

Parashat Mishpatim: The Dignity of Thieves

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The reason that graven images are forbidden is not that God has no image, but rather because God has just one image: the image of every breathing and living human being.

1. Theft and Human Dignity

Shemot 21:37

כִּי יִגְנֹב-אִישׁ שׁוֹר אוֹ-שֶׂה וּטְבַחוֹ אוֹ מִכְרוֹ חֲמִשָּׁה
בָּקָר יִשְׁלַם תַּחַת הַשּׁוֹר וְאַרְבַּע-צֹאן תַּחַת הַשֶּׂה:

When any party steals an ox or a sheep and slaughters it or sells it, that person shall pay five oxen for the ox and four sheep for the sheep.—

Bavli Bava Kamma 79b

שָׁאֵלוּ תַלְמִידָיו אֶת רַבִּן יוֹחָנָן בֶּן זַכַּאי: מִפְּנֵי מָה
הַחֲמִירָה תּוֹרָה בְּגֵנֵב יוֹתֵר מִגָּזֵל? אָמַר לָהֶן: זֶה –
הַשּׁוֹה כְּבוֹד עֶבֶד לְכְבוֹד קוֹנוֹ, וְזֶה – לֹא הַשּׁוֹה כְּבוֹד
עֶבֶד לְכְבוֹד קוֹנוֹ.

His students asked Rabban Yohanan ben Zakkai: For what reason was the Torah stricter with a thief than with a robber? Only a thief is required to pay the double, fourfold, or fivefold payment, not a robber. Rabban Yohanan ben Zakkai **said to them** in response: **This one, the robber, equated the honor of the servant to the honor of his Master, and that one, the thief, did not equate the honor of the servant to the honor of his Master.** The robber fears neither God nor people, as he is not afraid to rob in public. The thief does not fear God but he does fear other people, which demonstrates that he is more concerned about humans than God.

כְּבִיכּוֹל עֹשֶׂה עֵין שֶׁל מַטֶּה כְּאִילוֹ אֵינָה רוֹאָה, וְאוֹזֶן
שֶׁל מַטֶּה כְּאִילוֹ אֵינָה שׁוֹמְעֶת, שֶׁנֶּאֱמַר: "הוֹי
הַמַּעֲמִיקִים מֵה' לְסַתֵּר עֲצָה, וְהָיָה בְּמַחְשֵׁךְ
מַעֲשֵׂיהֶם וְגו'"; וּכְתִיב: "וַיֹּאמְרוּ לֹא יִרְאֶה יְהוָה וְלֹא
יִבִּין אֱלֹהֵי יַעֲקֹב"; וּכְתִיב: "כִּי [אָמְרוּ] עֲזַב ה' אֶת
הָאָרֶץ, וַאֲיִן ה' רֹאֶה".

As it were, the thief establishes the eye below, i.e., God's eye, as though it does not see, and the ear below, i.e., God's ear, as though it does not hear. The Gemara cites verses that describe people who imagine that God does not see their actions, **as it is stated: "Woe to them who seek deeply to hide their counsel from the Lord, and their works are in the dark, and they say: Who sees us, and who knows us?" (Isaiah 29:15). And it is written: "And they say: The Lord will not see, neither will the God of Jacob give heed" (Psalms 94:7). And it is written: "For they say: The Lord has forsaken the land, and the Lord does not see" (Ezekiel 9:9).**

¹ All translations are from Sefaria, unless otherwise noted.

<p>תניא, אמר רבי מאיר: משלו משל משום רבן גמליאל, למה הדבר דומה? לשני בני אדם שהיו בעיר ועשו משתה, אחד זימן את בני העיר ולא זימן את בני המלך, ואחד לא זימן את בני העיר ולא זימן את בני המלך. איזה מהן עונשו מרובה? הוי אומר: זה שזימן את בני העיר ולא זימן את בני המלך.</p>	<p>It is taught in a <i>baraita</i> that Rabbi Meir said: To illustrate the severity of a thief over a robber, as per Rabban Yohanan ben Zakkai's explanation, they stated a parable in the name of Rabban Gamliel. To what is this matter comparable? To two people who were living in the same city, and both of them prepared a feast. One of them invited the people of the city to his feast but he did not invite the king's sons. And the other did not invite the people of the city and also did not invite the king's sons. Which of them deserves a greater punishment? You must say that it is this one who invited the people of the city but did not invite the king's sons. Likewise, both the thief and the robber show disdain for God, but the robber does not display more respect for people.</p>
<p>אמר רבי מאיר: בא וראה כמה גדול כח של מלאכה, שור, שביטלו ממלאכתו – חמשה; שה, שלא ביטלו ממלאכתו – ארבעה.</p>	<p>Rabbi Meir said: Come and see how great the power of labor is. The theft of an ox, which was forced by the thief to cease its labor, leads to a fivefold payment; whereas the theft of a sheep, which was not forced by the thief to cease its labor, as a sheep performs no labor, leads to only a fourfold payment.</p>
<p>אמר רבן יוחנן בן זכאי, בא וראה כמה גדול כבוד הבריות: שור, שהלך ברגליו – חמשה; שה, שהרכיבו על כתיפו – ארבעה.</p>	<p>Rabban Yohanan ben Zakkai said: Come and see how great human dignity is. The theft of an ox, which walked on its own legs as the thief stole it, leads to a fivefold payment, whereas the theft of a sheep, which the thief carried on his shoulder as he walked, thereby causing himself embarrassment, leads to only a fourfold payment.</p>

2. A Thief's Human Dignity

Rashi on Shemot 21:37	
<p>חמשה בקר וגו'. אמר ר' יוחנן בן זכאי חס המקום על כבודן של בריות – שור שהולך ברגליו ולא נתבזה בו הגנב לנשאו על כתפו, משלם חמשה, שה שנושאו על כתפו, משלם ארבעה הואיל ונתבזה בו. אמר רבי מאיר בא וראה כמה גדול כחה של מלאכה – שור שביטלו ממלאכתו חמשה, שה שלא ביטלו ממלאכתו ארבעה (מכילתא, בבא קמא ע"ט):</p>	<p>חמשה בקר וגו' – Rabban Yohanan ben Zakkai said, "The Omnipresent has much consideration for the honor of His creatures: when an ox — an animal that can walk by itself — has been stolen and sold or slaughtered, in which case the thief had not to degrade himself by carrying it on his shoulder, he has to pay fivefold restitution. In the case of a lamb, however, which he had to carry on his shoulder, he has to pay only the fourfold because he was forced to degrade himself by carrying it". Rabbi Meir said, "Come and see how great is the virtue of labor: In the case of the theft of an ox which he (the thief) withdrew from its labor, thereby causing a loss to its owner, he has to repay five oxen, in the case of a lamb which he has not withdrawn from its labor — only four (Bava Kamma 79b).</p>

3. Human Dignity and Mitzvot

Bavli Berakhot 19b	
<p>תא שמע: גדול כבוד הבריות שדוחה [את] לא תעשה שבתורה.</p>	<p>The Gemara cites an additional proof from a <i>baraita</i>: Come and hear: Great is human dignity, as it overrides a prohibition in the Torah.</p>