

Toldot Shimshon

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Chapter V – Mishnah 9

אַרְבַּע מִדּוֹת בְּאָדָם. הָאוֹמֵר שְׁלִי וְשִׁלְךָ שְׁלִי וְשִׁלְךָ שְׁלִי, עִם הָאֲרִזִּי. שְׁלִי וְשִׁלְךָ שְׁלִי וְשִׁלְךָ שְׁלִי, רָשָׁע.

There are four types of character in man. One who says: “[what is] mine is mine, and [what is] yours is yours”: this is an average character; and some say this is the character of Sodom. [One that says:] “[what is] mine is yours and [what is] yours is mine”: is an ignoramus. [One that says:] “[what is] mine is yours and [what is] yours is yours” is pious. [One that says:] “[what is] mine is mine, and [what is] yours is mine” is wicked.

”שׁוֹמְרֵי מִשְׁמֶרֶת הַקֹּדֶשׁ” וְהַמְקַדְּשׁ הַקִּשּׁוּ עֲצָמָם לְדַעַת סֵדֵר הַתַּנָּא בְּאֵלּוּ הַשֵּׁשׁ מַעְלּוֹת בְּמִקְוֵה טְהוֹרָה וּפְרִי־שׁוֹנֵה הַתַּנָּא בְּשֵׁשׁ הַמְשָׁנִיּוֹת הַבְּאוֹת הָאֵלֶּה, בְּשֵׁשׁ סֵדְרִים שֶׁל אַרְבַּע אַרְבַּע, בְּהַקְדַּמְתָּן וּבְאַיְחׁוּרָן, וְסֵדְרָן מֵעַכָּב בְּהַבְנַת דַּעַת הַתַּנָּא.

“The attendants of the duties of the sanctuary”¹ and the Temple questioned themselves to know the arrangement of the Tanna in these six steps in the gathering of purity and separation from the impure, that the Tanna repeats in these next six Mishnayot, in six rows of four types each, before and after them, and this order hinders the understanding of the meaning of the Tanna.² I.e., Mishnah 9 through Mishnah 14 each begin with “there are four types of character,” so that is six Mishnayot in a row with four elements each.

וּמִתְחִלָּה נִשְׁמֵים לֵב לְפָרֵשׁ לְפִי דְרָבֵנוּ כֹּל סֵדֵר וְסֵדֵר וְכָל מִשְׁנָה וּמִשְׁנָה בְּפָנֵי עֲצָמָה, וּבְסוּף כּוֹלֵן חֲזִילִים נִגְבֵּר לְפָרֵשׁ טַעְמָם וְנִימוּקָם, “יֵשֵׁב בְּסֶטֶר עֲלִיוֹן בְּצֵל שְׂדֵי יִתְלוּנָן”, וְעִי”שׁ.

Initially, we will pay attention to explain according to the way of each and every order of the Mishnayot, and each and every Mishnah, on its own. In the end, all are powerful; we shall prevail to explain the reasons and their depth, “O you who dwell in the shelter of the Most High and abide in the protection of Shaddai.”³

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¹ Num. 3:28, 3:32.

² Moses ben Baruch Almosnino (c. 1515–c. 1580), *Pirkei Moshe* (Thessalonika 1563).

³ Ps. 91:1.

ומעתה, המשנה הזאת יפה נדרשת באדם שהשעה משתקת לו, דבפרק י' דפסחים אמרינו, והגוי משתדל עם מי שהשעה משתקת לו. אמר רב פפא, לא למזבן מיניה ולזבוגי ליה, דחטיף ליה מזליה, אלא לאשתופי בהדיה. והשתא דאמר מר, כל הנוטל פרוטה מאיוב, מתברר, שנאמר "מעשה ידיו ברכת", אפילו למזבן מיניה ולזבוגי ליה. ע"כ.

Now, this Mishnah is beautifully expounded for a person for whom the hour is smiling upon him, as in the 10th chapter of tractate Pesachim, it is said:

Rabbi Akiva said: **And exert yourself [to join together] with one upon whom the hour smiles. Rav Pappa said: Do not buy from him and do not sell to him, for he will snatch the luck from [that person]. Rather, form a partnership with him.**

The Master, [Rav Shmuel bar Yitzchak,] said: anyone who took a *peruta* from Job would be blessed, as it is said, “You have blessed the work of his hands,”⁴ so even if [one wants] to buy from him or to sell to him [it is okay].

- Pesachim 112a

על זה קאמר התנא, מי שיש לו שעה משתקת ואומר לחבירו, מה שהוא שלי שאינו משותף עמך, הוא שלי. שאינו רוצה לקנות ממנו ולמכור לו, כדי שיתקיים "שלהך שלהך", דהינו שמזלו לא יחטוף ממון חבירו, כמו שפרש רש"י, לא למזבן מיניה וכו', דאידי דעדיף מזליה, נצח ונכי ליה להאי. עכ"ל. זו היא מדה בינונית, שאינו רוצה ליהנות ממה שאינו שלו, ומכל שכן בספק אונאה וגזל, בסברת רב פפא.

The first type: One who says: “[what is] mine is mine, and [what is] yours is yours”: this is an average character.

Therefore, the Tanna is saying, one who has the hour smiling upon him and who says to his friend, “that which is mine” means “that you are not participating in with me”—“that is mine.” That is, he doesn’t want you to buy from him and to sell to him, in order that he will fulfill “[what is] yours is yours,” which is that his luck won’t be stolen from his friend’s money. That is, as Rashi explained, he won’t buy from him etc., since his luck is preferable, he will be victorious and will merit this for himself. This is the average character, who doesn’t want to benefit from what is not his, and in any case, certainly not where there is a risk of taking advantage of someone and stealing from him, as the opinion of Rav Papa.

ויש אומרים, זו מדת סדום, לפי מאי דמסיק, והשתא דאמר מר, כל הנוטל פרוטה מאיוב וכו', אפילו אם יקנה ממנו וימכור לו, נעשה תועלת לחבירו. וזה שאינו רוצה למכור וליקח ממנו, שאומר שלי שלי, ושלהך שלהך. מקרי שאינו רוצה לעשות תועלת והנאה לחבירו, וזו היתה מדת סדום, שלא היו רוצים שאחד יקנה משל חבירו.

However, there are those who say, this is the character of Sodom, according to our conclusion, and now that the Master said, anyone who took a *peruta* from Job would be blessed, even if [one wants] to buy from him or to sell to him [it is okay], that he says, “[what

⁴ Job 1:10.

is] mine is mine, and [what is] yours is yours.” It happens that he does not want to profit or benefit from his friend, and this was the character of Sodom, that one would not want one to benefit from that of his friend.

שְׁלִי שְׁלֶךָ וְשְׁלֶךָ שְׁלִי, עִם הָאֲרָזִי. דְּאֲמַרְיִנּוּ בְּמִצִּיעָא דָּף ק"ה, אָמַר רַבָּא, הֲגִי בִי תַרְי דְּעֵבִיד עִסְקָא בְּהֶדְדֵי וְרִנּוּחַ, וְאָמַר לִיהַ סָד לְתַבְרִייה, תָּא גְפִלּוּג. אִי אָמַר לִיהַ אִידָהּ, גְּרִנּוּחַ טָפִי, דִּינָא הוּא דְמַעֲפֵב. וְאִי אָמַר לִיהַ, הֵב לִי פִלְגּוּ דְרִנּוּחָא. אָמַר לִיהַ, רִנּוּחָא לְקַרְנָא מִשְׁתַּעֲבָד. וְאִי אָמַר לִיהַ, הֵב לִי פִלְגּוּ רִנּוּחָאִי וּפִלְגּוּ קַרְנָאִי. אָמַר לִיהַ, עִסְקָא לְהֶדְדֵי מִשְׁוֹעֲבָד. וְאִי אָמַר לִיהַ, גְּפִלּוּג רִנּוּחָא וְגְפִלּוּג קַרְנָא, וְאִי מְטִי לָהּ פְּסִידָא, דְרִינָא בְּהֶדְדֵי. אָמַר לִיהַ, לָא, מְזִלָּא דְבִי תַרְי עָדָף. וּפִירִשׁ הָרִיטְבָּ"א ז"ל, וְאִי אָמַר לִיהַ, גְּפִלּוּג רִנּוּחָא וְגְפִלּוּג קַרְנָא, כְּלוּמַר, טוֹל אַתָּה הַמְחַצֵּה וְתַעֲסוּק בָּהּ, וְאֲנִי אֶקַח הַמְחַצֵּה הָאֲחֵר, וְיִהְיֶה הַכֹּל בְּשִׁיתוּף כְּמוֹ שְׁהִיָּה. אָמַר לִיהַ, עִסְקָא לְהֶדְדֵי מִשְׁתַּעֲבָד, כְּלוּמַר, הָעֵסֶק מִשְׁוֹעֲבָד לְשִׁנְיָנּוּ וְאֲנִי רוּצָה שְׁתַּשְׁלוּט יְדֵי בְכוּלוֹ. עכ"ל.

The second type:

“[One that says:] “[what is] mine is yours and [what is] yours is mine”: is an ignoramus.” As it says in tractate Bava Metzia, page 105a:

And Rava said: [Regarding] these two [managers] who engaged in a business venture together, [i.e., they both received merchandise together from an investor,] and profited, and one said to the other: Come, let us divide [the profits and terminate the venture, the *halacha* is as follows]: **If the other said to him: Let [us wait and] profit more, the *halacha* is that [the second manager indeed] prevents [the first from executing his request]. And if, [instead of requesting the final division of the profits and the termination of the venture, one] said to [the other: At least] give me half the profits, [the latter can] say to him: The profit is liened to the principal [i.e., the profits and principal are considered a single unit, and we can earn much more if we do not set aside the profits].**

And if [one] says to [the other]: Give me half the profits and half the principal, [the latter can] say to him: The [merchandise for] the business venture is liened to both [of us. As we are equal partners in this venture, you cannot force me to divide it]. And if [one] says to [the other]: Let us divide the profits and divide the principal, and if you suffer a loss [as a result], I will bear [the loss] with you, [his partner can] say to him: No, [I do not desire to do that, since] the luck of two [people is] better. [Thus, we should continue working together. In all these cases, the claims of the second manager are accepted.]

- Bava Metzia 105a

The Ritva of blessed memory⁵ explains the Gemara’s Aramaic language “ ‘Let us divide the profits and divide the principal’ as if to say, ‘You take half and work with it, and I will take

⁵ Yom Tov ben Avraham Asevilli (c. 1260s – c. 1320s), Spanish commentator on the Talmud.

the other half, and everything will be a partnership as before.’ ” He explains the Gemara’s language, “ ‘Give me half the profits and half the principal,’ as if to say, ‘The joint venture is liened to both of us, and I want to control everything.’ ”

והינינו פירושה דמתנתיתין, אם זה שיש לו המזל, ירצה ליקח חלקו, ונחבירו יקח חלק האחר, ונלעסוק בה כל אחד לבדו, ויהיה הכל בשיתוף כמו שהיה. וזהו שלי שקה, שמה שארויח בחלקי, יהיה לה חלק בו. ושלה שלי, דהינינו החלק שיתעסק בה אתה, יהיה גם זה בשיתוף עמי. הוא עם הארץ, שהרי אפילו לפי דבריו אינו מרויח כלום, שהכל הוא בשיתוף כמו שהיה. ואדרבא, יש חסרון לפי שיש ביד כל אחד חצי העסק לבד, ואינם יכולים לעשות עסק גדול אלא עסק קטן. ועוד, דמן הדין אינו יכול לתבוע זה, שהרי עסקא להדדי משועבד, כפירוש הריטב"א הנ"ל.

This is the explanation of our Mishnah: It’s referring to a case if the one who has the luck wants to take his part, and his friend will take the other part, and each will engage with it alone, and everything will be shared as it was in the past. This is the meaning of “[what is] mine is yours,” that what I gain with my portion, you will have a share of it. “And [what is] yours is mine,” that the portion that you engage with, also this will be in partnership with me. He is an ignoramus, because even according to his words he won’t gain anything, for everything is still in partnership as it was before. To the contrary, there is a disadvantage in that everyone has only half of the business, and with less capital they cannot do a large amount of business, but only a small amount of business. Furthermore, according to the law it is not possible to demand this, for the joint venture is liened to both, as the Ritva explained above.

שלי שקה ושקה שלי, חסיד. שלי שלי ושלה שלי, רשע. דאיתא בשלחן ערוך יורה דעה סימן קע"ז סעיף ה', מותר לימן עסקא למחצית שכה, ולהתנות שלא להתעסק אלא בדבר פלוני, ואם ישנה, שיהיה כל האחריות על המקבל. ומותר למקבל לשנות לכתחלה, ולא אמרינו דהוי גזלן בכה. מיהו אם שינה ואמר, לעצמי אני עושה, ולא בתורת עסקא, הוי כגזלן, ומה שעשה, עשה לעצמו. ופירש הט"ז, ולא אמרינו דהוי כגזלן, מאחר שאינו מכנין לגזול, רק להנאת חבירו שירויח הרבה. עכ"ל.

The third and fourth types:

“[One that says:] ‘[what is] mine is yours and [what is] yours is yours’ is pious. [One that says:] ‘[what is] mine is mine, and [what is] yours is mine’ is wicked.” For it is brought in the Shulchan Aruh, Yoreh deah, siman 177, se’if 5, that it’s permissible to give a business venture half-profits and to stipulate that it only focus on such-and-such a thing, and if it should deviate, that all the liability would be upon the one who accepted the terms. It is permissible for the recipient to change it *a priori*, and it is not said that he is a robber by this action. Whoever changes and says, I am acting for myself, and not according to the law of the business venture, is acting as a robber, and what he did, he did for himself. The Taz explains the words “ ‘it is not said that he is a robber,’ since he did not intend to steal, only to benefit from his friend who will earn a lot.”

והשָׂמָא קאָמַר, אַם הוּא רוֹצֵה לְשַׁנּוֹת כְּדֵי שְׁחַבִּירוֹ גְרוּיִם הַרְבֵּה, וְזֶהוּ שְׁלִי שְׁלֵף וְשְׁלֵף שְׁלֵף. אֵינִי רוֹצֵה שְׁמַפְסִיד, שְׂמָה שְׁנִמְתָּ, תִּקַּח הַכֹּל, וְלֹא תִפְסִיד כְּלוּם, וְאַנִּי אֶפְסִיד אֶף הַחֶלֶק שֶׁהֵיָה לְךָ לְהַפְסִיד, הוּא חֲסִיד שְׁעוֹשֶׂה לְפָנִים מְשׁוּרַת הַדִּין. אֲבָל אַם שִׁינָה וְאַמַּר, לְעֲצָמִי אֲנִי עוֹשֶׂה, וְלֹא בְּתוֹרַת עֵיִסְקָא, אֲזַ כְּגִזְלוֹ, שְׁרוֹצֵה לְגַזּוֹל הַרְנוּחַ שֶׁהֵיָה נוֹגַע לְחַבִּירוֹ, וְזֶהוּ שְׁלִי שְׁלִי, דְּהֵינּוּ חֶלֶק הַרְנוּחַ הַנוֹגַע לְעֲצָמִי, פְּשִׁטָּא שְׁהוּא שְׁלִי, וְגַם חֶלֶק הַרְנוּחַ שֶׁהֵיָה לוֹ לִיתֵן לְחַבִּירוֹ, גַּם זֶה לְקַח לְעֲצָמוֹ, שְׁאֵינּוּ עוֹשֶׂה עוֹד בְּתוֹרַת עֵיִסְקָא, וְהֵינּוּ "שְׁלֵף שְׁלֵף, רְשָׁע", לְפִי שְׁהוּא גַזְלוֹ.

Now he is saying, if he wants to change in order that his friend will earn a lot, and this is the meaning of “[what is] mine is yours and [what is] yours is yours”: I don’t want you to lose, that what you gave, you will take everything, and you will lose nothing, and I will lose even the portion that you should have lost. He is pious that he went beyond the letter of the law. But if he changed and said, I am doing it for myself, and not according to the law of the business venture, then as a robber, who wants to steal the profit that belonged to his friend, and this is the meaning of “[what is] mine is mine,” in other words, “the part of the profit that pertains to myself, it is obvious that it is mine,” and also the part of the profit that he had to give to his friend, this too he takes for himself, which is not done according to the law of the business venture, and this is the meaning of “[One that says . . . what is] ‘yours is mine’ is wicked,” because he is a robber.

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