



# CLASSIC DAF KESHER

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## PARSHAT MISHPATIM פרשת משפטים

### DVAR TORAH

## REWARDING THE UNSUCCESSFUL WATCHDOG

"Meat torn in the field," says the Torah, should be "thrown to the dog" (Shemot 22:30). Instead of saying "You should throw it to a dog," the Torah says: "לְכֹלֵב תַּשְׁלֹכוֹן אֹתוֹ" – "You should throw it to **the** dog." Who is this dog? Which particular dog does Hashem want to be the recipient of this non-kosher meat?

Ibn Ezra, Chizkuni, and Daat Zekenim (by the Baalei Hatosafot) all say that **the** dog is the watchdog protecting a flock of sheep. A hostile wolf or lion approaches the flock. The dog barks, tries to scare him off, but the predator kills a sheep. When a sheep is found torn up, says the Torah, you should throw it to that dog.

According to the Daat Zekenim, in the middle of this verse describing human holiness – "Be for Me holy people. Don't eat meat that has been torn in the field. Rather, throw it to the dog" – Hashem weaves in a message about basic morality. "Since the dog risked his life over that carcass when the wolf came to attack it, don't be ungrateful to it. Rather, when you have a torn animal you should throw it to the dog as a reward for the watching he did up until now, as well as for watching the rest of the flock." You must show gratitude to your watchdog – even when he is unsuccessful at fending off the wolves.

The Torah is extremely concerned about gratitude – Moshe does not strike the Nile because it saved him as a baby, or the sands of Egypt because they helped him bury the Egyptian who struck the Jew – but this verse takes it a step further. We show gratitude to the watchdog when he did **not** achieve the desired results.

This is a process-oriented, not a results-oriented approach. The results-oriented approach would have encouraged the dog when he successfully keeps away wolves, but withheld the meat when the wolf wins.

We find a similar approach in a Talmudic anecdote where one of the great Amoraim, Rabbah son of Rav Chanan, learned a lesson from the leader of the first generation of Amoraim, Rav. Rabbah had hired some penniless porters to move a barrel of wine from one place to another, but they broke the barrel. He exacted payment for the wine by claiming their cloaks. They took Rabbah to court, and Rav told Rabbah to return the cloaks (seemingly against an explicit ruling of a Mishnah). When Rabbah asked Rav if that is the law, he replied, "Yes. 'You should go in the way of the good' (Mishlei 2:20)." The porters then said to Rav that they are poor, worked all day, and are hungry. Rav then told Rabbah to pay them their wages. When Rabbah once again asked if that is the law, Rav once again said yes, and quoted the last three words of the same verse, "וְיִאָּרְחוּת צְדִיקִים תִּשְׁמֹר" – "You should keep the pathways of the righteous."

Note that Rav does not tell Rabbah to give them charity. He instead tells him to pay the porters **their wages**. Though they are contractors and didn't successfully do the job, Rabbah is still told to pay them for their attempt at moving the barrel, not for successfully moving it. Just as we show gratitude to the unsuccessful watchdog because we value his efforts, Rabbah was instructed to pay the porters for their efforts, not their results.

## SOURCE GUIDE: THE TWO WIVES

One verse in our parshah is the subject of a Talmudic anecdote. It involves a teacher who compares his two students to two wives pulling out their joint-husband's hairs. That anecdote is the subject of this source guide.

### A. The Rav, the Two Talmidim, and the Two Wives

Here is the anecdote:

<p><b>1. Bava Kamma 60b</b> Rabbi Ammi and Rabbi Assi were sitting before Rabbi Yitzchak Nafcha. One of the Amoraim said, "The master should say a halachah." The other said, "The master should say an aggadta." He began to say aggadta but the other Amora did not allow him to proceed. He began to say halachah but the other Amora would not let him proceed.</p>	<p><b>בבא קמא ס:</b> יחיב רבי אמי ורבי אסי קמיה דר' יצחק נפחא. מר א"ל "לימא מר שמעתתא" ומר א"ל "לימא מר אגדתא." פתח למימר אגדתא ולא שביק מר. פתח למימר שמעתתא ולא שביק מר.</p>
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At this point the frustrated Rabbi Yitzchak Nafcha turned to them:

<p><b>2. Bava Kamma 60b</b> I'll give you a parable for this. What can my situation be likened to? It can be compared to a man who had two wives, one young and one old. The young wife plucks out his white hairs. His old wife plucks out his black hairs. He ends up bald from this here and there.</p>	<p><b>בבא קמא ס:</b> אמר להם: אמשול לכם משל. למה הדבר דומה? לאדם שיש לו שתי נשים, אחת ילדה ואחת זקינה. ילדה מלקטת לו לבנות. זקינה מלקטת לו שחורות. נמצא קרח מכאן ומכאן.</p>
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#### Questions to Think About:

1. Why does the old wife pluck out her husband's black hairs and why does the young wife pluck out the white hairs?
2. He brings a **משל**, a parable, but doesn't spell out the **נמשל**, what it corresponds to in his situation. Who and what in the parable corresponds to who and what in the Rabbi Yitzchak Nafcha situation, Rav Ammi and Rav Assi sitting before him stopping him from teaching? Who is the husband? What corresponds to the black hairs and the white hairs? What corresponds to plucking out hairs and baldness?
3. Finally, **who do the two wives in the parable correspond to** in the anecdote about Rabbi Yitzchak Nafcha and his two students?

### B. Halachah and Aggadah & the Two Wives

In order to answer these questions better, we must define halachah and aggadah. The Talmud, and the Oral Torah in general, is often divided into two genres, halachah and aggadah.

**Halachah** instructs us what to do in the many scenarios life presents and teaches us how to categorize things and people so we can apply the mitzvot. Halachah answers questions like: Is this permitted or prohibited? Is this valid or kosher or invalid or non-kosher? Is one obligated to do this, absolved from it, or is it just permissible? Is this impure or pure? Halachic rulings are guided by halachic principles as understood and communicated to us by the Tannaim and Amoraim, and often derived from verses of the Written Torah. **Aggadah** (or, in Aramaic, aggadta), which makes up a good portion of the Talmud and the bulk of the Midrashim, includes all the rest: anecdotes, commentary on Tanach, philosophy, mysticism, advice, and even folk sayings. Aggadah has been defined as the non-halachic portions of the Torah.

Sages of halachah and aggadah are contrasted in this comment on a verse in Yishayah:

<p><b>3. Chagigah 14a</b> "Every support of bread" (Yishayah 3:1) – This refers to the masters of Talmud, as it says, "Come and partake of my bread, and drink of the wine I pour" (Mishlei 9:5). "Every support of water" (Yishayah 3:1) – This refers to the masters of aggadah,</p>	<p><b>תגיגה יד.</b> "כל משען לחם" (ישעיה ג:א) – אלו בעלי תלמוד, שנאמר, "לכו לחמו בלחמי ושתי ביין מסכתי." "וכל משען מים" (ישעיה ג:א) – אלו בעלי אגדה שמושכין לבו של</p>
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that draws a person's heart like water.

אדם כמים.

Here are three more sources that deal with the contrast between halachah and aggadah:

**4. Yalkut Shimoni on Shemot 15:26**

"You should do that which is upright" – these are the praiseworthy aggadot that are heard by everyone's ears. "You should listen to His mitzvot" – these are the gezerah shavah derivations. "You should keep all of his laws" – these are the halachot.

**5. Vayikra Rabbah 1:2**

"They will be revived like grain" (Hoshea 14:8) – through Talmud, "And they will flourish like the grapevine" – through aggadah.

**6. Shir Hashirim Rabbah 2:16**

"Support me with wine-filled vessels" (Shir Hashirim 2:16) – these are the halachot that support, "Strengthen me with apples" – these are the aggadot whose smell and taste are like apples.

**ילקוט שמעוני על שמות טו:כז**  
... "והישר בעיניו תעשה" – אלו אגדות משובחות הנשמעות באזני כל אדם. "והאזנת למצותיו" – אלו גזרות שוות. "ושמרת כל חקיו" – אלו הלכות.

**ויקרא רבה א:ב**  
"יחיו דגן" (הושע יד:ח) – בתלמוד, "ויפרחו כגפן" באגדה.

**שיר השירים רבה ב:טז**  
"סמכוני באשישות" (שיר השירים ב:ה) – אלו ההלכות המאוששות, "רפדוני בתפוחים" – אלו ההגדות שריחן וטעמן כתפוחים.

To learn more about this topic see Harav Avraham Yitzchak Hakohen Kook, ל"ז's essays on halachah and aggadah in Harav Moshe Tzvi Neriah, ל"ז's Mishnat Harav.

**C. Hashem's Fire, Hashem's Arrows**

Here is Rabbi Yitzchak Nafcha's solution:

**6. Bava Kamma 60b**

He said to them: If so, I will tell you something that is equally good for both of you. "When fire will go out and take hold of thorns" – "go out" by itself." "The one who lit the fire should surely compensate." Says the Holy One, blessed be He: "I lit a fire in Zion," as it says, "He lit a fire in Zion and consumed its foundations" (Eichah 4:11). "And I will in the future rebuild it with fire," as it says, "I will be for it a wall of fire surrounding it, and will be honor within it" (Zechariah 2:9). A halachah: The verse opens with [a formulation appropriate for] damage done by one's property and closes with [a formulation appropriate for] damage done with one's own body. This teaches you that damage through fire is tantamount to shooting arrows at a victim.

**בבא קמא ט:**  
אמר להן: אי הכי, אימא לכו מלתא דשויה לתרויכו. "כי תצא אש ומצאה קוצים" – "תצא" מעצמה. "שלם ישלם המבעיר את הבערה." אמר הקדוש ברוך הוא: "עלי לשלם את הבערה שהבערתי. אני הציתי אש בציון," שנאמר "ויצת אש בציון ותאכל יסודותיה" (איכה ד:יא), "ואני עתיד לבנותה באש," שנאמר "ואני אהיה לה חומת אש סביב ולכבוד אהיה בתוכה" (זכריה ב:ט). שמעתתא: פתח הכתוב בנוקי ממונו וסיים בנוקי גופו לומר לך אשו משום חציו.

Rabbi Yitzchak Nafcha found one concept that manifests itself in both halachah and aggadah. Fire has the characteristic of being both an independent force and an extension, a long hand, of the one who lit it. Damages are categorized as either done by one's property or done by one's own body. If a person lights a fire that spreads and damages he must compensate according to the rules of damaging with one's own body. Fire is considered (at least according to Rabbi Yochanan on Bava Kamma 22a) like the damager's "arrows." Shooting an arrow is considered damaging with one's own body – no different than hitting someone with his hand – and so is lighting a fire. Similarly, Hashem takes responsibility for the fire that burnt the Beit Hamikdash. Even though it seemed that independent forces burnt it – the Babylonians and Romans – they were, ultimately, Hashem's "arrows." He promises to repay by rebuilding a Beit Hamikdash with fire – we pray – speedily in our days.

## HEART AND MIND BY RABBI MENDEL FARBER

Rashi asks why the civil laws, the דינים, that begin our Sidra immediately follow the laws of the מזבח, the altar, at the end of Parshat Yitro. He answers that this teaches us that the seat of the Sanhedrin should be near the מזבח. The Torah, represented by the Sanhedrin, must be together with the Temple, the בית המקדש.

This בית המקדש–Torah connection also appears in a prayer we say every day: "שיבנה בית המקדש במהרה בימינו ותן חלקנו בתורתך – חלקנו בתורתך" – We ask Hashem to build the בית המקדש speedily in our days and to grant us our portion in His Torah. The Maharal teaches us: Just as a human being has two primary organs, the mind and the heart, so the world has two parallel primary organs, its heart, the בית המקדש, and its mind, the Torah. Just as the body's life force is distributed throughout the body by the heart, so life is distributed throughout the universe through the בית המקדש. And just as the mind is the intellectual essence of the human being, so the Torah is the conceptual essence of the world. Just as the heart and the mind must not be separated, so the Sanhedrin, the center of Torah, must be at the entrance of the בית המקדש.

It is interesting that on שבת we include ותן חלקנו בתורתך in the middle of the main berachah of the Amidah without mentioning the בית המקדש along with it. Why is this? This seems to go against the Torah-בית המקדש inseparability.

Not at all. Rather, on שבת the entire world becomes a בית המקדש! This is alluded to in Tehillim. The only two chapters of Tehillim that begin with the words מזמור שיר ליום השבת are מזמור שיר ליום השבת (Tehillim 92) and מזמור שיר חנוכה (Tehillim 30). Also, in לכה דודי we sing to שבת and we also sing to the בית המקדש: "מקדש מלך עיר מלוכה" – "The King's Sanctuary, the city of royalty."

Let us try, with Hashem's help, to incorporate the קדושה of שבת in ourselves and in our homes, making us and our homes into בתי מקדש from which the light of Torah will radiate to the entire world.

שבת שלום ומבורך

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at [www.darchenoam.org](http://www.darchenoam.org) & +972-2-651-1178  
5 Beit Hakerem Street, Jerusalem

To dedicate a Shapell's Classic Daf Keshet contact  
[emuna@darchenoam.org](mailto:emuna@darchenoam.org)

The Daf Keshet, a project of Shapell's Darche Noam, is written  
by Rabbi Eliezer Kwass.



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