

MESHECH CHOCHMAH

Parshas Ki Teitzei

Hashavas Aveidah

לֹא תִרְאֶה אֶת שׁוֹר אֶחִיד אוֹ אֶת שֵׂי נִדְחִים וְהִתְעַלְמָתָ מֵהֶם הֲשִׁב תְּשִׁיבָם לְאֶחִיד. וְאִם לֹא קָרֹב אֶחִיד אֵלֶיךָ וְלֹא יִדְעָתוּ וְאִסְפָּתוּ אֶל תּוֹךְ בֵּיתְךָ וְהָיָה עִמָּךְ עַד דָּרַשׁ אֶחִיד אֹתוֹ וְהִשְׁבֵּתוּ לוֹ.

You shall not see your brother's ox or sheep wandering and hide yourself from them; you shall surely return them to your brother. If your brother is not near to you and you do not know him, then you shall gather it inside your house, and it shall remain with you until your brother inquires after it, and you shall return it to him. (22:1-2)

One of the many mitzvos discussed in our parsha is that of *hashavas aveidah* – returning lost property. The halachos pertaining to this mitzvah are discussed extensively in the Gemara;¹ yet the Meshech Chochmah demonstrates how returning to the pesukim *after* seeing the Gemara's discussions will provide yet further illumination into these halachos.

PLURAL AND SINGULAR

If we look closely at these pesukim, we will note that there is a shift in the Torah's use of grammar:

- ▶ The opening phrase refers to the two items – the ox and the sheep – in the plural: “נִדְחִים – (wandering),” “הֲשִׁב תְּשִׁיבָם – You shall surely return *them*.” Indeed, this reflects the norm for these cases, as we can see in pasuk 4: “לֹא תִרְאֶה אֶת חֲמוֹר אֶחִיד אוֹ שׁוֹר נִפְלִים בַּדֶּרֶךְ וְהִתְעַלְמָתָ מֵהֶם – You shall not see your brother's donkey or ox falling on the road and hide yourself from *them*.”
- ▶ The second pasuk refers to these items in the singular: “וְאִסְפָּתוּ – you shall gather *it* in,” “וְהִשְׁבֵּתוּ לוֹ” – and you shall return *it* to him.”

What is behind the shift in the second pasuk from the plural to the singular?

¹ Bava Metzia, second Perek (“*Eilu Metzios*”).

TO FEED OR TO SELL

The Meshech Chochmah explains. The Gemara² discusses what happens when a person finds his fellow's animal and takes it in pending identifying the owner: should he feed it and care for it indefinitely? The background to this question is that the finder is not obligated to expend money on the upkeep of the animal; ultimately, the owner will need to reimburse him for any expenses, so that the longer he feeds the animal the more the owner will need to reimburse him. If this continues indefinitely, the expenses could conceivably exceed the value of the animal and he could end up causing a loss for the owner! The Gemara distinguishes between two types of animals:

- ▶ If the animal generates income, such as a sheep whose shearing can be sold, then the finder uses that value to offset the expense of the animal's upkeep.
- ▶ If the animal does not generate income, such as an ox that one cannot use for plowing, then once a reasonable amount of time has passed and the owner has not been identified, the finder should actually sell the animal so as not to lose its value. In this way, he will have what to return to the owner, in the form of money, if he should subsequently appear.

This second law is derived from concluding words of pasuk 2: “וְהֵשִׁבְתוּ לֵרֵאשִׁיתוֹ” which the Gemara explains to mean: “See to it that you have something to return to him,” i.e. that the value of the lost object should not itself be lost entirely as reimbursement for its upkeep.

FLEECE THE SHEEP?

In light of this background, let us consider the following scenario: A person finds an ox and a sheep wandering, and thus becomes obligated to find their owner and return them to him. The ox is of the type that provides no income, but the sheep is capable of providing income equivalent to the upkeep of both itself and the ox. In such a situation, should he keep both?

The Meshech Chochmah states that in this case the finder should sell the ox. The reason, very simply, is that he does not know if these two animals belong to the same person! If they in fact belong to two different people, the extra income generated by the one person's sheep cannot be expected to cover the expenses of someone else's ox, hence, the ox should be sold as if it were the only object found.³

It is for this reason, says the Meshech Chochmah, the second pasuk departs from the norm of the plural form and instead uses the singular – “return *it*”. Since this pasuk deals with the scenario where the person needs to take the animal into his house and care for it until he finds the owner, the Torah informs us that this decision is one that needs to be made regarding each found item *individually*, not collectively.

SINGLE AND DOUBLE PHRASING

Another point to take note of in these pesukim is the double phrasing at the end of the first pasuk: “הָשִׁבְתָּ בְּיָמֶיךָ” which is commonly translated as: “You shall surely return

2 Bava Metzia 28b.

3 The Meshech Chochmah further considers that even if it can somehow be established that both animals belong to the same person, nevertheless, the equation of income vs. expenses is something that takes place with each item individually.

them.” This, too is noted by the Gemara⁴ and is explained as the Torah expanding the options for returning these lost objects, as follows. Generally, if one has in his possession something belonging to someone else, e.g. he is a guardian for that object, when he wishes to return it to the owner he is required to inform him that he has done so. When it comes to *hashavas aveidah*, however, this is not necessary. As long as he has returned it to the premises of the owner in a way where it is not at risk, he has fulfilled his obligation. This leniency is derived from the additional word “הָשִׁיב,” which denotes: “Under any circumstances,” i.e. even without informing the owner.

Here, too, we note a shift in this regard between the first and second pesukim, for when the obligation to return the object is reiterated in the second pasuk, just the (standard) single phrasing is used: “וְהָשִׁיבְתוּ לוֹ” – You shall return it to him.” What is behind this change?

THE OWNER’S LOOKOUT

The Meshech Chochmah prefaces his explanation by establishing that the normal dispensation regarding having to inform the owner that one has returned his lost object is based on two considerations:

- ▶ The finder did not volunteer to look after the object, he was obligated to do so by the Torah. Hence, his obligations in returning it are minimized.
- ▶ The owner is presumed to be hopeful and hence *looking out for the lost object*, such as that he will notice when it has been returned to his premises, making the obligation to inform him that this has happened unnecessary.

As such, should one of these factors be absent, then the finder would indeed be required to inform the owner that he had returned his lost property. What would be an example of such a case?

As we have noted, pasuk 2 deals with the obligation to convert the lost object into monetary form if its upkeep threatens to exceed its value. Indeed, the words “וְהָשִׁיבְתוּ לוֹ” are expounded as saying, “See to it that you actually end up returning something to him!” In this case, the finder is not actually returning the object that was lost, but rather, a sum of money. Since the owner lost an animal, he cannot be expected to be looking out for money and, as such, the finder *would* need to inform him when he returns the monetary value. For this reason, says Meshech Chochmah, there is no double-phrasing in the second pasuk, for the finder does not have the additional option of not informing the owner represented by the extra word “הָשִׁיב”.

⁴ Bava Kama 57a. The Gemara is clearly not content with translating the double usage as denoting “surely,” which does not effectively add anything to the mitzvah. Most mitzvos are presented in the Torah using just one expression and they are all surely to be performed.