

# PSHUTO SHEL MIKRA

From the Teachings of Rav Yehuda Copperman zt"l

## PARSHAT KI TEITZEI

### Pshuto Shel Mikra Teaches Halachah LeDorot Alongside Midrash Halachah

לֹא יוּמְתוּ אָבוֹת עַל בְּנֵים וּבָנִים לֹא יוּמְתוּ עַל אָבוֹת אִישׁ בְּחַטָּאוֹ יוּמְתוּ

*Fathers shall not be put to death because of sons, and sons shall not be put to death because of fathers, each man shall die through his own sin (Devarim 24:16)*

As we have discussed numerous times, it is often the case that *pshuto shel mikra* differs from the halachah as has been expounded by the midrash. In such a situation, we generally proceed to ask the question: If the *pshat* doesn't teach the halachah, what does it teach within the *shleimut* and *kedushah* of Torah? However, we have also seen that there are occasions when the *pshat* differs from the halachah as derived by the midrash and yet still reflects *halachah ledorot*.<sup>1</sup>

#### ”Lo Yumtu Avot Al Banim” in Pshat and in Drash

With regards to our *pasuk*, the straightforward meaning of these words in terms of *pshuto shel mikra* would seem to be that fathers shall not be killed on account of the sins of their sons and vice versa. However, the *midrash halachah* (*Sanhedrin* 27b) explains the *pasuk* as saying that sons should not be put to death on the basis of the testimony of their fathers! In other words, this *pasuk* is looked upon as the source for the disqualification of close

<sup>1</sup> See Parshat Bo, Chapter 36; Parshat Mishpatim, Chapter 43; and Parshat Bechukotai, Chapter 73.

family members testifying about each other. Nevertheless, in *Sefer Melachim* (II, 14:6), when describing how Amatziah Hamelech killed those responsible for murdering his father, the pasuk states:

וְאֵת בְּנֵי הַמְּכִים לֹא הָמִית כְּכַתּוּב בְּסֵפֶר תּוֹרַת מֹשֶׁה אֲשֶׁר צִוָּה ה' לֵאמֹר לֹא יוּמָתוּ  
אָבוֹת עַל בְּנֵים וּבָנִים עַל אָבוֹת כִּי אִם אִישׁ בְּחַטָּאוֹ יוּמָת:

*He did not kill the sons of those who killed [his father], as it is written in the book of Torat Moshe, which Hashem commanded, saying, "Fathers shall not be killed because of their sons, and sons shall not be killed because of their fathers, rather, a person shall be killed for his own sin."*

This *pasuk* reveals something quite remarkable. Many, many, generations after *Matan Torah*, a halachah is presented as being based on *pshuto shel mikra*, while the *midrash halachah* explains those same words in a completely different manner!

Commenting on this phenomenon, the **Ran** writes (*Chiddushei HaRan, Sanhedrin, ibid*):

*If you ask, how can the Gemara explain that the pasuk refers to testimony of family members, is it not rather needed for its literal meaning, that sons shouldn't die on account of their fathers, as we find with regards to Amatziah where it says, "He did not kill the sons of those who killed etc."? The answer is, the pasuk does not depart from its literal meaning, and the **pshat** of the pasuk is that sons should not die **on account** of their fathers, and its **midrash** is that they should not die based on **the testimony** of their fathers; and one pasuk can yield numerous meanings as it states (*Tehillim 62:12*), "אֶחָת דִּבֶּר אֱלֹקִים שְׁתֵּימָּם זֶה שָׁמַעְתִּי"— Hashem has proclaimed one thing, and I have heard two."*

## Establishing Parameters for Deriving Halachah from Pshat

At this point we may ask, how does this fit in with what we have learned until now? We have seen, based on numerous examples, that whenever the *pshat* and the *drash* differ, the halachah is as the midrash states, and the *pshat* is taken as teaching us a Torah message that is not halachic. Yet here we see that we are learning *halachah ledorot* from *pshat*, even when it differs from the *drash*!

Rav Yaakov Tzvi Mecklenberg, in his *peirush HaKetav VeHakabbalah* to our *pasuk*, provides us with a basic guideline. In a case where the *pshat* and the midrash contradict each other, the halachah cannot be derived from both. The Torah states that the punishment for putting someone's eye out is "עֵין תַּחַת עֵין — an eye for an eye." The *pshat* of those words is that the perpetrator's own eye should be put out, while the *midrash halachah* teaches us that it takes the form of monetary compensation. If the punishment for putting out someone's eye is paying him for it, then it is not putting out the aggressor's eye, for he is certainly not to be punished twice! Similarly, the Torah tells us to begin counting the Omer from a day it refers to as "מִמּוֹחֶרֶת הַשַּׁבָּת — the morrow of the Shabbat," which the *midrash halachah* informs means the morrow of the first day of Pesach. If the Omer is to be counted from the second day of Pesach, then it is not to be counted from Sunday! In these cases where the *pshat* is in

conflict with the midrash, we take the halachah from the midrash and look to the *pshat* for a different type of Torah lesson.

Regarding our *pasuk* of “*lo yumtu,*” however, there is no contradiction whatsoever between the halachah as derived by midrash and that which is communicated through *pshat*. Saying that a son should not die on account of the sins of his father doesn’t mean that he could be killed based on his testimony; they are simply two different *halachot* in two completely different realms, and, if we may say, never the twain shall meet! In this case, there is no reason to abandon the *pshat* as a source of halachah, even as the midrash derives a different halachah from the very same words.

Additionally, in this case the Gemara itself did not consider the meaning of the *pasuk al pi pshuto* (“on account of fathers”) to be halachically unacceptable. It simply pointed out that this halachah is written explicitly in the final phrase of the *pasuk*, “אִישׁ בְּחַטָּאוֹ יוּמָתוֹ” — *a person shall be killed for his own sin,*” and it is clear that the *pasuk* is not merely saying the same thing twice! However, this does not negate the simple meaning based on *pshuto shel mikra* in the first part of the *pasuk*, and, in this case, it continues to teach *halachah ledorot*.