

Maamarei Mordechai

הסבר לפי ממש פשוט

Parshas Seitzei 5784

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Moshe continues teaching civil and criminal laws.

**כִּי־יִמָּצָא אִישׁ גֹּנֵב נֶפֶשׁ מֵאֶחָיו מִבְּנֵי יִשְׂרָאֵל וְהִתְעַמְר־בּוֹ וּמָכְרוֹ וּמָת הַגֹּנֵב הֵוא
וּבְעֵרָת הָרַע מִקֶּרְבּוֹ:**

“Because a man shall be found to have kidnapped (lit. stolen a soul) from your brethren – from Bnei Yisroel – he bound him and sold him, that kidnapper (lit. thief) shall die, and you shall sweep out evil from your midst.” (Devarim 24:7).

What does it mean by the kidnapper will be found? Why is a kidnapper called “a thief of life?” Also, what does the pasuk mean by sweeping out evil from your midst?

Kidnapping is mentioned several times in the Torah. It is mentioned in the first issuance of civil and criminal law, by Har Sinai. **וְגֹנֵב אִישׁ וּמָכְרוֹ וְנִמְצָא בְיָדוֹ מוֹת יוּמָת.** “And one who kidnaps a man and sells him, and he is found in his hands, he shall surely die.” (Shmos 21:16). How is it possible to sell the person and that person be found in his hand? The Torah, there, is meaning to qualify the term “steal.” When a person steals another person, with intent to sell him, and that victim is found in the hands of his captors, then that kidnapper must die. In order for the capital punishment to be enforced the person must be found with the victim. Once he sells him there may be other punishments. Then it is not a certain death penalty. I will be up to Beis Din, Shofet, King of the time, to decide and determine what the punishment will be. The pasuk is saying that “stealing a person” is with intent to sell him. Either sell the person back to the family – ransom – or sell him into slavery. Even if the person just kidnaps a child with intent to raise that child as his own, that will fall under our pasuk.

Our pasuk says, the kidnapper binds and sells (or intends to sell) the victim. The binding – keeping the victim in captivity – is enough to show intent and to warrant the death penalty. Until recent times, having children was meant to help out in the household. Children were an extra set of hands in the fields or in housework. Even the rich had children to manage the estate and to be their lawyers. Therefore, even keeping a child for one’s own is selling. The kidnapper is gaining value out of that child.

The Torah also says, “You shall not steal.” (Ibid 20:13). In the Aseres Hadibros it uses the term **לִגְנוֹב**. Obviously, that term means to steal. However, the two pesukim about kidnapping also use that term. Either steal a person or steal a soul. Further, the dibor before is to honor one’s parents and then it is followed by not to testify falsely, and not to covet what a neighbor has. In that context, the stealing means to gain something to the detriment of a fellow. While that can be an object, the familial references of lo tinaf and not to covet, mean something more personal. Thus, it can be inferred that the Aseres Hadibros refers to stealing a person.

“Stealing” also means kidnapping when Yosef recalls how he was kidnapped. כִּי־גָנַב גְּזֻלְתִּי מֵאֶרֶץ הָעִבְרָיִם וְגַם־פֹּה לֹא־עָשִׂיתִי מְאוּמָה כִּי־שָׂמוּ אֹתִי בַבּוֹר: “Because I was surely kidnapped (lit. stolen) from the Land of the Hebrews, and also here I committed no crime, yet they put me into this dungeon.” (Bereishis 40:15). Also, the Torah says, “one that steals an ox or a sheep, and butchers it or sells it...” (Shmos 21:37). That also refers to “kidnapping” the animal for one’s own use. Eat it or sell it. It makes sense, then, that the Torah emphasized the importance of outlawing kidnapping that Moshe would say “in order to sweep out the evil from within your midst.”

This phrase to sweep out evil is used seven times in the Torah. A false prophet or dreamer who tries to sway the people from Hashem, shall be swept away. (Devarim 13:6). A person who practices idolatry in the Land that shall be swept away. (Ibid 17:7). False witnesses shall be swept away. (Ibid 19:19). The wayward son (ben sorer u moreh) shall be swept away. (Ibid 21:21). A young lady who breaks her arison vows and is found wanting, and the man, are swept away. (Ibid 22:21, 24). The kidnapper is swept away. (Ibid 24:7). In every one of these cases the perpetrator is put to death and the evil is considered swept away. There are two more instances where “evil shall be swept away from Yisroel.” A man and woman who break their vows (ibid 22:22) and those that do not follow the rules of the courts, the Kohen, or the Shofet (ibid 17:12), their evil is swept away from Yisroel.

The common denominator of sweeping away evil, as opposed to other types of reasons for rule, order, and penalty, is that these people are disrupting justice among the entire community. Open idol worship, failing to live up to marriage vows, acting in ways that flout justice all warrant death and to be swept away. Others have to see and fear and refrain from such conduct. Such conduct rips at the fabric of society. Idolatry and false prophets deter others from listening to Hashem. (Ibid 13:6). False witnesses and failing to follow the courts ruling upsets all of the justice system. Similarly, family matters must be held in tact in order to preserve the sanctity and importance of the nuclear family. Of all the criminal sins, kidnapping must also be swept out. One cannot take a family member from someone else. But why is it called “stealing a life” and why is murder not “swept away?”

The Torah puts much stock into children and making sure there are proper bloodlines. No misbegotten child should enter the congregation of Hashem even for ten generations. (Ibid 23:3). No one from Amon or Moav shall be allowed into Hashem’s congregation. (Ibid 23:4). A person should not marry a woman he had divorced. (Ibid 24:4). The widow who dies childless shall be married to her husband’s brother. This is to preserve his name and lineage. (Ibid 25:6). It follows that kidnapping is akin to murder. It is removing a life from the family and selling it away. Such an evil has to be swept away. Murder itself need not be addressed in such a way, because its punishment is obvious. Wanton murder has no place in any society. Kidnapping may be tolerated among heathen nations, who wantonly buy and sell slaves. However, in the holy congregation of Hashem and among Bnei Yisroel, it is akin to murder, and it is so disruptive that the perpetrator must be put to death, even though the victim is still alive, in his hands.