

**MISHPATIM (EXODUS 21:1-24:18)**

## Double Trouble

2003 · Rabbi Yerachmiel Sepowitz

What is the best way to discourage theft? Jail time? A prison sentence is often counterproductive.

The Torah has a very unique way of punishing someone for stealing. Hit him in the pocketbook. If he steals ten dollars, he has to pay back twenty. A fifteen hundred dollar computer will cost him three thousand. If he steals a million dollars, the payback is two million.

This is a very effective deterrent. People steal in order to get more money/possessions than they already have. Therefore, the Torah makes sure that his efforts will backfire. By charging the thief double, we set him further back financially than he was before he started. He will certainly think twice before he tries this backward way of expanding his portfolio.

(What if he can't afford to pay? See "Human Rights: Body Piercing And Slavery".)

There are several exceptions to this rule:

\* This double payment applies only to theft, not robbery. A thief is one who sneaks into your house and steals from you. A robber is someone who forces you to give him your possessions. A robber is exempt from paying double. One might think that it should be the other way around. We normally tend to consider a robber to be worse than a thief. After all, he shows flagrant disregard for your property, and stares you in the face and takes from you.

The Torah looks at it differently. Who is worse, a robber, who shows disregard for both G-d and man and takes what he wants, or a thief, who sneaks around in fear of man, with obvious scorn for G-d's will? The thief receives the greater punishment, because he fears man more than he fears G-d.

\* If he confesses, he only pays back the principle, and the fine is canceled. The Torah encourages honesty and repentance. Why should he confess? He may as well deny it, and HOPE to get away with it. By canceling the fine, the Torah gives the thief a good reason to come clean.

\* In almost all cases, the thief pays double. However, if he steals an ox or a sheep, the law is different. If the animal is still available to be returned, the law is the same. He needs to return the animal, plus a second one or the equivalent value. But, if the ox or sheep has been sold or slaughtered, the fine is not just double. In this case, he has to pay quadruple for the sheep, and QUINTUPLE for the ox! (Exodus 21:37)

Two questions:

1. Why is the fine for stealing these two animals and slaughtering or selling them different from everything else? What is unique about these two animals that they deserve an enhanced payback?

2) What is the difference between an ox and a sheep that he has to pay four sheep and five oxen?

For the first question, I've never really come across a complete answer. (Any suggestions out there?) One possible answer could be that an ox can be used for plowing, and a sheep can be sheared for its wool. It's bad enough to steal someone's money. But if you steal a person's means of making a living, it's significantly worse. (The reason I'm not so sure about this answer is that this law applies exclusively to an ox and a sheep. It doesn't apply to stealing a cab driver's taxi or a Mohel's scalpel. I'm open to suggestions for a better answer.)

As for the second question, Rabban Yochanan ben Zakai gives us an answer. (Talmud, Bava Kamma, 89b) How do you steal an ox? You put a rope around its neck, and you lead it away. How do you steal a lamb? You pick it up, throw it over your shoulder, and run as fast as you can!

Look at the lamb thief, says Rabban Yochanan. Look how degrading it is to run through the streets with a lamb on your shoulders. How humiliating! Since the act of stealing a lamb is inherently more embarrassing than stealing an ox, the thief is judged as having received part of his punishment already!

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Wait a minute! Since when are we so concerned about the feelings of a thief? Embarrassed? Do we really think he cares? All he wants is to safely escape to where he can broil up some lamb chops! And so what if he cares?! He's a thief! He DESERVES to be embarrassed!

The answer is that nothing escapes G-d's watchful eye. Even a cattle rustler, a despicable individual who thinks nothing of depriving a fellow human being of his livelihood, is considered. He couldn't care less about others, but G-d cares about him. He's the lowest of the low, yet G-d refuses to overpunish him. Indignity is part of his punishment, and it lowers the price he has to pay.

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Humiliation hurts. Even self-inflicted humiliation hurts. Even self-inflicted humiliation endured while committing a crime hurts. And G-d notices.

Imagine how much more so He notices when I embarrass an INNOCENT person whose only crime is being on the wrong end of an argument with me!

Have a great Shabbos. Rabbi Yerachmiel Sepowitz

