

Zera Shimshon

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Chapter L: Ki Tavo (Deut. 26:1–29:8)

Essay 9. A curse against one's ox, donkey, and goat

This parasha includes blessings that will be granted to the Jewish people if they obey the Torah, and curses that will be realized if they do not obey the Torah. This essay investigates one such curse.

"שׁוֹרְךָ טְבוּחַ לְעֵינֶיךָ וְלֹא תֹאכַל מִמֶּנּוּ חֶמְרָךְ גְּזוּל מִלִּפְנֵיךָ וְלֹא יָשׁוּב לְךָ צֹאנְךָ נְתִיבוֹת לְאִיְיָךָ וְאִין לְךָ מוֹשִׁיעַ". הַטַּעַם לְשִׁשׁוֹר אָמַר "וְלֹא תֹאכַל מִמֶּנּוּ" וּבְחֶמְרָךְ "וְלֹא יָשׁוּב לְךָ" וּבְצֹאן "וְאִין לְךָ מוֹשִׁיעַ", וְעוֹד לְמָה אָמַר "צֹאנְךָ" לְשׁוֹן יָחִיד וְאַחַר כֵּן "נְתִיבוֹת" לְשׁוֹן רַבִּים?

“Your ox shall be slaughtered before your eyes, but you shall not eat of it; your donkey shall be seized in front of you, and it shall not be returned to you; your goat shall be delivered to your enemies, with none to help you” (Deut. 28:31). [What is] the reason that [regarding] the ox it says, “but you shall not eat of it,” and for the donkey [it says], “it shall not be returned to you,” and for the goat [it says], “with none to help you”? Also, why does it say “your goat” in the singular form, i.e., one goat, and afterward it says “shall be delivered” in the plural form?

יֵשׁ לוֹמַר דְּאִמְרִינן בְּפֶרֶק ז' דְּקַמָּא דָּאם גָּנַב וְטָבַח בְּרִישׁוֹת הַבְּעָלִים פְּטוֹר פֿל שְׁלֵא הוֹצִיאָו מִרְשׁוּתָם, וְלָכֵן אָמַר "שׁוֹרְךָ טְבוּחַ לְעֵינֶיךָ" בְּרִישׁוּתָךְ "וְלֹא תֹאכַל מִמֶּנּוּ", הַיְיָנוּ הַרִינַח שְׁהֵיָה בָּא מִמֶּנּוּ, שְׁלֵא תוּכַל לְתַבּוּעַ מֵהֶם הַפְּרָעוֹן שֶׁל אַרְבַּעַה וְחֻמְשָׁה מִשׁוּם דְּטָבַחוּהוּ בְּרִישׁוּתָךְ וּפְטוֹרִים הֵם.

Usually, Biblical law requires that a thief pay restitution of twice the amount that he stole. But Parashat Mishpatim details that if he steals and either sells or kills an animal, he has to pay a greater price: four times the value of a sheep or goat, or five times the value of an ox.

It can be said that it says in the seventh chapter of tractate Bava Kamma,¹ that if one stole and slaughtered [an animal] in the domain of the owners, he is exempt as long as he didn't remove it from their domains. Therefore, the verse says, “your ox shall be slaughtered before your eyes,” meaning in your domain, “but you shall not eat of it.” That is, it is not considered theft until the stolen object is actually removed from the owner's premises. **That is the**

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¹ The first edition references the eighth chapter, but the Mishnah actually occurs in the seventh chapter: Mishnah Bava Kamma 7:5; Bava Kamma 79b. The translator has corrected the text.

meaning of the curse: **the benefit that would come [to the perpetrators] from [the fact that it was in your domain], that you could not claim from them the repayment of four and five [times], because it was slaughtered in your possession and they are exempt [from payment].** One experiencing such a curse would lose his property, and the halacha would prevent him from receiving compensation.

"חמרה גזול מלפניך ולא ישוב לך" דקיימא לן הגזלנים שהחזירו, המקבל מהם אין רוח חכמים בוחה הימנו. ומשום הכי "ולא ישוב לך" אף אם יעשה תשובה.

“Your donkey shall be seized in front of you, and it shall not be returned to you,” as we hold in accordance with the rabbis quoted in Bava Kamma 94b, who taught in a *Baraita*: “[Regarding] robbers or usurers that returned [either a stolen item or the interest to the one from whom they took it], one should not accept it from them, and [regarding] one who accepts it from them, the Sages are displeased with him.” The idea is that a thief may want to repent but hesitate out of belief that he can’t make restitution, either because he doesn’t have the financial resources, or he doesn’t know what amount he stole, or from which party. We want to encourage people to repent, so even if they offer to repay us, we should decline. That way, the thief will know that he can repent without having to make restitution!² **Because of this, “it shall not be returned to you,” even if [the thief] repents.** As with the ox, above, one experiencing such a curse would lose his property, and the halacha would prevent him from receiving compensation.

"צאנך נתנות לאיביך ואין לך מושיע" דתנו בפרק בתרא דקמא גזלו לקטים את פסותו ונתנו לו פסות אחרת וכו'. ופירש הרב עובדיה מברטנורא שם דבליקטים ישראלים מסתמא נתנאש אבל ליקטים גויים לא מניאש, דהואיל שביית דין נשל ישראל אמרי קבא עדים קבא ראיה נטול. וכאן אין לו עדים, בנדאי נתניאש, אבל לקטים גויים לא מניאש, דהואיל שהגויים דגין באמדון דעת בלא עדים משום הכי מסתמא לא מניאש. וכאן אמר הכתוב "צאנך נתנות לאיביך" כלומר אף על פי שתהייה ביד הגויים לא תוכל להוציא מהם בדיינים וזהו "ואין לך מושיע."

“Your goat shall be delivered to your enemies, with none to help you,” as it was taught in the last chapter of tractate Bava Kamma: “If bandits stole his garment and gave him a different garment that was stolen from another, these are his because the owners despaired of [retrieving] them [when they were stolen, and they may therefore be acquired by another].³ Rabbi Ovadiah of Bertinoro⁴ explains there that regarding Jewish bandits, [the victims] will simply despair [of retrieving the stolen property], but regarding non-Jewish bandits, [the victims] will not despair. That’s because regarding Jewish bandits, the court of Israel says, “bring witnesses, bring proofs, and take [what is yours],” but here there are no witnesses, so surely

² The authorities have limited the application of this halacha. It applies only to professional thieves or money lenders who would be bankrupted by the need for restitution. Also, it applies only if the object has been sold and the thief would have to pay its equivalent value in money. If the object itself is still in the possession of the one who stole it, it would need to be returned.

³ Mishnah Bava Kamma 10:2; Bava Kamma 94b.

⁴ Ovadiah ben Abraham of Bertinoro (c. 1445–c. 1515), commonly known as “The Bartenura,” was a 15th-century Italian rabbi best known for his popular commentary on the Mishnah. On Demai 4:1, he writes, “That the fear of Sabbath is upon him, for they are afraid of sinning and lying on Sabbath more than on other days.”

[the victims] will despair. But with non-Jewish bandits, who are subject to a non-Jewish court, [the victims] will not despair, since the non-Jews judge by financial status and not by witnesses. Therefore, [the victims] simply will not despair in the event of robbery by non-Jews, as even without witnesses, they may be able to retrieve their property. But **here**, when relating a curse, the Scripture said, **“your goat shall be delivered to your enemies,”** which means that **even though you will be in the hands of the court of the non-Jews**, who don’t require witnesses in order to find a suspected thief guilty, nevertheless as punishment, G-d will ensure that **you will not be able to take [your stolen goat] by way of the judges, and that is** the meaning of, **“with none to help you.”**

ואמר "נתגות" לשון רבים לפי שפשהעז הראשונה נמשכת ונופלת בבור וכיוצא נמשך ונופל כל העדר אחריה, כדאמרין בפירק ה' דבבא קמא פד רגז רעיא על עאנא וכו'.

It says **“taken”** in the plural form because when the first goat is drawn and falls into a pit, the whole herd is drawn and falls after it, as it says in the fifth chapter of tractate **Bava Kamma (52a)**, **“when a shepherd is angry with his flock, he blinds the leading [goat],”**⁵ so that the entire flock will suffer. Thus, a curse that affects one goat can affect the entire herd.

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⁵ Rashi explains that when G-d wishes to punish His “flock,” i.e., the Jewish people, He causes unqualified leaders to be installed, and they make poor decisions that adversely affect the entire people.