

פרשת משפטים

ומכה אביו ואמו מות יומת. (פרק כא' טו)

One who strikes his father or mother shall surely be put to death.

Rashi, abbreviating the Mechilta, tells us that one should not think that *ומכה אביו ואמו* implies that the child is subject to the death penalty only if he strikes **both** his father **and** mother; rather, he says, "Either this one or that one."

In fact, Rashi is merely quoting the conclusion of an extremely ambiguous exegesis for which Mefarshim of Mechilta offer diverse explanations. The Meshech Chochma presents his own elaborate elucidation which requires several introductions but as always, reveals his Talmudic brilliance and ability to weave a beautiful tapestry of תורה שבעל פה with תורה שבכתב from all corners of ש"ס.

In essence, the Mechilta's question is how do we know that *ומכה אביו ואמו* is really *או* *ומכה אביו ואמו*? It first provides us with answers from R' Yoshia and R' Yohnassan which are separate discussions unto themselves. It then tells us R' Yitzchak's answer and this is what Rav Meir Simcha focuses on: *וכי לא באת אמו אלא להחמיר או להקל עליו? לא מפני שהוחמר בו הוקל בו-תלמוד*. Even the syntax is difficult. Roughly translated: "Is not the purpose of stating *אמו* to make things more severe or is it to moderate them? It cannot be that by being more severe, it has actually lightened them? Therefore, the pasuk tells us *ומכה אביו ואמו*."

The Meshech Chochma begins his explanation by reminding us of two principles, the first from *כתובות לה*. We know that it is Biblically forbidden to wound another person. The blow though must incur damages that amount to at least a perutah. The offender must pay these damages but in doing so, is exempt from lashes. If the damages are less than a perutah, the perpetrator is not be subject to monetary punishment but will receive lashes. Rav Meir Simcha then takes us to *שבת קנד* which informs us that every punishable transgression requires two Scriptural sources-one that sets forth the basic prohibition i.e. the *אזהרה*, and a second that describes the punishment incurred. A prohibition that serves as the Scriptural warning for a death penalty cannot also serve as the warning for receiving lashes. Therefore, if a prohibition can be violated in a way that would incur the death penalty, there would be no lashes administered for its violation even when it is violated in such a way that the death penalty is not incurred. This is called a *דין* *לאו שניתן לאזהרת מיתת בית דין*. The Meshech Chochma explains that if the pasuk *ומכה אביו ואמו מות יומת* was meaning to tell us that in order for the child to be punished with the death penalty, he must strike both his father and mother, then let us consider what happens after the son strikes his father but with damages less than a perutah. Had it been anyone else, the son would receive lashes for striking another person. Since it is his father and he is only punished after striking the mother, in this limbo state, the son would not receive any lashes at all, for *ומכה אביו ואמו מות יומת* has become a *דין* *לאו שניתן לאזהרת מיתת בית דין*! The child who hits his father will have a more lenient ruling and in actuality no punishment as compared to the stranger who hits someone. According to Rav Meir Simcha, this is what R' Yitzchak is saying: If the requirement is for the child to hit both parents, then *וכי לא באת אמו אלא להחמיר או להקל*

עליו i.e. the additional requirement of **ואמו** ומכה אביו must be coming to make our situation more strict. But in fact, **לא מפני שהוחמר בו הוקל בו**, is not that **חומרא** actually introducing a leniency in that there will be no punishment if only a single parent is struck! **ומכה** תלמוד לומר **לומר ומכה** it must be that when the pasuk lists **ואמו** אביו, it is not meant to be translated literally but rather as **מכה אביו או אמו**.

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