

ארור משגה עור בדרך

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In *Parshas Ki Savo* the Torah gives us a number of *klalos*. One of these is (כו, יח) משגה עור בדרך. The *pashut pshat* of the words means tripping a blind person, but *Rashi* says it means giving bad advice to a person who is *suma b'davar*. This is the same comment he made in *Parshas Kedoshim* on the *posuk* of “*Lifnay Eeveir Lo Sitayn Mich'shol*.” In *Kedoshim* the *Minchas Chinuch* discusses the following question. When *Chazal darshen* the *posuk* of “*lifnay eeveir*” to be the *issur* of giving bad advice, does that mean a person is not *chayiv* for actually tripping a blind person or would the *issur* still apply to its *pashut pshat* because of *Ayn Mikrah Yotzeh Meday Peshuto*? I would like to discuss the possibility of the *pashtay d'kra* to be *mach'shil b'eitzah ra'ah* and not the literal translation. Obviously, tripping a blind person is disgusting and *assur* to do, but I'm not convinced that it lies in the *issur* of “*lifnay eeveir*.”

It is interesting to note that both in *Ki Savo* and *Kedoshim*, *Rashi* brings the *Chazal* of “*eeveir b'davar*.” Why does he have to repeat it in *Ki Savo*? I would like to make a comparison to another *din*.

In *Parshas Eikev* on the *posuk* of “*ul'davka bo*” (11: 22), *Rashi* cites the *Chazal* that one should be *davuk* to *chachomim* and Hashem will consider it as if one were *davuk* to Him. Nevertheless, in other places where this is brought *Rashi* will sometimes say this as the *pashtay d'kra* and other times he leaves it. For example, in the last *posuk* of *Parshas Nitzavim*, he does not say anything on these same words. I think the *pshat* is that when the Torah says “*eish ochla*,” the *derasha* of *Chazal* is a *derasha* that one may not be able to be *davuk* directly to the *Shechinah*, but the *pashtus* is that *talmidei chachomim* are *shayich* to *dveykus b'Shechinah*.

This is in contradistinction, perhaps, to the *issur* and *klala* of *lifnay eeveir/mashgeh eeveir* where in both instances *Rashi* cites the *Chazal's* interpretation of it meaning to give bad advice or direction.

The *Malbim* seems to support this support this notion. If you want to see the *geonus* of the *Malbim*, look at his *peirush* of the *posuk* of *lifnay eeveir* (*Vayikra 19: 14, Os Lamed-Hay*). It is a prime example of how the *Malbim* has a unified *mehalech* and grasp of *Kol haTorah Kulah*.

The *Malbim's pshat* is as follows. How did *Chazal* know to *darshen* the *posuk* to mean *eeveir b'davar*? He cites the *Sifri* that the *posuk* means “*suma b'davar*,” and says that there is a fundamental difference in the Torah between the words *שימה* (to place) and *נתינה* (to give). The former, *simah*, is used in the context of preparing something in a place, whereas *nesinah* comes in the context of one person to another (whether physically giving him or giving him knowledge of something). However, when one gives the wrong advice this is called placing a stumbling block and the *lashon* remains *simah*. Examples of this are the *pesukim* of “*v'sam lah alilos devorim*” and “*Kazdim samu sheloshah roshim*.” If this *posuk* was really referring to tripping a blind person without his realization, the *posuk* should have used the word “*lo sasim mich'shol*” instead of “*lo seetayn*.” This is how *Chazal* knew to *darshen* this *posuk* as *suma b'davar* and not literally a blind person. Giving advice means there is a giver and a taker. The person is cognizant that he is receiving what he thinks to be your help about information he is lacking, only the fact that it is harmful to him is hidden. The *posuk* of “*nosati mich'shol lifanav*” is an example of this. Throughout the Torah, *sosim* is to place and *nesinah* is to give, which implies a taker.

According to this *Malbim*, it fits very well into our understanding of *Rashi* and the *posuk*. The word used in this context is a form of *nesinah* and very likely means that the *pashtus* of the *posuk* means *eeveir b'davar*. This would yield that literally tripping a blind person would not fall under this *issur*. Another interesting takeaway is that in every *derasha* we need to figure out if it is adding onto the *pashut pshat* (like by “*dovka bo*”) or is it the *poshut pshat* itself (like in our case).

It is true that our *posuk* in *Ki Savo* never uses a form of *nesinah*, it merely says “*arur mashgeh eeveir b'derech*.” Why then did *Rashi* repeat the *Chazal* and not just leave it alone? Maybe he did so because the point of the *posuk* is to add on a layer of *klala* to the existing *issur*, therefore he repeats the *derasha* to tell

us that the *klala issur* is the same as the original *lifnay eeveir*. In fact, there are opinions that the *issur* of *eitzah ra'ah* and *mach'shil b'chet* are one and the same. The *Rambam* is slightly *mashma* to hold this way. He writes that the *shem issur* is *eitzah ra'ah* and there is no worse *eitzah ra'ah* than being *mach'shil* someone to transgress an *aveirah*.

I once saw a *kuntres* from HaRav Zelik Epstein z"l about this *inyan*. He writes that if it is true that there is only one *shem issur* for this, then there are some interesting *halachic nafka minos*. For instance, the *poskim* discuss whether one is *over lifnay eeveir* for giving *eitzah* to someone that he should do an *aveirah* but he didn't end up doing it. (Examples would be giving wine to a *nazir* or *eiver min hachai* to a non-Jew.) If the *issur* is causing the *aveirah* to happen, in such a case it did not so one wouldn't be *chayiv* for *lifnay eeveir*. But if the *issur* is simply giving the bad advice then he is *chayiv* as soon as he gives it.

There is a big *machlokes haposkim* about this. *Yad Malachi* wants to bring a proof from the *gemara* which states that one is *chayiv lifnay eeveir* for hitting his adult son. *Rashi* explains because the son will hit him back. The *gemara* is *mashma* that even without the son retaliating, the father is *chayiv* which means that without the *aveirah* being done one is still *chayiv*. Rav Itzele Peterburger argues against this proof, but that is not a *shmuess* for now.

Another case that the *poskim* discuss is being *mach'shil* someone to transgress an *issur derabanan*. How could that be *lifnay eeveir* on *de'oraisa* level? Must be that giving the bad advice is the *issur*.

One of the most famous *chiddushim* of the *Nesivos* is in *Siman 264*. He suggests that if a person violated an *issur derabanan b'shoge* then he need not do *teshuva*. Why? Since the *derabanan din* is only an issue of not listening to what the *Chachomim* said to do, and it's not an *issur cheftzah* on the physical act, then when one does it *b'shoge* it comes out that he didn't purposefully violate their directive. He only 'didn't listen' to them by accident, so maybe it is not really being *over* the *issur derabanan*. Rav Meir Simcha writes in *Ohr Sameach* that this is patently false and we cannot accept such an idea. Why not? Because we would never suggest that someone could give his friend *issur derabanan*, such as chicken cooked in milk, to eat unknowingly with no *lifnay eeveir* applicable. According to the *Nesivos*, the friend would not be doing anything wrong because it was just *issur derabanan b'shoge*. That is why Rav Meir Simcha refuses to accept this.

Lich'orah, the *Nesivos* must hold that the friend who ate the *issur derabanan b'shoge* does not need to do *teshuva* because he didn't do a *chet*. However, there is still an *issur* of *lifnay eeveir* because the *Chachomim* want us to keep the *issurei derabanan*, therefore it still *bleibs eitzah ra'ah* to be *mach'shil* someone in an *issur derabanan*. It's against *ratzon Chachomim* to give him the *issur achilah*. The *Nesivos* would respond to Rav Meir Simcha that the *mach'shil* still did something wrong by not treating the *issur derabanan* as such.

Kesiva Vachasima Tova, A Gut G'Benchte Yor