



הרב הראשי עיה"ק אלעד **מרדכי מלכא שליט"א**
נשיא וראש מוסדות "אור המלך"

מחבר ספרי שו"ת דרך המלך, אמרי מרדכי, ודרכי המלך על המועדים ועוד
 רשת מעונות, ורשת גנים, ת"ת פרי תואר, ובית יעקב פרי תואר, תיכון בית יעקב החדש, ת"ת מאור ישראל,
 ישיבה קטנה ארחות יהודה, ביהמ"ד גבוה לרבנים ודיינים "לקח טוב" קופת "מפעל החסד" אלעד
 Chief Rabbi of Elad, Israel MORDECHAI MALKA, Founder & President of Institutions "Or Hamelech"



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Parashat Mishpatim

The World is Not Ownerless – There is an Eye Which Sees; an Ear that Hears

The *parasha* states (21:37), "If a man steals an ox or sheep and slaughters it or sells it, he should pay five cattle in place of the ox and four sheep in place of the sheep." It later states (22:6), "If a man will give his friend money or vessels to guard and they will be stolen from the man's house; if the thief will be found, he should pay double."

Questions:

Why is the Torah stringent with the punishment of the *ganav* [thief] to pay double; or if he slaughters or sells it, to pay five cattle in place of the ox and four sheep in place of the stolen one? For example, an individual decides to steal a calf or a sheep at night so that he will not be seen; if it is found in his possession, he must pay double. If he threw a party and slaughtered a sheep and ate it, he must pay back four or five times the amount. Yet, take for example, a *gazlan*, one who forcefully steals a calf or sheep in broad daylight, terrorizing the victim. Even if he would slaughter it for a feast and eat it, he would only be required by the Torah to return that which he stole. This is as the Torah states (*Vayikra* 5:23), "He should return the stolen item that he stole." In other words, if a *gazlan* stole something, he must always return what he stole or return the equivalent value of what he stole. We must therefore ask: both the *ganav* and the *gazlan* stole the same property; on the contrary, the *gazlan* who stole in broad daylight is worse, because he forcefully stole the object from the victim and caused him anguish. Why, then, is the Torah more lenient with his punishment?

Indeed, the matter is stated clearly in the *Shulchan Aruch* (*Choshen Mishpat Hilchot Gezeilah* 359:7), "What is a *gazlan*? One who forcefully takes another's money; for example, to snatch movable objects from his hand; or if he enters his property without the owners' permission and removes vessels from there; or he forcefully takes his slave or animal and uses them; or if he goes into his field and eats fruits and the like." It is furthermore stated in *Shulchan Aruch* (*ibid.* 360:1) that a *gazlan* must return what he stole, "Anyone who steals [*gozel*] must return the actual stolen item, as it states, 'And return the stolen item that he stole.' And if it is lost or altered, he must pay its value." You see, then, that the Torah is more lenient with a *gazlan* than with a *ganav* – why is this so?

The Way the World Lives

We are witness to a reality in present times – the world lives with a perspective that everything begins and ends with man's actions. Therefore man feels that he can do whatever he pleases. He can slander, fabricate vicious tales, injure, destroy, and damage in order to achieve his goal. He lives as if the world is ownerless and that it is without judgment or a judge. Therefore individuals act according to what they think, without considering the fact that there is a Creator of the world and a Director of the world, and that the world is not ownerless. They do whatever they please, thinking that this is the only way to achieve the desired results. However, our holy Torah teaches that there *is* a Controller of the world and that man is required to take into account that the world is not ownerless. He must know that all that was done and all that will be done is taken into account and that nothing is hidden from the eyes of Hashem. If he causes any harm, he is only harming himself. He will be forced to stand trial for every action and deed and will be punished accordingly. The punishment of one who knows his Owner and rebels against Him is worse than one who does not know and sins accidentally.

Why is the Torah More Stringent With a *Ganav* than With a *Gazlan*?

Now we can explain the Torah's intention. Indeed, the question we posed above is explained in *Masechet Baba Kama* (79b): The students of Rabban Yochanan ben Zakkai asked him why the Torah was more stringent with a *ganav* than with a *gazlan*. He answered that a *gazlan*, by stealing in full view of others, placed the honor of the slave [-man] on the same pedestal as the honor of the owner [-Hashem]. Whereas the *ganav* did not place the honor of the slave on the same pedestal as the honor of the owner; rather, he feared the slave more. The *ganav* acted as if the eye Above did not see and the ear Above did not hear.



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This teaches us to what extent the Torah takes into account the root of man's actions, and according to this is his punishment. Man's actions are not merely measured by the monetary damage that they caused. Therefore, since a *gazlan* does not display greater fear of man than of Hashem, the Torah is more lenient regarding his punishment. However, a *ganav*, who reveals that he has greater fear of man than of Hashem, shows that he does not believe that there is an eye that watches from Above. This lack of faith is the root cause of sins and wicked deeds. Therefore, the Torah multiplied his punishment so that he will be inspired to perform a spiritual accounting.

"It Should be His Will that Fear of Heaven Should be Upon You Like Fear of Flesh and Blood"

It is similarly related in *Masechet Berachot* 28b that when Rabban Yochanan ben Zakkai grew ill, his students entered to visit him. They asked him for a blessing, to which he responded, "It should be His Will that fear of Heaven should be upon You like fear of flesh and blood." His students were surprised and asked him if they were not required to have more Heavenly fear than that equal to their fear of man. He responded that he wishes that they should fear Hashem as much as they fear man. As proof, he mentioned that when man sins, he says that he hopes that no man sees him. **This once again teaches us how man is more concerned about a human being seeing him than Hashem, just like the *ganav*.**

The Tanna Teaches to Gaze at Three things

This is as Rebbi teaches in *Masechet Avot* (2:1), "What is the straight path that man should choose for himself? Whatever is a credit for himself and earns him the esteem of man. And be as careful with a 'minor' mitzvah as with a stringent one, for you do not know the reward for mitzvot ... **Consider three things and you will not come to sin. Know what is above you – an eye that sees and an ear that hears, and all of your deeds are written in a book.**" In present times, Hashem has given us a tangible example of this: we see how satellites in the sky can see, hear, and bear testimony to everything that takes place from one end of the world to another in literally an instant. Now, it is the nature of man to be fearful of performing a misdeed before cameras that can testify about what he did. This is as we find today that in distinguished offices they record conversations so that the worker knows that he must speak nicely and respectfully, for he fears that they will hear his speech. They also set up camera so that they can watch over the workers. This is something that is even relied upon in *kashrut* supervision, since it generates fear amongst the workers. Therefore, when man contemplates that Hashem has a gigantic satellite in Heaven which can testify from the time of the creation of the world until the end of time, everything that happens in the world to each and every individual and can show pictures and videos, as well as record each word that was spoken – how could he sin and go against the Will of His Creator?

"I Always Place Hashem Before Me"

It is ruled in *Shulchan Aruch (Orach Chayim 1:1 in the Rema)*, "'I always place Hashem before me' (*Tehillim* 16:8) – this is a great fundamental of the Torah and of the levels of the *tzaddikim* who walk before Hashem. For man's sitting, movements, and dealings are not the same when he is sitting alone in his home, like his sitting, movements, and dealings when he is before a great king. Nor is his speech the same like when he is with the members of his household and relatives, like his speech when he sits with a king. All the more so, when a man thinks that the great king *Hakadosh Baruch Hu*, whose Glory fills the whole land, stands over him, and sees his actions ... the fear and subordination from fright of Hashem will immediately come upon him, as well as his constant shame before Him." This teaches us that man's greatest guard to prevent him from sin is thinking, "I always place Hashem before me."

An Allusion to Something that Leads to Happiness

The *Rema* concludes *Shulchan Aruch, Orach Chayim* with the words of the *pasuk*, "And [- for the one who has] a happy heart, it is constantly a celebratory feast." I believe that it is possible to connect the beginning of *Shulchan Aruch*, which starts with "I always place Hashem before me," and the conclusion of *Shulchan Aruch*, which ends with a reference to happiness. For the *pasuk* states in *Tehillim* (ibid.), "I have placed Hashem before me always; since He is at my right hand, I will not falter." It then states in the following *pasuk*, "Therefore my heart is happy,



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and my soul rejoices; even my flesh rests assured." This is as the commentators have stated that through fulfilling the dictate of "placing Hashem before me," man merits guarding himself from sin. As a result, he merits rejoicing. See *Birkei Yosef* (697:2) who explains differently.

The Mishnah Berurah Quoting the Arizal

Commenting on the aforementioned words of the *Shulchan Aruch*, "and of the levels of the *tzaddikim*," the *Mishnah Berurah* (1:4) writes that one should always imagine how he is standing before Hashem, because He fills the whole world with His Glory. He quotes the Arizal as saying that he should always imagine Hashem's Four Letter Name before his eyes [he also mentions which *nekudot* to visualize beneath the letters]. He writes that this is the secret of "I always place Hashem before me," and says that it has a great effect on one's Heavenly fear.

The Heavenly Maggid Reveals the Secret of Success to Maran the Beit Yosef

In the *sefer Maggid Meisharim (Parashat Ki Tisa, Mahadura Kama)*, Maran the Beit Yosef is instructed to constantly focus his thoughts on Hashem with dread and fear, and he should constantly visualize Hashem's Four Letter Name before his eyes, written in black ink. As David HaMelech said, "I always place Hashem before me." He was told that this will enable him to be constantly humbled and tremble before Hashem. He was further instructed to remove all extraneous thoughts from his heart, and not to think about his dealings except for in the washroom, a dirty place. For he was told that thinking about his dealings will not benefit him; on the contrary, they will damage him. Therefore, he should be wary of them. He should designate his heart and thoughts exclusively to Divine service. He was told that If he does so, he will merit having the words, "This is the *reish metivta (rosh yeshiva)*" written on his forehead.

Story About the Vilna Gaon or R' Zundel of Salant

There is a story told about either the Vilna Gaon or R' Zundel of Salant: One day he was being driven in a wagon. He and the wagon driver passed through fields on their journey. The driver saw that there was no one there to stop him, so he allowed his horses to graze from the fields. Suddenly, the Gaon or R' Zundel noticed this and screamed out, "They see you! They see you!" The driver got scared and immediately sped away in his wagon lest he be caught stealing. However, after the horses had galloped away, he looked in each direction, but did not see anyone. He therefore asked the Rav incredulously, "Why did you scream? There was no one there!" The Gaon or R' Zundel pointed Heavenward and said, "My son, they see you from *Heaven*. This is as our Sages state, that there is 'an eye that sees and an ear that hears, and all of your deeds are written in a book.' Therefore, why are you not afraid of the eye of Hashem which sees you?"

Mussar of the Chafetz Chayim

Dozens of years ago, individuals approached the Chafetz Chayim and told him about the invention of the camera, praising it for being a brilliant invention. "No," The Chafetz Chayim replied. "The world is not progressing; rather it is moving backwards. This is why these things are being invented." The people did not understand the Chafetz Chayim's answer, so he explained, "In previous generations, people were full of faith. They learned from the *mishnah* that Above there is an eye that sees and an ear that hears, and they knew that this was so. But in our times, people have become dispassionate and their faith has lessened. They are unsure what it means that there is an eye that sees. They say, 'Yesterday I committed a sin and tomorrow I will stand trial. Who will say that I sinned?' They also do not know what it means that there is an eye Above that hears. They say, 'Yesterday I spoke improperly – what will they show me tomorrow?' It furthermore states that 'all of your deeds are written in a book.' People ask, 'Which book? How are the deeds written?' Therefore, they sent down the invention of the camera to the world. 'You see?' they will be told, 'Your deed has been eternalized.' They invented the Gramophone – 'You see? What you just spoke is not lost.'" So explained the Chafetz Chayim. It appears that in the time of the Chafetz Chayim, the simple camera and the primitive Gramophone were enough to serve as models of the concept that there is an eye that sees and an ear that hears. However, in our times, there are examples that deliver this message in a much more striking fashion. There is a spy satellite that floats around in the sky and photographs each and every item and movement. There are wireless voice recorders that record sounds from far



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distances. This is all so that we have something tangible with which to grasp the concept that everything is photographed and recorded and will ultimately be played back for us in a future broadcast.

Words of Mussar

We have learned just how much man lives with an erroneous perspective. He lives like a *ganav* who fears human beings more than Hashem. This is because he mistakenly thinks that there is no one who sees or hears his actions and words. This is why man falls to sin and other reprehensible deeds. However, one who is wise will contemplate that which he sees in present times; how it possible to see from one end of the world to another and hear from one end of the world to another with a device that can fit into the palm of his hand. All the more so, is everything that he does and speaks seen and heard by the world's most gigantic satellite dish before Hashem. He should therefore weigh his deeds and words on a scale and guard his soul from stumbling to sin. The more he internalizes this true reality, so too, will he improve his ways and merit in both this world and the next all of the good which is stored away for the *tzaddikim*. Amen.

Shabbat Shalom U'Mevorach,
Rav Mordechai Malka