Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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The Mishnah had stated: One who injures a Canaanite slave belonging to another person is [similarly] liable for all [the five items]. Rabbi Yehudah, however, says that no embarrassment is paid in the case of [Canaanite] slaves.

What is the reason of Rabbi Yehudah? — As the verse states: If men should fight with one another, a man and his brother - the law applies to one who can claim brotherhood and thus excludes a slave who cannot claim brotherhood. - And the Rabbis? — They would say that even a slave is a brother in so far as he is subject to commandments. - If this is so, would you say that according to Rabbi Yehudah witnesses proved zomemim in a capital accusation against a slave would not be subject to be put to death in virtue of the words: Then you shall do unto him as he had conspired to do to his brother? — Rava said in the name of Rav Sheishes: The verse concludes: And you shall destroy the evil from among you, implying 'on all accounts.'

Would you say that according to the Rabbis a slave would be eligible to be chosen as king? — I would reply: According to your reasoning would the same difficulty not arise regarding a convert, whichever view we accept, unless we suppose that when the verse states: One from among your brothers, it implies 'one of the choicest of your brothers'.

But again would you now also say that according to the Rabbis, a slave would be eligible to give testimony, since it says: And behold the witness is a false witness; he has testified falsely against his brother? — Ulla replied: Regarding testimony you can surely not argue thus, for that he is disqualified from giving testimony can be learned by means of a kal vachomer from the law in the case of a woman: for if a woman who is eligible to enter [by marriage] into the congregation [of Israel] is yet ineligible to give testimony, how much more so must a slave who is not eligible to enter [by marriage] into the congregation [of Israel] be ineligible to give testimony? – But why is a woman disqualified if not perhaps because she is not subject to the law of circumcision? How then can you assert the same in the case of a slave who is subject to circumcision? — The case of a [male] minor will meet this objection, for in spite of his being subject to circumcision he is disqualified from giving testimony. - But why is a minor disqualified if not perhaps because he is not subject to commandments? How then can you assert the same in the case of a slave who is subject to commandments? — The case of a woman will meet this objection, for though she is subject to commandments she is disqualified from giving testimony. - The argument is thus endlessly reversible. The nature of this instance is not found in that one, and the nature of that one is not found in this one. The features common to both are that they are not subject to all the commandments and that they are disqualified from giving testimony. I will therefore include with them a slave who also is not subject to all the commandments and should therefore also be disqualified from giving testimony. - But why [I may ask] is the feature common to them that they are disqualified from giving testimony if not perhaps because neither of them is a man? How then can you assert the same in the case of a slave who is a man? — You must

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therefore deduce the disqualification of a slave from the law applicable in the case of a robber. - But why is there this disqualification in the case of a robber if not because his own deeds caused it? How then can you assert the same in the case of a slave whose own deeds could surely not cause it? — You must therefore deduce the disqualification of a slave from both the law applicable to a robber and the law applicable to either of these [referred to above]. (88a1 – 88a3)

Mar, the son of Ravina, however, said: The verse states: The fathers shall not be put to death because of the sons; from this it could be inferred that no sentence of capital punishment should be passed on [the testimony of] the mouth of [people who if they were to be] fathers would have no legal paternity over their children. For if you assume that the verse is to be taken literally: 'fathers shall not be put to death because of the sons,' meaning, 'through the testimony of the sons,' the Merciful One should have written: 'Fathers shall not be put to death because of their sons.' Why then is it written 'sons,' unless to indicate that no sentence of capital punishment should be passed on [the testimony of] the mouth of [people who if they were to be] fathers would have no legal paternity over their sons? - If that is so, would you also say that the concluding clause: *Neither shall the sons be put to death because of fathers* similarly implies that no sentence of capital punishment should be passed on [the testimony of] the mouth of [witnesses who as] sons would have no genealogical relationship to their fathers, and therefore argue that a convert should similarly be disqualified from giving testimony? — It may be said that there is no comparison: It is true that a convert has no legal relationship to his ancestors, still he has legal relationship with his descendants, [but we may therefore] exclude a slave who has relationships neither with ancestors nor with descendants. For if you should assume that a convert is disqualified from giving testimony, the Merciful One should surely have written: Fathers shall not be put to death because of their sons, which would mean what we stated, that they would not be put to death through the testimony of sons, and after this the Merciful One should have written: Neither shall son be put to death because of fathers, as from such a text you would have derived the two rules: one that children should not be put to death through the testimony of fathers and the other that no sentence of capital punishment should be passed on [the testimony of] the mouth of [witnesses who as] children have no genealogical relationship to their fathers. The disqualification in the case of a slave would surely have been derived by means of a kal vachomer from the law applicable to a convert: for if a convert, who has no legal relationship to his ancestors but has legal relationship to his descendants, is disqualified from giving testimony, how much more so must a slave who has legal relationship neither to ancestors nor to descendants be disqualified from giving testimony? But since the Merciful One has written: Fathers shall not be put to death because of sons, which implies that no sentence of capital punishment should be passed on [the testimony of] the mouth of [witnesses who as] fathers would have no genealogical relationship to their sons, we can derive from this that it is only a [Canaanite] slave who does not have relationship either to ancestors nor to descendants that will be disqualified from giving testimony, whereas a convert will be eligible to give testimony on account of the fact that he has genealogical relationship with his sons.

If you object, why did the Merciful One not write: Neither shall sons be put to death because of their fathers, and why did the Merciful One write 'And neither shall sons be put to death because of fathers,' which appears to imply that no sentence of capital punishment should be passed [on the testimony of] the mouth of [witnesses who as] sons would have no genealogical relationship to their fathers, [my answer is that] since it was written, 'Fathers shall not be put to death because of sons,' it was further written, 'neither shall sons be put to death because of fathers.' (84a3 – 84a4)

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The Mishnah had stated: A deaf-mute, a deranged person and a minor – an encounter with them is bad etc.

The mother of Rav Shmuel bar Abba of Hagronia was married to Rabbi Abba, and bequeathed her possessions to Rav Shmuel bar Abba, her son. After her death Rav Shmuel bar Abba went to consult Rabbi Yirmaiyah bar Abba who confirmed him in possession of her property. Rabbi Abba thereupon went and related the case to Rav Hoshaya. Rav Hoshaya then went and spoke on the matter with Rav Yehudah who said to him that Shmuel had ruled as follows: If a woman sold her melog[1] property during the lifetime of her husband and then dies, the husband is entitled to recover them from the hands of the purchasers. When this ruling was repeated to Rabbi Yirmaiyah bar Abba, he said: I [only] know a Mishnah (which supports this ruling), for we have learned: If a man writes over his possessions to his son, to take effect after his death, the son cannot sell them [during the lifetime of the father] as they are then still in the possession of the father, nor can the father sell them since they are assigned to the son. Still, if the father sells them, the sale is valid until his death; if the son sells them the purchaser has no hold on them until the father dies. This implies, does it not, that when the father dies the purchaser will have the possessions [bought by him from the son during the lifetime of the father], and this even though the son died during the lifetime of the father, in which case they had never yet entered into the possession of the son? - For so it was laid down by Rabbi Shimon ben Lakish, who said that there should be no difference whether the son died in the lifetime of the father, in which case the estate never came into the possession of the son, or whether the father died in the lifetime of the son, in which case the estate had entered into the possession of the son; the purchaser would [in either case] acquire title to the estate. For it was stated: Where the son sold the estate in the lifetime of the father and it so happened that the son died during the lifetime of the father, Rabbi Yochanan said that the purchaser would not acquire title [to the estate], whereas Rish Lakish said that the purchaser would acquire title [to the estate]. Rabbi Yochanan, who held that the purchaser would not acquire title to the estate, would say to you that the Mishnah's statement, 'If the son sold them the purchaser would have no hold on them until the father dies,' implying that at any rate after the death of the father the purchaser would own them, refers to the case where the son did not die during the lifetime of the father, so that the estate had actually entered into the possession of the son, whereas where the son died during the lifetime of the father, in which case the estate had never entered into the possession of the son, the purchaser would have no title to the estate even after the death of the father. This shows that in the opinion of Rabbi Yochanan a right to to the produce amounts in law to a right to the very substance [of the estate], from which it follows that when the son sold the estate [during the lifetime of his father] he was selling something that did not belong to him. Rish Lakish, on the other hand, said that the purchaser would [in all cases] acquire title [to the estate after the death of the vendor's father], for the Mishnah's statement, 'If the son sold them the purchaser would have no hold on them until the father died,' implying that at least after the death of the father the purchaser would own them, applies equally whether the son did not die in the lifetime of the father, in which case the estate had entered into the possession of the son, or whether the son did die during the lifetime of the father, in which case the estate never did come into the possession of the son, [as in all cases] the purchaser would acquire title [to the estate as soon as the vendor's father died]. This shows that in the opinion of Rish Lakish

[1] A wife's estate in which her husband has the right of the produce and for which he bears no responsibility regarding any loss or deterioration.

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a right to [mere] produce does not yet amount to a right in the very substance [of the estate], from which it follows that when the son sold the estate [during his father's lifetime] he was selling something that legally belonged to him.

Now both Rabbi Yirmiyah bar Abba and Rav Yehudah, concur with Rish Lakish, and Rabbi Yirmiyah bar Abba accordingly argues thus: If you assume that a right to the produce amounts [in law] to a right in the very substance, why then on the death of the father, if the son has previously died during the lifetime of his father, should the purchaser have any title to the estate, since when the son sold it he was selling something not belonging to him? Does not this show that a right to [mere] produce does not amount to a right to the very substance? When, however, the argument was later repeated in the presence of Rav Yehudah, he said that Shmuel had definitely stated: This case cannot be compared to that stated in the Mishnah. – What is the reason? — Rav Yosef replied: We should have no difficulty if the case in the Mishnah were stated in a reversed order, i.e., 'If a son assigns his possessions to his father [to take effect after the son's death, and the father sold them during the lifetime of the son and died before the son,' and if the law would also in this case have been that the purchaser acquired title to the possessions] it would indeed have been possible to prove from it that a right to produce does not amount to a right to the very substance. But seeing that what it actually says is, 'If a father assigns his possessions to his son,' [the reason why the sale by the son is valid is] that [since] he was eligible to inherit him, [the father by drawing up the deed must necessarily have intended that the transfer to the son should have legal effect immediately].

Abaye said to him: Does only a son inherit a father, and does a father never inherit a son? It is therefore to be assumed that such a deed was drawn up only for the purpose of keeping the possessions out of the hands of the sons, and similarly also here the deed might have been drawn up for the sole purpose of keeping the possessions out of the hands of his brothers! — The reason of [Shmuel's remark that] 'This case cannot be compared to that stated in the Mishnah' is because of the [Rabbinic] enactment at Usha. For Rabbi Yosi ben Chanina said: It was enacted at Usha that if a woman sells her melog possessions during the lifetime of her husband and subsequently dies, the husband will be entitled to recover them from the hands of the purchasers.

Rav Idi bar Avin said that we have been taught to the same effect: [Where witnesses state,] "We can testify against a particular person that he has divorced his wife and paid her for her kesuvah," while the woman in question was still with him and in fact looking after him, and the witnesses were subsequently proved zomemim, it would not be right to say that they should pay [the woman] the whole amount of her kesuvah, [as she did not lose anything] but the satisfaction of the benefit of [being provided with] her kesuvah. How could [the value of] the satisfaction of the benefit of her kesuvah be arrived at? An estimate will have to be made of how much a man would be prepared to pay as purchase money for the kesuvah of this [particular woman] which can mature only after she is left a widow or divorced, since, were she [previously] to die her husband would inherit her. Now, if you assume that this enactment of Usha is of no avail, why is it certain that her husband would inherit her? Why should she be unable to sell her kesuvah outright? Abaye said: If all this could be said regarding melog possessions, can it also be said regarding the possessions [placed in the husband's hands and secured as if they were] 'iron flocks'? (88a3 – 89a1)

DAILY MASHAL

In general the sages rejected the idea that children could be punished, even at the hands of heaven, for the sins of their parents. As a result, they systematically re-

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interpreted every passage that gave the opposite impression, that children were indeed being punished for their parents' sins. Their general position was this: Are not children then to be put to death for the sins committed by their parents? Is it not written, "Visiting the iniquities of the fathers upon the children?" – There the reference is to children who follow in their parents footsteps (literally "seize their parents' deeds in their hands," i.e. commit the same sins themselves).

Specifically, they explained biblical episodes in which children were punished along with their parents, by saying that in these cases the children "had the power to protest/prevent their parents from sinning, but they failed to do so." As Maimonides says, whoever has the power of preventing someone from committing a sin but does not do so, he is seized (i.e. punished, held responsible) for that sin.

Did, then, the idea of individual responsibility come late to Judaism, as some scholars argue? This is highly unlikely. During the rebellion of Korach, when God threatened to destroy the people, Moses said, "Shall one man sin and will You be angry with the whole congregation?" . When people began dying after David had sinned by instituting a census, he prayed to God: "I have sinned. I, the shepherd, have done wrong. These are but sheep. What have they done? Let your hand fall on me and my family." The principle of individual responsibility is basic to Judaism, as it was to other cultures in the ancient Near East.

Rather, explains Rabbi Sacks, what is at stake is the deep understanding of the scope of responsibility we bear if we take seriously our roles as parents, neighbors, townspeople, citizens and children of the covenant. Judicially, only the criminal is responsible for his crime. But, implies the Torah, we are also our brother's keeper. We share collective responsibility for the moral and spiritual health of society. "All Israel," said the sages, "are responsible for one another." Legal responsibility is one thing, and relatively easy to define. But moral responsibility is something altogether larger, if necessarily more vague. "Let a person not say, 'I have not sinned, and if someone else commits a sin, that is a matter between him and God.' This is contrary to the Torah," writes Maimonides in the *Sefer ha-Mitzvos*.

This is particularly so when it comes to the relationship between parents and children. Abraham was chosen, says the Torah, solely so that "he will instruct his children and his household after him to keep the way of the Lord by doing what is right and just." The duty of parents to teach their children is fundamental to Judaism. It appears in both the first two paragraphs of the Shema, as well as the various passages cited in the "Four sons" section of the Haggadah. Maimonides counts as one of the gravest of all sins – so serious that God does not give us an opportunity to repent – "one who sees his son falling into bad ways and does not stop him." The reason, he says, is that "since his son is under his authority, had he stopped him the son would have desisted." Therefore it is accounted to the father as if he had actively caused his son to sin.

If so, then we begin to hear the challenging truth in the Thirteen Attributes of Mercy. To be sure, we are not legally responsible for the sins of either our parents or our children. But in a deeper, more amorphous sense, what we do and how we live do have an effect on the future to the third and fourth generation.

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