



What's Dikduk Got to Do With It? Language, Law, and Theology

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Jon Levisohn:

“The strategy of skimming the text, looking for the big picture, which works well in other kinds of academic reading, is disastrous when it comes to Talmud. Instead, one has to learn a **new approach**, a **much more patient approach**, one that understands words and phrases and sentences, step-by-step through **reading and re-reading**, cautiously moving forward only when their understanding of the prior sentence has been solidified.”

A Philosophy of Hevruta (Elie Holzer)

“Text study [consist of] a two-phase process: **first to make sense of the text**, and then to respond to the sense eventually made ... [study] partners have the **responsibility to ‘make the text speak’** ... [to resist] the urge to ‘use’ the text for whatever purpose until compelling interpretations can be elicited ... [this] is not a synonym for passivity ... **the text has the right to have its own say first**, even if this cannot be achieved without the active involvement of the learner’s foreknowledge.

Holzer, Elie. *A Philosophy of Havruta: Understanding and Teaching the Art of Textual Reasoning*. Academic Studies Press, 2022.

THE RETURN OF LOST OBJECTS IN THE TORAH

Exodus 23:4	שמות כג ד
When you encounter your enemy’s ox or his ass wandering, you must return it.	כִּי תִפְגַּע שׁוֹר אִיבֶךָ אוֹ חֲמֹרוֹ תֵּעָה הָשֵׁב תְּשִׁיבֵנּוּ לוֹ:

Deuteronomy 22:1-3	דברים כב א-ג
<p>If you see your brother's ox or his sheep gone astray, do not ignore it; you must return them to your brother.</p> <p>If your brother is not near you or you do not know him, you shall bring it into your home and it shall remain with you until your brother's search; then you shall return it to him.</p> <p>You shall do the same with his ass; you shall do the same with his garment; and so too shall you do with any loss of your brother that might get lost from him and you find: you must not ignore.</p>	<p>כִּי תִפְגַּע שׁוֹר אֶיְבֹךָ אוֹ חֲמֹרוֹ תֵּעָה הַשֵּׁב תְּשִׁיבֵנּוּ לּוֹ: דְּבָרִים כֵּב א-ג לֹא-תִרְאֶה אֶת-שׁוֹר אַחִיךָ אוֹ אֶת-שִׂי נְדָחִים וְהִתְעַלְמָתָּ מֵהֶם הַשֵּׁב תְּשִׁיבֵם לְאַחִיךָ: וְאִם-לֹא קָרֹב אַחִיךָ אֵלֶיךָ וְלֹא יִדְעָתוּ וְאִסְפָּתוּ אֶל-תּוֹךְ בֵּיתְךָ וְהָיָה עִמָּךְ עַד דָּרַשׁ אַחִיךָ אֹתוֹ וְהִשְׁבִּתוֹ לּוֹ: וְכֵן תַּעֲשֶׂה לְחֲמֹרוֹ וְכֵן תַּעֲשֶׂה לְשִׁמְלָתוֹ וְכֵן תַּעֲשֶׂה לְכָל-אֲבֹדֵת אַחִיךָ אֲשֶׁר- תֵּאבֹד מִמֶּנּוּ וּמִצֵּאתָהּ לֹא תִוְכַל לְהִתְעַלֵּם:</p>

Deuteronomy and the Hermeneutics of Legal Innovation (Bernard Levinson)

Innovation took place by means of literary reformulation in Deuteronomy ... Deuteronomy represents a radical revision of the Covenant Code (Exodus 20:22-23:33). The authors of Deuteronomy sought to implement a far-reaching transformation of religion, law, and social structure that was essentially without cultural precedent. They therefore turned to the earlier code in order to anchor their departure from legal convention in the very textual heritage from which they cut themselves free in substantive terms. They deliberately presented their new vision of the Judaeen polity as continuous with the abrogated past and used the earlier textual material, carefully transformed, to sanction their own independent agenda.

The authors of Deuteronomy were sophisticated interpreters or, better, reinterpreters of texts ... They were skilled scribes confronting a central problem in the history of religions: the justification of innovation. Central to Deuteronomy is the question of hermeneutics. In stressing the importance of hermeneutics, I do not restrict it to the discipline of the contemporary biblical scholar or exegete, who is concerned to explicate the text philologically and raise the question of its contemporary meaning. Hermeneutics is not simply a matter of the history of reception and interpretation of Deuteronomy by ancient, medieval, or modern communities of believers or scholars.

Instead, Deuteronomy was already a complex hermeneutical work from the beginning: it was the composition of authors who consciously reused and reinterpreted earlier texts to propound and justify their program of cultic and legal reform, even - or particularly - when those texts conflicted with the authors' agenda ...

Levinson, Bernard M. *Deuteronomy and the Hermeneutics of Legal Innovation*. Oxford University Press, 1997. (pp. 3-4)

Law and Truth in Biblical and Rabbinic Literature (Chaya Halberstam)

“The biblical imperative to actively restore lost property requires individuals to leave a stray object where it is found: if the owner is not known, the finder must take the object with him and safeguard it until the owner claims it. While the finder is safeguarding this object, it is still considered his property even though it is in his possession. This unwavering presumption is demonstrated in the Deuteronomist's choice of language - the biblical text consistently refers to the lost object in the possessive, i.e., the stray animal ‘of your brother’ or ‘of your enemy’; the object may be lost or stray, but it is nonetheless still owned by the one who lost it ...

[T]he command to return lost property, though found among legal and procedural material, may nonetheless be understood as a ‘moral’ law incumbent on the individual conscience alone ... thus there is no effort made to define property in terms of the observable, or to legislate a procedure for lost property that would require evidentiary standards.

Thus the simple imperative in Exodus to return a lost object to its owner is complicated in Deuteronomy not by enforcement or evidentiary concerns, but rather by the acknowledgement that a person may not always know whose lost object he has found; according to the passage, the finder is still required to search his or her conscience and return in anyway. As the text asserts that the finder may ‘not know’ the owner of the object (*lo yeda'atiw*), it highlights all the other facets of property ownership which are understood to be known; we know that the object, though lost, is not abandoned but owned; we know that the person who lost the object is its rightful owner; we know that the finder may not acquire the object, no matter how long he keeps it in his possession ... Thus in the Hebrew Bible, the notion of property always connotes a relational status - an object belongs to someone - and the absence of an identifiable owner does not

disturb the relationship of ownership; the object is still considered possessed, even if its owner is lost. Lack of knowledge about the owner's identity does nothing to mitigate the unremitting imperative to restore the lost property to him ...

Biblical discourse suggests a stable and indissoluble bond between owner and object, a stance which implies two crucial certainties: First, that every piece of property has an owner, even if that owner cannot be found, and second, that this ownership status is not altered even when the property is lost. The Mishnah challenges both of these convictions, and requires that these property relationships be interpreted and established rather than assumed ...

Thus as biblical law speaks of knowing and returning, mishnaic law insists on observing and discerning ... While rabbinic rules of lost property remain somewhat imprecise, they nonetheless introduce an aspect of visibility that was absent in biblical law: the object must have identifiable signs, and a claimant must indicate his familiarity with the lost object through the medium of these visible signs ...

The Mishnah thus puts a visible face on the rather invisible and imagined relationships of ownership. Ideally, one would envisage a consistent clear line of ownership through, for example, the proximity of possession, or the renewal of deeds. But when this chain of ownership is broken, the Mishnah insists that there be signs of this relationship: it does not presume that such a tie exists as the Bible does ...”

Halberstam, Chaya. Law and Truth in Biblical and Rabbinic Literature. Indiana University Press, 2010.

THE RETURN OF LOST OBJECTS IN THE MISHNAH

Mishnah Bava Metzia 2:1-2	משנה בבא מציעא ב:א-ב
Which found items belong to him, and for which one obligated to proclaim? These found items belong to him: If one found scattered produce, scattered coins,	אלו מציאות שלו, ואלו חייב להכריז. אלו מציאות שלו: מצא פרות מפזרין, מעות מפזרות, פריכות ברשות הרבים, ועגולי דבילה,

bundles of grain in a public area, round cakes of pressed figs, baker's loaves, strings of fish, cuts of meat, wool fleeces that are taken from their state of origin directly after shearing, bound flax stalks, or bound strips of combed purple wool, these belong to him. This is the statement of Rabbi Meir.

And for these found items, one is obligated to proclaim his find: If one found produce inside a vessel, or a vessel by itself; coins inside a pouch, or a pouch by itself; piles of produce; piles of coins, three coins stacked one atop another; bundles of grain in a secluded area; loaves of a homeowner; wool fleeces that are taken from the house of a craftsman; jugs of wine; or jugs of oil. These, he is obligated to proclaim his find.

כְּרוֹת שֶׁל נְחֹתוֹם, מְחֻרוֹזוֹת שֶׁל דָּגִים, וְחֻתִּיכוֹת שֶׁל בָּשָׂר, וְגִזֵּי צֶמֶר הַבָּאוֹת מִמִּדְיָנָתָן, וְאַנִּיצֵי פִשְׁתָּן, וְלִשׁוֹנוֹת שֶׁל אַרְגָּמָן, הֲרִי אֵלָיו שְׁלוֹ, דִּבְרֵי רַבִּי מֵאִיר.

וְאֵלֹו חֵיֵב לְהַכְרִיז, מִצָּא פְרוֹת בְּכָלִי אוֹ כָלִי כְמוֹת שֶׁהוּא, מְעוֹת בְּכִיס אוֹ כִיס כְּמוֹת שֶׁהוּא, צְבוּרֵי פְרוֹת, צְבוּרֵי מְעוֹת, שְׁלִשָּׁה מִטְבְּעוֹת זֶה עַל גַּב זֶה, פְּרִיכוֹת בְּרִשׁוֹת הַיְחִיד, וְכְרוֹת שֶׁל בַּעַל הַבַּיִת, וְגִזֵּי צֶמֶר הַלְקוּחוֹת מִבַּיִת הָאֵמָן, כַּדֵּי יַיִן וְכַדֵּי שֶׁמֶן, הֲרִי אֵלֹו חֵיֵב לְהַכְרִיז.