YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**PARASHAT HASHAVUA**

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**PARASHAT MISHPATIM**

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Dedicated by Rabbi Barry and Shoshana Hartman in memory of
Sarah and Gustave (Sarah and Gedalya) Hartman *z”l*,
Cipora and Rabbi Moshe Turner *z”l*

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"If You Encounter Your Enemy's Ox"

By Rav Shimon Klein

Introduction

What does the Torah have to do with social contracts? What does the Torah have to do with relativistic moral laws that are dependent upon the social structure within which a community operates? In this *shiur*, we will take a closer look at two verses in this week's *parasha* of *Mishpatim*:

If you encounter your enemy's ox or his donkey going astray, you shall surely bring it back to him.

If you see the donkey of him who hates you, lying under its burden, and you hesitate to [or "desist from"] unload it – you shall surely unload it with him. (*Shemot* 23:4-5)

The first verse describes a situation in which a person encounters the ox or donkey of his enemy. The second verse speaks of a person seeing the donkey of someone who hates him lying under its burden. In both cases, the person is commanded to act: to restore the animal to its owner or to unload the burden. What legal logic underpins these commandments? What values serve as their basis?

Our discussion here must be expanded to include a parallel unit from *Sefer* *Devarim* that addresses these laws, rendering the picture more complex:

|  |  |
| --- | --- |
| ***Shemot* 23** | ***Devarim* 22** |
| If you encounter | You shall not see |
| your enemy's ox  | your brother's ox |
| or his donkey  | Or his sheep, lost, |
| going astray,  | And hide yourself from them; |
| you shall surely bring it back to him.  | You shall surely bring them back to your brother. And if your brother is not near to you, or if you do not know him, then you shall bring it to your own house and it shall be with you until your brother seeks it, and you shall restore it to him again. So shall you do with his donkey, and so shall you do with his garment, and so shall you do with every lost article of your brother's, which he has lost, and you have found; you may not hide yourself. |
| If you see  | You shall not see |
| the donkey of him who hates you,  | your brother's donkey or his ox |
| lying under its burden,  | fallen down by the wayside, |
| and you hesitate to unload it –  | and hide yourself from them; |
| you shall surely unload it with him. | you shall surely lift them up again with him. |

The skeleton of the commandments is similar, but there are significant differences. In *Sefer Shemot*, the Torah speaks about "your enemy's ox or his donkey" that "goes astray." In *Sefer Devarim*, the ox is "your brother's," as is "his sheep," and they are "lost." In *Sefer Devarim*, we find the addition of a negative command ("You shall not see"), as well as additional instructions – "And if your brother is not near to you, or if you do not know him, then you shall bring it to your own house" – as well as the extension of the law to include all lost property – "So shall you do with his donkey, and so shall you do with his garment…" The second law as formulated in *Sefer Devarim* discusses a beast that is lying down, as in *Sefer Shemot*, but here again there are differences. In *Sefer Devarim*, the animal belongs to "your brother" (rather than "him who hates you"); there is no mention of any burden; the animal is lying because it has fallen, rather than because it is crouching under a load; and the obligation is to lift it up, rather than unload it. What is the significance of these discrepancies?

Let us first seek the legal logic inherent in these laws through a careful reading of the unit, step by step.

**The Law and its Logic**

If you encounter your enemy's ox or his donkey going astray, you shall surely bring it back to him.

"If you encounter…" – (*im tifga*). Unlike “*mifgash*” (meeting) – a movement on the part of two sides coming together – the term “*pegi'a*”suggests unilateral movement. And while the associations of the word *mifgash* resound in many dimensions, *pegi'a* is more focused.[[1]](#footnote-1)

"Your enemy's ox" – The seemingly appropriate grammatical expression in Hebrew would be *"ki tifga be-shor oyvekha*," with the preposition “*be-*“ indicating the direct object. The preposition would address the context of the ox and imbue the encounter with it with some measure of tangibility.[[2]](#footnote-2) In its absence, the “encounter” here assumes a conceptual rather than concrete character. What is this meant to teach us? We must continue reading in order to seek an answer.

"Your enemy's ox or his donkey" – An ox is a beast of labor (plowing, turning a millstone, etc.), while the donkey is a beast of burden. The former is used by man in his labor, while the latter facilitates movement and communication with the world. It is a simpler matter for the Torah to command that an ox be returned to one's enemy for the purposes of his own personal use. A donkey, in contrast, when returned to its owner, remains active in the public sphere, and the act of returning it may thus have indirect ramifications for the finder – the owner's enemy.

"Your enemy's ox" – This formulation has two layers of meaning. This ox is a domesticated animal. It belongs to its owner, and in relation to the owner it has gone astray; it is seeking. The second layer relates to the relationship between the finder and the owner of the ox, who is perceived as his enemy. The situation would seem to be as follows: The first layer creates a living connection between the animal and its owner, and it is to this connection that the finder is committed. The animal has gone astray, it is wandering about, and the finder must ensure that this living connection will survive. Still, the text could speak of the ox as belonging to "someone," and it could then elaborate or hint to either a positive or negative relationship between the finder and the owner. Why, then, does it refer from the outset to "your enemy's ox"? Here again, we must wait patiently for the text to explain itself.

"Astray" – the ox is wandering about, seeking its owner; it is in a position of needing.

"You shall surely bring it back to him" – "Bringing back" (*hashava*) means returning something to its original place, to where it belongs. An ox has an identity and affiliation; its affiliation has become unraveled and it has gone astray. Failure to bring it back means ignoring this living movement, this connection, between the ox and its owner. Bringing it back means commitment to the nature of the world, or to the nature of Creation. In the same way, perhaps, as the prohibition, “You shall not take the mother along with the young” (*Devarim* 22:6) commands us not to sever the live connection between a mother and her young, here too, the connection between the animal and its owner has come apart – or is about to – and the instruction to whoever finds it is, “Do something to bind the connection together again.”[[3]](#footnote-3)

"Bring back" (*hashev*) – This is the imperative form of the act of restoring (*hashava*). Then comes the repetition and reinforcement – *teshivenu*. As a first step, the person forces himself to return the article; as a second step, he identifies with what he is doing, perhaps even choosing it. Whereas the first part of the phrase, *hashev*, is abstract, the reinforcement and conjugation in the second person singular, serving to personalize the command, is also rounded off by the suffix indicating the object – "*teshivenu*". This indicates a connection between the person who is returning the ox and the ox that is being returned; the finder accompanies it until it is restored to its place and its affiliation.

Let us now go back to the questions we have raised so far. Why does the Torah speak of "your enemy's ox"? Why not just "someone's" ox? Apparently, this definition of the relationship captures the essence of the command. "Your enemy's ox" – the Torah places the hostility prevailing between the owner of the ox and its finder at center-stage. This is not a self-evident choice. Had the obligation been anchored in civil law, the mention of hostility would have been extraneous, since a monetary obligation ordinarily has nothing to do with the nature of the relations between the parties involved.

The additional references to the social relations involved ("your enemy," "him who hates you," or "your brother") would seem to indicate that the basis for the obligation of returning the article is precisely that relationship that exists between man and his fellow. A more precise formulation would point to the mutual responsibility that prevails within such a society.[[4]](#footnote-4) When a society is built up and the relationships within it are well developed (as in the situation described in *Sefer Devarim*, where the ox is "your brother's ox"), then the obligation to return a lost article is an extensive and meaningful one. As long as the society is still in its more primal, embryonic stages, when members are "enemies" who "hate" one another, the obligation is significantly narrowed.

Nevertheless, we must ask: What is the basis for the obligation in which the relations are characterized by hostility or hatred? Would it not seem that in such a situation of lack of mutual security, the obligation has nothing to rest upon? The formulations "your enemy's ox" or "the donkey of him who hates you" would seem to answer these questions. Even when the owner of the ox is your enemy, mutual responsibility does not fall away. To put it differently: There is a fundamental framework of responsibility in the world; there are moral laws between man and his fellow, and these are the most basic infrastructure, underpinning everything – even where there is hostility or hatred between the parties involved.[[5]](#footnote-5) Its implementation in this unit comes in the form of the instruction that one perform the obvious moral act, an act based on the proper mutual responsibility among people, even when the person concerned is one's enemy.

We might now say that the absence of the prepositional *bet* serves to intensify the focus on the subject of the *parasha*. In contrast to a description containing the letter *bet*, which would imply a physical collision with an ox which happened to belong to my enemy, the Torah is presenting a matter of principle, a concept: when you encounter your enemy's ox – when you find yourself in a situation in which these two values are reflected (the ox's belonging to its owner and the fact that its owner is someone who hates you), then the degree of mutual responsibility will approximate that set forth in this unit.

As a summary of this verse, let us go back to our original question: why should a straying ox or donkey be returned to its owner? We now understand that the basis of the law is not a monetary obligation within the framework of *Choshen Mishpat*.[[6]](#footnote-6) In this unit, the Torah presents a social vision that points to fundamental moral laws that cannot be tampered with, even when the person concerned is "your enemy." These sorts of moral laws exist in different cultures, and what seems to be special here is the fact that no "red line" is presented in terms of vandalism or destruction. Rather, there is positive action, an act that testifies to values such as responsibility and caring as the basis for social existence.

A Second Law

If you see the donkey of him who hates you lying under its burden, and you hesitate to [or "desist from"] unload it – you shall surely unload it with him.

"If you see" – from afar. Unlike the previous law, in which a person is required to return the item upon encountering it, here his obligation is extended to include a situation where he is at some distance from the article. What is the reason for this change? Even before we continue reading, in light of the discussion thus far, we may propose an explanation. The subject of the unit is the mutual responsibility amongst members of society, but here we must identify a change in attitude that has occurred.

"The donkey" – The subject is a beast that is crouching under its load, and in this context, the focus on a donkey as a beast of burden is quite appropriate. The previous law already established that the same law applies to an ox and a donkey, and this equation remains valid.

"The donkey of him who hates you" – In contrast to "your enemy", a designation that finds expression in acts of hostility, hatred is an inner feeling. In this sense, there is some softening in relation to the previous description. The Torah is suggesting, as it were, that once we are no longer speaking of active hostility but rather only of negative feelings, then the mutual responsibility expands outwards, and a person is obligated to deal with the animal in distress even when he sees it from afar.

"Lying under its load" – The donkey's distress is focused; there is a specific problem, requiring a specific solution.

"And you hesitate to unload it [or "you shall desist from unloading it"] – you shall surely unload it with him (*azov ta'azov imo*)”[[7]](#footnote-7) – At first glance, the Torah seems to be issuing two contradictory instructions. The first is to desist from occupying a position of unloading; the second is to take up a position of unloading.

Why is the law not formulated as a command to help the donkey to stand? Our unit describes a donkey lying under its load. Its problem is the load, and the moment the load is removed, it will be able to stand up.

The first position – "you resist/desist from unloading it" – is a description of a situation, which is also the continuation of the story. When you see the ox of someone who hates you lying under its load, your expected reaction is that you will refrain from unloading it, not that you will draw nearer and help him to unload the donkey. This is an altogether natural reaction; in describing it in this way, the Torah allows it room, as it were.[[8]](#footnote-8) Nevertheless, the text goes on to command, "You shall surely unload it with him." Extricate yourself from that position and unload the beast.[[9]](#footnote-9)

Where is the owner of the ox? Until now the text has ignored him, but now he becomes part of the picture: "you shall surely unload it with him" – with the owner, and with his assistance.[[10]](#footnote-10) Perhaps the initial silence on his part during the first stage of the description serves to focus the passerby more objectively on the reality that he has stumbled upon. The question that immediately arises in his mind is whether the owner, who hates him, is present at the scene. This question is answered, as it were, with a wave of the hand: why is that of any importance? At the same time, beneath the surface, the text gives rise to a subtle process that goes on between the two parties. At first, the presence of the owner, who "hates," is ignored, as a precondition allowing the one who "sees" to draw closer to the beast and offer help. Finally, once he has committed himself to this problem, he solves it in cooperation with the ox's owner – and they find themselves unloading the burden alongside one another.

Let us now take a step backwards and ask: what fundamental innovation is introduced in this verse, which had not been part of the previous verse?[[11]](#footnote-11)

The key to answering this question would seem to lie in the nature of the responsibility involved in each situation. In the first situation, the danger is the loss of an ox, and the command is, "You shall surely return it to him." Take care of the animal, seek its owner, and return it to him. The commitment to the owner creates an extensive obligation of returning,[[12]](#footnote-12) but in practice the interface between the two parties is limited to the moment when the article is handed over. It is a responsibility that creates commitment to another person but entails no real encounter between them. In the second situation, the owner is present alongside his donkey lying under its load. (For reasons discussed above, the text at first ignores the presence of the owner.) This entails a more focused and limited obligation of commitment, but on the other hand also more tangible communication and cooperation. The passerby must join the owner of the donkey and engage together with him in unloading the beast.[[13]](#footnote-13)

Let us now address the relationship between the unit in *Sefer Shemot* and its parallel in *Sefer Devarim*.

*Sefer Shemot* vs. *Sefer Devarim*

There are many different units in the Torah that appear somewhere in the different *Chumashim* and are then repeated in *Sefer Devarim*, in Moshe's speech on the eve of the entry into the land. Close examination reveals that these are not really repetitions. In each appearance, the context is different, as is the formulation, the focus, and the details specified. This gap exists in every sort of unit, encompassing even descriptions of facts and even some of the laws involved.

You shall not see your brother's ox, or his sheep, lost, and hide yourself from them; you shall surely bring them back to your brother.

And if your brother is not near to you, or if you do not know him, then you shall bring it to your own house and it shall be with you until your brother seeks it, and you shall restore it to him again.

And so shall you do with his donkey, and so shall you do with his garment, and so shall you do with every lost article of your brother's, which he has lost, and you have found; you may not hide yourself.

You shall not see your brother's donkey, or his ox, fallen down by the wayside, and hide yourself from them; you shall surely lift [them] up again with him. (*Devarim* 22:1-4)

In these verses, Moshe comes back to the two instructions familiar to the student from *Sefer Shemot*, but this time the level of obligation is much higher. In *Sefer Shemot*, there is a basic obligation to return a stray ox when encountering it; *Sefer Devarim* imposes the obligation even if one only sees it from a distance. *Sefer Shemot* conveys a positive command to return it, while *Sefer Devarim* adds a prohibition – "you may not hide yourself.[[14]](#footnote-14) Furthermore, in *Sefer Devarim*, the command is expanded beyond the ox and the donkey to include a garment or "every lost article of your brother's which he has lost, and you have found." The finder is required to keep the lost article at his home "until your brother seeks it," and he is likewise obligated to lift, or load, the beast along with its owner. All of these elements are derived from the fact that the unit is talking about "your brother," rather than about an enemy or someone who hates you.

The two units share a similar skeleton and basically address the same situations, but the difference between them is considerable. This gap is the tip of the iceberg, hinting to the unique character of each of the *Chumashim*. In *Sefer* *Shemot*, *Am Yisrael* are just starting out; they are not yet consolidated as a nation, their social pledge is not yet firm, and their mutual responsibility is still in its embryonic stages. *Sefer Devarim*, in contrast, is conveyed by Moshe during the fortieth year of their wanderings. In it, he repeats many units and narratives that were conveyed previously, but this time they embody a perspective that reflects their forty years of journeying, as well as their state of preparation for entry into the Promised Land. Viewed in this light, the distinctions that we have discussed between the two units are not localized phenomena; in fact, they repeat themselves in many different forms and in many different places throughout *Sefer Shemot* and *Sefer Devarim*.[[15]](#footnote-15)

We might therefore say with regard to our unit that up until the fortieth year, Moshe and *Am Yisrael* were aware of the message that they had been given close to the time of the revelation at Sinai in *Parashat* *Mishpatim*. There, the obligation to restore a lost object concerned one's enemy or a person who hated him; it laid a foundation, but as yet without any expression of a higher level of social pledge leading to a greater measure of commitment. This form of conduct matched the position of the people, who still maintained much of the mentality of their servitude in Egypt; they were far from maturity and many levels of their spiritual world had yet to be built. Following their long journey in the desert and a forty-year process of maturity, and in view of the new generation that is about to enter the land, there comes a new spiritual position of mutual pledge and responsibility, and this allows the people exposure to a new plane of Torah and of social and spiritual experience.

Afterword

We introduced our study with the question: What does the Torah have to do with social contracts, or with relativistic moral laws that are dependent upon the social structure of a given community? Along the way we learned about returning an ox and other lost property, about unloading and loading burdens. What does all of this have to do with the questions we posed at the outset?

The answer is that while the commandments of the Torah are admittedly formulated as practical instructions, assuming the form of concrete situations and behaviors, they are animated by values and life principles. In depth study of the plain level of the text exposes the student to a system of values, principles, and spirituality, with ramifications that extend far beyond any particular practical instruction. In this study, we addressed two commandments that present a moral infrastructure – a sort of social contract that represents the most fundamental common denominator, even when the other party involved is one's enemy or someone "who hates you". In addition, we encountered moral laws that reflect a basic level of mutual responsibility among people, as reflected in *Sefer Shemot*, and alongside them later laws, expressing the process of development that the nation has undergone, and readiness for the entry into the land that will create a new and different level of mutual responsibility and morality.

In light of the above, two avenues of study open themselves up. One involves turning to the Oral Law to examine the nature of the dialogue between the Written Law and the Sages of the Oral Law. The point of departure here is that the Sages read the verses of the Torah with great care. In their *midrashim*, they address the essence, rather than matters of marginal or secondary importance. They identify the principles and values embedded in the text and expand on them, drawing new directions of thought, ramifications, and insights.

The other avenue, in the wake of the Written Law and of the Oral Law, is to translate the picture that arises into a Torah that contains life principles, a system of values, one that is not limited to the four *amot* of Halakha. In the wake of such a process, we might come back to respond to the challenge posed in the deepest sense of the question with which we began: Torah and morality; Torah and life – can they go together?

Translated by Kaeren Fish

1. Some examples: "He spoke with them, saying, ‘If it is your wish that I bury my dead out of my sight, then hear me, and entreat for me (***pig'u li***) to Efron, son of Tzochar, that he may give me the Makhpela Cave, which he has, which is at the edge of the field; for the full price shall he give it to me as a possession of a burial ground among you’" (*Bereishit* 23:8-9); "The officers of *Bnei Yisrael* saw that they were in evil straits, after it was said, 'You shall not reduce your [production of] bricks, the daily quota. And they met (***va-yifge'u***) Moshe and Aharon, who stood in the way, as they came out from Pharaoh" (*Shemot* 5:19-20); "The revenger of blood himself shall slay the murderer; when he encounters him (***be-fig'o***), he shall slay him" (*Bamidbar* 35:19). Here the term may be interpreted as signifying the intentional contact, not necessarily in the context of intention to do harm: "She let them down by a rope through the window… And she said to them, ‘Get you to the mountain, lest the pursuers meet you (***yifge'u bakhem***), and hide yourselves there three days…’" (*Yehoshua* 2:16). [↑](#footnote-ref-1)
2. The letters *bet, kaf, lamed*, and *mem* serve as prepositions. *Bet* addresses space; *kaf* addresses time; *lamed* indicates purpose; and *mem* answers the question, “from whence.” [↑](#footnote-ref-2)
3. The verse maintains an interesting dialogue between this situation and the account of Yosef a moment before he finds his brothers: "And a man found him, and behold, he was wandering in the field (*to'eh ba-sadeh*)" (*Bereishit* 37:15). Like the lost ox in our *parasha*, Yosef too is wandering in the field. He is seeking his brothers, and cannot find them: "And he said, It is my brothers that I seek"; the ox, too, seeks its owner and cannot find him. The degree of Yosef's distress may be deduced from the wording of the verse, "A man found him…" Yosef is depicted as someone who has lost his compass; he is not initiating anything. The "man" is described as a finder, and as the one who extricates him from his distress. [↑](#footnote-ref-3)
4. We are treating the appellation "your enemy," "him who hates you," or "your brother" not as personal descriptions, but rather as a definition of the measure of the mutual pledge that exists amongst society. The basis for this choice is a conceptual reading of the text, with the understanding that the Torah is speaking in the language of instances and behaviors, which we are expected to translate into principles. Moreover, up until the fortieth year in the wilderness, when Moshe formulates a new law in relation to "your brother," no parallel unit exists, such that it would seem that the appellation "your enemy" during this period speaks to a common denominator that encompasses the entire nation – perhaps even extending beyond the boundaries of the Israelite camp (in accordance with the view of R. Yoshiya in the Mekhilta: "'Your enemy's ox' – this refers to [the ox of] an idolatrous non-Jew; so says R. Yoshiya. From here we find that idolaters are called 'enemies' of Israel… R. Eliezer says: The Torah is talking about [the ox of] a convert [to Judaism] who later returned to his evil ways. R. Yitzchak says: The text is talking about [the ox of] an apostate Jew…" (*Mekhilta Mishpatim*, *parasha* 20). [↑](#footnote-ref-4)
5. We might imagine this as an international covenant – perhaps a sort of "Geneva Convention" that prohibits certain acts of war, thereby establishing fundamental laws of morality that must not be violated, even with regard to an enemy. [↑](#footnote-ref-5)
6. We may thus understand, for example, the law exempting an elderly person from restoring the lost article if it is not dignified for him to do so: "For our Rabbis taught: 'And you hide yourself' – sometimes you may hide yourself, and sometimes you may not. How is this so? For example, if one was a *Kohen* and [the animal was wandering] in a cemetery, or if he was an old man, and it was not dignified for him [to lead the animal home], or if his own [work] was more valuable than his neighbor's. Therefore it is said, 'and you hide yourself.'" (*Bava Metzi'a* 30a). Further expression of the same idea is to be found in the *mishnayot* of *Massekhet Bava Metzi'a*. It is most surprising that throughout chapter 1 of this *massekhet*, as well as in chapter 2, the word *“metzia”* (an article found) is used over and over, rather than *“aveda”* (an article lost). (The former term focuses on the finder, while ignoring the person who has lost the article. The latter is faithful to the story of the person who has lost the article, and associates it with him.) Beyond the linguistic matter of formulation, the halakhic point of departure in the *massekhet* attributes the *metzia* to the finder. This is the case from the very outset – "Two people hold a garment; one says, **'I found it'**, and the other says, **'I found it**'… and it shall be divided between them." The simple assumption is that the article found belongs to the finder, and there is nothing said about a need to return it. The second chapter starts again with “finding”: "These articles belong to the finder, while these require a proclamation" – with the point of departure being the articles that remain his; only afterwards is there mention of those that need to be proclaimed. The first time that the term *“aveda”* (lost article) appears in the *mishna* is in chapter 2, law 9: "What is a lost article? If one finds a donkey or a cow grazing in a public thoroughfare, this is not a lost article. However, if the donkey's packs were overturned, or if the cow was running between the vineyards, then this is a lost article." Here, too, the default assumption is that "this is not a lost article." Only afterwards do we find a description of a case where the article is indeed considered lost. [↑](#footnote-ref-6)
7. The verb used to indicate the action that is required here – *aziva*, meaning unloading, or causing the load to be removed – also means “leaving” or “abandoning.” This reflects the chilly relationship between the owner of the donkey and the person who sees it lying and is required to help unload. The cooperation between them is summed up by this *“aziva”* – unloading/parting. In contrast, we see that in *Sefer Devarim*, where the Torah describes a situation involving "your brother," the command is, "you shall surely raise up [the beast] with him" – the language suggests ascent, with commitment to joint action, instead of the “abandonment” suggested by the “unloading” in our *parasha*. [↑](#footnote-ref-7)
8. It is interesting, however, that the Torah formulates the position as "refraining from unloading." This indicates that there is a more immediate, primal instinct to unload the donkey. This, in fact, is the initial reaction, but the person "refrains" from doing so, as someone whose actions are dictated by the hatred that prevails between them. [↑](#footnote-ref-8)
9. Support for this interpretation is to be found in the parallel verse from *Sefer Devarim*, which follows a similar structure: "You shall not see your brother's donkey or his ox fallen by the wayside and hide yourself from them; you shall surely lift [the beast] with him." "Hiding oneself," ignoring the situation and refraining from taking action, is described as the given situation, as existing behavior from which the Torah seeks to distance itself. The parallel phrase in our *parasha* is, "and you hesitate to/refrain from unloading it" as a description of the situation. In both instances, the verse concludes with the action that the person is required to take: "You shall surely lift [the animal] with him", in *Sefer Devarim*, and "You shall surely unload it with him" in our *parasha*. [↑](#footnote-ref-9)
10. *Chazal* teach: "You shall surely unload (*azov ta'azov*) – this means unloading; "You shall surely lift up (*hakem takim*) – this means loading… "with him" – [meaning,] while he exerts effort together with you. From here the Sages point out that [were it not for the stipulation 'with him'] the owner might go and sit down, saying, 'Since you are commanded [in this regard], if you wish to unload [the beast] – do so alone." The text says, "with him" – that the owner, too, must be exerting some effort on his own behalf" (*Pesikta Zutreta Shemot*, chapter 23). [↑](#footnote-ref-10)
11. Using exegetical tools, we might formulate the question as follows: Like the previous situation, in which the propositional letter *bet* was omitted, here too the language is deficient; this time it is the word “*et*,” again signifying the direct object, that is missing: the verse should read, *ki tir'eh* ***et*** *chamor sonekha rovetz*…." Here, too, the text invites the reader to a more conceptual plane. What is the subject, or the conceptual description, underpinning this second situation? [↑](#footnote-ref-11)
12. In *Sefer Devarim*, this obligation is indeed spelled out more fully: “And if your brother is not near to you, or if you do not know him, then you shall bring it to your own house and it shall be with you until your brother seeks it, and you shall restore it to him again" (*Devarim* 22:2). [↑](#footnote-ref-12)
13. There is the initial, existential responsibility, entailing an extensive obligation of returning, but without any need for communication between the finder and the owner. Then there is another kind of responsibility, involving a more localized problem and hence a more limited and focused obligation, but it requires joint action and more communication between the two. This would seem to explain the many differences in the positioning of the two laws. The first concerns a lost animal, seeking its owner. From the animal's point of view, this is a matter of life or death, and for the owner, too, the situation is one of loss. Their respective situations give rise to an obligation to return the animal, entailing considerable exertion. The address in this commandment is "your enemy." Its generalization serves as a sort of declaration of a moral value applicable to anyone. It appears that the trigger for this obligation – the moment of encounter with the animal, rather than at an earlier stage – is illuminated in this case by the fact that the owner is in fact your enemy, but it could be any other person, in terms of the great effort involved in returning it. As noted, this basic responsibility creates a significant degree of devotion to the matter, but entails only minimal contact between the finder and the owner – his enemy.

In the second situation, the donkey is lying under its load; the distress is more localized, both for the animal and for the owner. (Quite simply, if no one helps him to unload the beast, he will have to find other creative solutions.) Accordingly, the owner is now referred to as "him who hates you," rather than "your enemy" (someone who you might technically be exempt from stopping to help). "Hatred" belongs to the heart; the alienation here is less solid and it might be overcome. Accordingly, the obligation to return the animal is extended to a situation in which one only sees the animal from afar, while, as noted, it entails cooperation between the finder and the owner. [↑](#footnote-ref-13)
14. A beautiful expression of the maturity manifest in this unit lies in the fact that it opens with the words, "You shall not see…. and hide yourself from them." What is the difference between this formulation and a different possible formulation, one that would simply convey the prohibition in a more direct way (such as, for example, "You shall not hide yourself")? In practical terms, both formulations command that the lost article be returned and prohibit hiding oneself. On the spiritual level, however, these are two very different commands. A prohibition of "You shall not hide yourself" concerns a specific, concrete act. It is a sort of "bottom line" that is maintained even when a person is forcing himself not to hide himself. In contrast, in the formulation as we have it here in this verse, the subject is the seeing, not the hiding of oneself. The prohibition is actually against a type of seeing: a view of reality from an alienated perspective. It is this type of seeing, which has "hiding oneself" as its extreme, which is prohibited. It would seem that the text invites the reader to an inner position whose focus is his view of that which is around him. [↑](#footnote-ref-14)
15. For example, the Ten Commandments appear in both *Chumashim*. In *Sefer Devarim*, we see over and over a maturity in human dimensions, such as the reason for Shabbat: "In order that your manservant and your maidservant may rest like you. And you shall remember that you were a servant in the land of Egypt, and the Lord your God brought you out of there with a strong hand and with an outstretched arm; therefore the Lord your God commands you to observe the Shabbat day" (*Devarim* 5) contrasted with *Sefer Shemot*, where the command is based on commemoration of the Creation of the world. In the command to "Honor your father and your mother," we find in *Sefer Devarim* the additional phrase, "in order that it may be well with you" – conveying a blessing in the human realm. The prohibitions "You shall not kill; nor shall you commit adultery; nor shall you steal; nor shall you give false witness against your neighbor" are all joined together, as a single interconnected system, unlike the separate commands in *Sefer* *Shemot*. Beyond this, many commandments pertaining to the various circles of the human sphere – between man and woman, family, and nation – are mentioned in *Sefer Devarim* for the first time. [↑](#footnote-ref-15)