְּשִׁיקְרִיב; קָרְבָנוֹת נִדְבָה דְבַר הָעֲנִיָּו.

**“So you, too, shall not offer anything acquired by robbery,”** Rashi wrote, and this is not referring to actual plunder, for regarding this we have already learned this from the fact that it is written in Lev. 1:3, **“his sacrifice,”** to exclude stolen property, but rather Rashi is speaking of a doubtful case of theft, and for an obligatory burnt offering it is not necessary to explain this, as discussed above, but rather Rashi is explaining, **“‘When any man of you will bring’— [This means,] when he offers: It’s free-will offerings that this matter was speaking about.”** This is the answer to Question No. 1, as to why Rashi’s explanation of Lev. 1:2 reversed the order of the text, first addressing the word “man” and afterward explaining “will bring.” His intent was to first clarify that Lev. 1:2 was not talking about obligatory offerings but rather free-will offerings, and then to explain that the verse was not talking about actual stolen property, but rather talking about property whose ownership was established by a court, but which may technically may not have been the true possession of the one bringing the sacrifice.

וּמְשֻׁם הֵכִי אֵי צִטְרִיד "אָדָם" לֹוֹמֵר מָה אָדָם הָרֵאשׁוֹן לֹא הִקְרִיב וְכוּ'. וְאֵף הַפְּתוּב שֶׁל "שֵׁנָא גְזוּל בְּעוֹלָה" מִיָּרִי בְּכַגּוֹן זֶה, שְׂאֵף עַל פִּי שְׂאָם הִבִּיאוּ הוּי קָרְבָן כְּשֵׁר, עַם כֹּל זֶה הוּאִיל שֶׁהוּא סֶפֶק שְׂאִינֹו שְׁלוֹ הַקַּב"ה שׁוֹנָאוּ.

**Because of this,** the word **“Adam”** is needed in the Lev. 1:2, **“When any man of you will bring an offering,”** to say, just as the first man [Adam] did not offer sacrifice of anything acquired by robbery—since everything was his—so you, too, shall not offer anything acquired by robbery. Even the Scripture of **“[I] . . . hate robbery with a burnt offering”** is speaking concerning this, that even if he brings a burnt offering that is technically fit, nevertheless as there is a doubt that it is not his but was only assigned to him by a court, it says, **the Holy One, Blessed be He, hates it.** We already understand the answer to Question No. 4, that Isaiah 61:8 is not teaching the same lesson as Lev. 1:3 (not to sacrifice an animal that is actually stolen), but rather it is discussing that one shouldn’t even sacrifice an animal that is of doubtful ownership, even if assigned ownership by a court. Does this raise a new question, as to why we need Isaiah 61:8 if it is teaching the same thing as Lev. 1:2? No, for Isaiah 61:8 offers the additional teaching that technically a sacrifice of an animal of doubtful ownership is technically fit, even if it is not seemly.

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