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## THEMATIC LINKAGE IN UNDERSTANDING HALAKHAH

Word linkage in the Torah has long been recognized as a fundamental method of biblical exegesis. In the language of law, it occupies a prominent place as one of the thirteen *middot shel R. Yishmael*<sup>1</sup>—the orally transmitted principles through which halakhic inferences may be made from the written text. Every student of Talmud is familiar with this concept of *gezerah shavah* as utilized in a legal framework. A word or phrase not totally clarified in one passage is interpreted in light of its more fully explicated usage elsewhere. “Just as we find here—so too do we say there.” This is the gist of the comparisons based on similarity of textual expression.

What is intriguing and at times painfully troublesome is an aspect of *gezerah shavah* not touched upon in Talmudic discussion. While emphasis is given to commonality of language, no mention is made of any *reason* for this linkage. When two totally different passages are thus connected so that a correct conclusion with regard to practical procedure can only be derived from the combined study of both, it could appear to be significant to take note of any mutual *thematic linkage* which might account for this biblical–legal “pairing.”

In the realm of aggadic analysis, many modern-day scholars such as Alter or Fokkelman have begun to pay particular attention to word repetition or parallelism in pursuit of deeper meaning of texts. Hailed by some as ground-breaking work, their effort is clearly recognizable as being but an extension of ancient midrashic methodology—finding the most remarkable connection between seemingly unrelated stories because of shared words or phrases which then serve to illustrate otherwise hidden truths.

What I believe has not sufficiently been developed is this self-same method as it ought to be applied to halakhah. It is here that we

may be able to grasp conceptual and theological dimensions implied in *gezerah shavah* which will express not only the legal *what* but also the logical *why* of a law created only through a partnership of passages.

Let me illustrate what I have in mind with reference to a halakhic source which superficially seems not only strange, but, in the view of contemporary spokesmen for women's rights, offensive: the remarkable basis for the law that marriage is created "through the transfer of money"; that a woman becomes a wife in precisely the same manner of purchase as acquisition of property.

### KIHA KIHA

The text in Deuteronomy 24:1 detailing the taking of a wife reads: *Ki yikah ish isha*—"when a man taketh a wife." It does not spell out clearly the nature of this "taking." However, the methodology of *gezerah shavah*, utilizing clarification of word usage in one location to amplify its meaning in another, allows the rabbis to recognize the biblical means for acquiring as *keseif*, with money or its equivalent:

"Taking" is only by means of money, and thus it is written (Genesis 23:13): "I have given the money for the field; take it (*kah*) from me."<sup>2</sup>

Having determined from the linkage of *kiha kiha* that money is a medium for gaining possession, either of field or of wife, the Talmud carries the discussion no further in terms of any clarification for this seemingly bizarre "idea linkage." Why should the sanctity of marriage be created through the same methodology effecting legal transfer of parcels of land? Could the Torah have been so insensitive to the feelings of women—as feminists, aware of this passage, do indeed claim—that the comparison of land ownership and marital union does not even warrant passing comment? For us, these questions are both perplexing and disturbing. Their solution may well be implicit in the thematic linkage idea to which I refer, transcending the formalistic *gezerah shavah* identity-of-word legal category. It may perhaps be summarized most succinctly as "correspondence of thematic thought," validating not just a seemingly incompatible juxtaposition but also at the same time clarifying the divine rationale for the specific method of performance of a *mitsvah*.

Let us analyze *kiha kiha* from this perspective—not as the discovery of the same word in widely separate books of the Bible but as a purposeful merging of two complementary Torah portions. Lost in the superficial examination of the apparent unsuitability of the *kiha kiha* equation—can a bride be but another possession, no better

than a parcel of land?—is awareness of context. What was then the particular plot purchased whose price dictates the method for marriage? It requires no great feat of scholarship to recall that what was at issue in chapter 23 of Genesis was a burial ground—a spot known to Abraham as bearing very special spiritual significance as the resting-place of Adam and Eve—which a grieving husband was willing to acquire at whatever cost, *be-kesef male*, to manifest his love for a wife who would remain precious unto him, not only till death did them part, but even far beyond. Abraham did not merely buy a field from Ephron the Hittite; he manifested the grandest expression of how the Torah wishes to illustrate love. True love as understood in Jewish tradition—*ahavah she-einah teluyah be-davar*<sup>3</sup>—is a love not dependent on reciprocity but extending to the grave, and beyond, unto eternity: love defined not by taking, but by giving. Love so noble that nothing can stand in its way. Abraham will pay 400 shekels of silver—an enormous sum—and do whatever must be done to ensure that his beloved Sarah finds rest in a place worthy of her spiritual greatness. That was the meaning of the money transaction which serves as the halakhic source for the manner in which every Jew must be married.

Is the *gezerah shavah* linkage still strange, or does it not now explain why God chose the indirect method of teaching a halakhah rather than stating clearly in Deuteronomy, “When a man marries with money”? Here we have the answer to the enigma of *gezerah shavah* exposition: Why does God leave unclear and unresolved in one section a law that must then achieve comprehensibility only through the assistance of yet another biblical portion? So that we in effect are forced to mentally merge the two chapters, to reflect on their linkage, to understand how together and only together they forge the underlying principle necessary for the proper fulfillment of the law. Acquire your bride with *kesef*, “take” her in that very way which demands you recall the passage describing the first Jew’s total commitment to his spouse, indicate your understanding of *kiha kiha* correspondence—then, and only then, may you consider your marriage legally sanctified.

A *gezerah shavah* is thus much more than a vehicle for learning the practical details of the law. It is at the same time a divine method for broadening our vistas so that we also perceive scope, purpose, and proper perspective. We have seen that it can accomplish this through thematic linkage—connecting law in Deuteronomy with love paradigm in Genesis. Similarly, we can find other examples where the seemingly outlandish comparison of *gezerah shavah* is not unfortunate coincidence but rather carefully selected and purposeful union. By not clarifying in one location, we allow far greater insight

by a link with another. An excellent example is the amazing source for the number of Jews required to create a “community,” a *minyan* worthy of reciting “items of sanctity”—*devarim she-bi-kedushah*.

### TOKH TOKH, EDAH EDAH

Rabbi Adda bar Ahaba said: Whence do we know that a man praying by himself does not say the sanctification? Because it says, “I will be hallowed among the children of Israel” (Lev. 22:32); for any manifestation of sanctification not less than ten are required. How is this derived? Rabbanai, the brother of Rav Hiyya bar Abba taught: We draw an analogy between two occurrences of the word “among.” It is written here, “I will be hallowed among (*be-tokh*) the children of Israel,” and it is written elsewhere, “Separate yourselves from among (*mi-tokh*) this congregation (*edah*)” (Numbers 16:21). Just as in that case ten are implied, so here too ten are implied.<sup>4</sup>

The *gezerah shavah* linkage without regard to theme can be summarized briefly as follows: Sanctity requires being *be-tokh*, in the midst of a group. A group is called *edah*. The final part of the equation, appearing in some variant texts in *Berakhot* and more fully in *Megillah* 23b, declares: Since Numbers 14:27 states, “How long will this evil congregation (*edah*) . . .” referring to the ten wicked spies, with the exception of Joshua and Caleb, a group is in fact ten.

We are left now with the startling conclusion that the number creating sanctity comes from the very makeup of the band of evildoers responsible for the failure of the generation of the Exodus to reach the Promised Land!

Thematic linkage, rather than mere word play, demands that we analyze this *gezerah shavah* more closely. After all, had the intent of the Bible been merely at some point to convey the need for a *minyan* to allow a *davar she-bi-kedushah*, it would not have been difficult to state so openly in the Leviticus passage. Instead of “I will be hallowed amongst the children of Israel,” necessitating the *derashah* of *tokh* to *tokh* and then *edah* to *edah*, it could simply have stated, “I will be hallowed amongst ten.” What we therefore have to take as a given is that the Torah was especially anxious to connect our awareness of the numerical structure of a group with the paradigm of the spies. Why? And why link the *summum bonum* of the holy with the exemplar of the profane? With our acceptance of the axiom that thematic linkage is relevant, a possible solution lends itself readily.

Group prayer is more efficacious than that of a single individual. Parts of the service designated by the term *kadosh* dare not be uttered without the requisite quorum. True sanctity is created only by the many, in pursuit of the goal *le-takken olam be-malkhut*

*Shaddai*—to perfect the world under the reign of the Almighty. What one cannot accomplish, many can.

But what is the number required for this awesome task? How many people does it realistically take to bring about a perceptible change in history? We strive for good as a historically ordained goal. It certainly ought to be more easily accomplished than evil. Let us then carefully note an event which unequivocally altered Jewish history at our very national infancy. A people stood on the verge of fulfilling their dream of emancipation. The land of Israel beckoned. 600,000 adult males, implying a total population of close to 2,000,000, had hoped, prayed, counted the days for this moment. Then ten people returned from a brief visit with a critical report—and caused the weeping of the first Tisha be-Av as well as the divine decree of death for that entire generation. What eternal truth could that story be said to teach us? *Ten people can change the world.* Says the *gezerah shavah* used to teach the number necessary for *davar she-bi-kedushah*: If ten can serve to destroy, how much more so can ten suffice to bring about fulfillment of our Messianic vision? The *gezerah shavah* demands this thematic linkage so that we comprehend by the example of evil the remarkable potential of an *edah* which may comparably be placed in the service of the pursuit for universal perfection.

Up to this point, our illustrations have settled around cases where word linkage brought together both law and story. What we discovered was that narrative complemented law so that legal form had historic paradigm. An auxiliary to this in the realm of *gezerah shavah* is a situation where both usages of the identical word appear in context of a halakhah. Not *mitsvah* and *sippur* but rather *mitsvah* and *mitsvah* intersect, so that an inexplicable commandment may be properly fulfilled only after its ramifications are revealed elsewhere. And here too, as in the following law defining the proper location for the *tefillin* to be placed on the head, our utilization of the thematic linkage concept may well clarify why the Torah chose an obviously strange method in order to disclose the full parameters of a halakhah.

### BEIN EINEKHA, BEIN EINEIKHEM

Whence is it derived that it [the phylactery for the head] must be upon the upper part of the head? Our Rabbis taught: “Between thine eyes” (Exodus 13:9), that is, the upper part of the head. You say it is the upper part of the head, but perhaps it means actually between the eyes? It is written here, “Between thine eyes,” and it is written there, “Nor shall you make any baldness between your eyes for the dead” (Deuteronomy 14:1); as in the latter case it means the upper part of the head where baldness can be made, so in the former case too it means the upper part of the head where baldness can be made.<sup>5</sup>

Although we are told to put the *tefillah shel rosh* “between the eyes,” seemingly on the bridge of the nose, that is not its location. The *gezerah shavah* forces us to reorient our thinking. “Between the eyes” is used in the context of another law: man’s reaction to death. We are not permitted to “make cuttings in our flesh”—*lo titgodedu*—nor “to rip out our hair from our heads, causing baldness”—*ve-lo tasimu korha bein eineikhem*; we are “children to the Lord your God”—*banim atem la-Shem Elokeikhem* (Deuteronomy 14:1).

The words teach us where. The connection teaches us why. *Tefillin* are designated clearly as a “sign,” so much so that on the Sabbath and on holidays they are not required, for these days are in and of themselves reminders. What the unusual *gezerah shavah* teaches us is the precise nature of this sign.

Where “between the eyes”? Where people err in response to the divine decree of death. Pagans were wont to rip their flesh when confronting mortality. Hopelessness overcame them. They were consumed with despair. They ripped the hair out of their heads, even as the expression to this very day indicates total frustration. Why is all this proscribed for the Jew? If you are “children of the Lord your God,” death dare not be viewed as evil nor the end of life as extinction. As *Siftei Kohen al ha-Torah*<sup>6</sup> puts it:

“You are children of the Lord your God; you shall not cut yourselves”—it says since you are children to God, it is known to you from this that death must come to you as an aspect of goodness; for if it were from the aspect of evil, since He is your father and you are His children, a father does not cause harm to a child—but you must therefore believe that it is as an attribute of goodness that [death] comes.

To be a Jew is to believe in God’s goodness, even when one is unable to comprehend it. When faced with the most powerful mystery of life, its seeming destruction, we are to acknowledge the frailty of our intellect and to put our trust in God. He knows more than we. And just as in our daily ritual of symbolic expression with *tefillin* of the hand, we place God on our weaker hand—“for with a strong hand God took you out of Egypt” (Exodus 13:9)—and His power is therefore greater than ours, so too does the *tefillin* of the head rest over our seat of intellect to demonstrate the superiority of His wisdom to our understanding.

Of course, the Torah could have told us in Exodus the exact position for the symbol bespeaking God’s greatness of wisdom. But that would simply have expressed the concept of the Almighty being “over our heads”—more wise than we. How could it best communicate the need not only for mental subservience but also for acknowledging limitations of our understanding in the face of even the most

apparently irrational events? Through thematic linkage, whereby the *bein einekha* of *tefillin* is clearly identified with its purpose: rejection of that pagan crime which concludes that the presence of the incomprehensible justifies hopelessness and despair. It is in *that very location* where others rip out their hair in frustration as they abandon belief in the Divine, that we daily proclaim we believe His thoughts are beyond our limited intellectual capacities.

### EGLAH ARUFAH, EGEL HA-ZAHAV

All of the examples till now elaborated on a halakhically approved *gezerah shavah*. These word linkages, to be accepted, had to be transmitted through the chain of oral tradition; the law was clearly stated that *ein adam dan gezerah shavah me-atmo*<sup>7</sup>—“no man is permitted to adduce a *gezerah shavah* on his own initiative.” What our concept of thematic linkage has achieved is to place the seemingly haphazard conjunction of similar words into a framework which makes comprehensible their thought connection.

It is possible, however, to extend this analysis a step beyond. Even where no *gezerah shavah* exists for the purpose of legal exegesis, a thematic linkage may clearly be inferred to clarify a halakhic intent. Such a category may well be illustrated by the passage in Deuteronomy 21:3–7 which deals with the law for an unsolved murder, the case halakhically referred to as *eglah arufah*.

(3) And it shall be that the city which is nearest to the slain man, the elders of that city shall take a heifer of the herd which hath not been wrought with and which hath not drawn in the yoke. (4) And the elders of that city shall bring down the heifer unto a rough valley which shall neither be plown nor sown and shall break the heifer's neck there in the valley. (5) And the priests, the sons of Levi, shall come near—for them the Lord thy God hath chosen to minister unto him, and to bless in the name of the Lord; and according to their word shall every controversy and every stroke be. (6) And the elders of that city who are nearest unto the slain man shall wash their hands over the heifer whose neck was broken in the valley. (7) And they shall speak and say, “Our hands have not shed this blood, neither have our eyes seen it.”

The Talmud voices its amazement at this seemingly inappropriate requirement placed upon the elders of the city.

How does one grasp a need for atonement by local elders who in all certainty were not culpable for this crime? And what are we to make of the very strange symbols required in this act of expiation for a sin not committed?

The Talmud, which poses the problem, alerts us to the answer for the latter question in its response to the former:

But can it enter our minds that the elders of a court of justice are shedders of blood?! [The meaning of their statement is,] however, “[The man found dead] did not come to us [for help] and have us dismiss him without supplying him with food; we did not see him and let him go without escort.”<sup>8</sup>

While obviously there is no presumption of criminality on the part of the court in terms of an act of commission, we nevertheless are concerned with the responsibility of leaders in the domain of omission. Not because of what they did, but because of what they very possibly did not do, must they bring a heifer which *never did anything*—“which hath not been wrought with and hath not drawn in the yoke”—to a rough valley which *never produced anything*—“neither plowed nor sown.”

No one came to us asking for assistance and was turned away. Had we done that and caused a stranger to subsequently find himself in the field searching for assistance elsewhere, and had that stranger then been murdered, we, the holy, pious members of the Sanhedrin who would never dream of actually killing a fellow human being, could be charged with murder. Reflect on this as you take the *egel* and perform the sacrifice, not *shehitah*, killing from the front of the neck, but rather *arifah*, from the back, because by *turning your back* to someone who needs your help and is then killed—you are a silent accomplice to his horrible death.

What is most significant in this entire ritual, however, is the item required which lends its very name to the procedure—*eglah arufah*—and has an obvious thematic link with a previous biblical passage. Not only is *egel* the key to a *mitsvah*, it is also the focal point for an historic event for which the Jewish people were almost destroyed after their redemption from Egypt.

“[And Aaron] made it a molten calf, and they said, ‘This is thy god O Israel’” (Exodus 32:4). For this sin, God sends Moses down from the mountain where he has just received the tablets. Moses breaks them, accuses the people, asks for assistance in eliminating the evildoers—“Whoever is on the Lord’s side, let him come unto me” (v. 26)—and through the hands of the sons of Levi slays the culprits. “And there fell of the people that day about 3,000 men” (v. 28).

It is then, after the idolators have been punished, that, “It came to pass on the morrow that Moses said unto the people, ‘Ye have sinned a great sin; and now I will go up to the Lord and perchance I shall make atonement (*ulai akhapperah*) for your sin’” (v. 30). Why the need now for pleas and for prayers? Why the condemnation of those who are not the active criminals? Perhaps the words Moses uses, “All these people have sinned a great sin, *hatta’ah gedolah*” (v. 31)—not *het gadol*, as is customary, but *hatta’ah*, with an ending *he*, grammatically implying passivity (compare *yadekhah* [Exodus

13:16] with an ending *he* used as source for *tefillin* of the hand to be placed on the *yad kehah*—the weaker hand of passivity)<sup>9</sup>—make clear the remaining sin for which the “observers” are held liable. They did nothing. Precisely. And that was their crime.

When Moses asks for forgiveness for them, he says *ulai akhapperah*. That is the very same term used in Deuteronomy 21:8 regarding *eglah arufah* to convey the kind of atonement necessary for the elders who really “did nothing”:

Forgive (*kapper*) O Lord, thy people Israel, whom Thou hast redeemed, and suffer not innocent blood to remain in the midst of Thy people Israel. And the blood shall be forgiven them.

The Sanhedrin are never even remotely criticized for an act of commission. Is that perhaps why their testimony of *yadeinu lo shafekhu* is read as *shafekhu* but textually written with a concluding *he*—as with the *hatta'ah* of *ma'aseh ha-egel*?

When the law of an unsolved murder is recorded in the Torah, a ritual demanding atonement for potential “accomplices” never specifically mentions the category of crime of omission. Yet through thematic linkage of *egel* with *egel* and *kapper* with *kapper* we are immediately directed to the one major story where the entire Jewish people stand condemned for their silence in the face of the actual sin of a few.

Taking part in the ritual of *eglah arufah* together with the elders of the city are “the Priests, the sons of Levi.” In Deuteronomy, where the passage appears, we certainly know who the Kohanim are, and their tribal affiliation. Yet the text, seemingly unnecessarily, adds, “For them the Lord thy God hath chosen to minister unto him.” Where indeed was this selection made? At what point in our history did primogeniture as determinant of spiritual priority give way to tribal choice? Of course, in the very story of the *egel ha-zahav*, which serves as thematic key to the understanding of the entire chapter. Because the Levites respond to the call of Moses in the incident of the golden calf, they are singled out in the atonement process of *eglah arufah* as *dramatis personae*—and the very fact of their selection is mentioned to make clear the symbolic meaning of “heifer” as a reminder of *ma'aseh ha-egel*.

The examples cited above are meant to illustrate a system of interpretive analysis which requires far more elucidation and study. Thematic linkage suggests the possibility for tapping theological and philosophical insights in connections of texts already validated through *gezerah shavah* or other halakhically approved methods.

The concept proposes that whereas talmudic thought was content with merely identifying links as vehicles for legal applications, an orientation of *hashkafah* would derive much benefit from probing the meaning and purpose of this indirect methodology for transmission of law. Why did the Torah not say directly that *kiha* is *keseif*? To understand that this temporary lack of clarity is purposeful allows us to subsequently grasp an insight into marriage which is obviously of great Biblical concern. So, too, should every “word signal” be analyzed by us. If marriage, the concept of community and *minyán*, the *mitsvah* of *tefillin*, and the halakha of *eglah arufah* can all become far more fully illuminated through application of this method, it should certainly prove extremely rewarding to pursue this line of exegesis for every single instance for which it is relevant in the Torah.

#### NOTES

1. *Baraita de-Rabbi Yishmael*, Introduction to *Torat Kohanim*.
2. *Kiddushin* 4b.
3. *Avot* 5:9.
4. *Berakhot* 21b.
5. *Menahot* 36b.
6. *Siftei Kohen al ha-Torah*, Deuteronomy, p. 84a.
7. *Pesahim* 66a; *Niddah* 19b; *Yerushalmi Pesahim* 6:1.
8. *Sotah* 45b.
9. *Menahot* 37b.