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LEARNING *GEMARA* IN ENGLISH: THE STEINSALTZ TALMUD TRANSLATION

The return to traditional Jewish life which has marked the last several decades has been accompanied by a quickened interest in classical Jewish texts. Both in Israel and in the West, material previously considered esoteric by non-specialists has been rediscovered by Jews eager to explore the sources of Jewish faith. Major commentaries on the Bible, classical Jewish thinkers, the Mishnah, the Shulhan Arukh, the Responsa literature—all have elicited a measure of interest unexpected and unforeseen in the earlier decades of this century. The often difficult Hebrew of the original has been no barrier: in English speaking lands, there has taken place a veritable explosion of translation. And in Israel, translations into modern Hebrew of these same texts are commonplace.

Of particular significance has been the phenomenon of Rabbi Adin Steinsaltz's translation of the Aramaic Talmud into modern Hebrew. In the past several decades, over twenty volumes of this Talmud have appeared. They offer the original Aramaic text, newly vocalized and punctuated, together with the commentaries of Rashi and the Tosafists, a running translation into modern Hebrew, and Halakhic notes and realia. This work has been widely utilized in Jewish communities around the world, and has made Talmud more accessible to tens of thousands of Jews for whom it had been a closed and forbidding literature.

Random House has now begun to publish an English translation and expansion of this material, hoping to introduce Talmud to an even wider circle.* Indeed, the jacket of the English edition promises that it will be

**The Talmud: The Steinsaltz Edition*, Vol. 1, Tractate Bava Metzia, I. (New York: Random House, 1989) 252 pp. \$40.00.

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the reader's "personal instructor," guiding him "through the intricate paths of Talmudic logic and thought," and that the "extensive introductions and commentaries make the text crystal clear, providing all the background information needed to follow it. . . ."

Although recently a number of serious criticism have been leveled at Steinsaltz's attitude towards certain Biblical and rabbinic figures as reflected in some of his other writings, these broader general issues, important as they may be, will not be discussed here. Space considerations also preclude discussion of another recently issued Talmud and commentary in English, published by ArtScroll/Mesorah Press, which at this writing has issued Tractates *Makkot* and *Eruvin*. An examination of the ways in which these two works parallel, and are different from each other would be instructive, but will have to wait for another occasion. Rather, this writer will limit himself to the objective questions of how the English Steinsaltz Talmud handles the classical Talmudic text, how clearly it understands the basic source material, how successful it is in guiding the student through the intricate paths of Talmudic logic and thought, and what kind of Talmud ultimately emerges.

On one level the Steinsaltz Talmud meets well the formidable challenge of translating the Talmud. The rendition is highly readable, the translation is clear and, most important, patient with a beginning student. In addition, the volume is handsomely presented, with a cover which is striking and a fetching page designed to make it resemble a classic Talmud.

One side of the text has a literal translation; the opposite column has a running commentary which encompasses a slightly variant literal translation in boldface. The literal translation allows the beginning student to proceed to the point where he will be able to study it on his own. On the other hand, a literal translation alone would be incomprehensible even to an advanced scholar (imagine Talmud study without Rashi!); it would mean burdening the reader with lengthy footnotes for every few words, which the employment of the running commentary avoids.

But readability and book design do not a translation make. The crucial measuring rod to be applied is, does it cogently present the ideas of the Gemara and the inter-relationship between its elements?

A careful examination of many sections of the volume leads this reviewer to the unavoidable conclusion that the beauty of the Steinsaltz Talmud is skin-deep. Where a straightforward translation is required, an excellent job is done. However, once it ventures into the deeper waters of clarifying the subtleties of Talmudic discourse and of its commentators, it runs out of strength and begins to flounder.

Specifically, the work is marred by an extraordinary number of inaccuracies stemming primarily from misreadings of the sources; it fails to explain those difficult passages which the reader would expect it to explain; and it confuses him with notes which are often irrelevant, incomprehensible and contradictory. The major criticism so far registered against the Steinsaltz English Talmud has been that of Leon Wieseltier in *The New York Times Book Review*: it fails to transmit the true flavor of "learning" Gemara. This can be explained only by the fact that few if any of the reviewers to date have attempted to probe beneath the external aspects of the translation—the merit of translating the Talmud, the format and the graphics. They have not dealt with the actual "learning" of the Talmudic text, and it is in this cardinal aspect that this work is deficient.

Furthermore, since two-thirds of the deficiencies cited in this article are to be found in the original Steinsaltz Talmud, those dedicated to the integrity of the Talmudic process might well want to reexamine the Hebrew Steinsaltz with an eye towards its scholarly usefulness for the serious student.

Granted that the Steinsaltz phenomenon has opened the Talmud to many thousands; granted also that, to those untutored in its complexities, it has offered a new appreciation for Talmud study and its methods. But the serious question which arises from this analysis is whether Rabbi Steinsaltz has popularized the real Talmud or a grossly simplified version of it. If, as is maintained here, the Steinsaltz Talmud is unreliable once it ventures into areas beyond simple *peshat*, does this imply that the entire Steinsaltz *oeuvre* has in fact achieved popularity at the cost of rigorous scholarly analysis and accurate treatment of classic sources? This writer is not prepared to address this question at this juncture, but this challenge and its response should be objectively and dispassionately addressed in the classic Talmudic tradition of *lehagdil Torah u-leha'adirah*, to the greater glory and enhancement of Torah learning.

II

Folio 9b (pp. 103-107) is an illustrative example of a misreading of the sources. This folio begins with a *ba'aya* (an halakhic problem posed before Amoraitic authorities) presented by Ray Elazar about legal acquisition:

Where someone says to his friend, "Pull this animal and acquire the utensils that are on it," is the acquisition of the utensils valid?

The "Notes" begins by asking a general question:

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The commentators ask why Rabbi Elazar's question appears in our tractate and in the present context. It would seem more appropriate to include it in tractate Bava Batra, where the laws of the various modes of acquisition are discussed.

One's initial reaction to this question is, why did the editor find this question so important? Will a student who reads Talmud in English translation be troubled by the fact that R. Elazar's problem is found in *Bava Metsia* and not included in *Bava Batra*—a tractate which Rabbi Steinsaltz has not yet translated?

But beyond this consideration, the question itself is puzzling. Why should the problem *not* be in *Bava Metsia*? Certainly, laws of acquisition are discussed here as well. Indeed, the bulk of the previous two folios has dealt entirely with the modes of acquisition of *hagbaha* (lifting), *arba amot* (four cubits), riding and leading, and large sections in Chapter Five deal with *kesef* (money), *meshikhah* (pulling) and *halipin* (exchange). Furthermore, in his Introduction the editor himself writes that

- . . there is one subject which is an integral part of all the discussion in Bava Metzia, and that is the general question of *kinyan*, "acquisition," "ownership."²

However, when checking the original Hebrew source of this odd question, the *Shitta Mekubetset*, one finds the following:

It may be asked, how is this [problem] relevant here since we do not solve it from our Mishnah and there is a similar one to it in Chapter *Ha-mokher*.

In other words the *Shitta's* question is the following: A problem similar to R. Elazar's is discussed in Chapter *Ha-mokher et ha-sefina* (Bava Batra 85b-86a) regarding a purchaser acquiring an object while it is lying on an article which is not being acquired. If so, asks the *Shitta*, R. Elazar's problem seems to be more relevant to that discussion and should appear there. This is quite different from the way the editor understood the question.

The "Notes" proceed to answer the question it posed as follows:

Some commentators answer that the question is even more relevant where the objects on the animal are ownerless. In the case of a business transaction, it may be argued that the objects should remain in the seller's ownership. But in the case of ownerless (found) objects on a bound animal, you might have thought that the act of pulling is effective. Therefore the case is brought here to teach us that if someone else intervenes, and takes the objects on the animal after the finder has pulled the animal, the latter's act of pulling is not effective (*Shitta Mekubetset*).

This answer, that the question is more relevant with respect to ownerless objects, is puzzling, for with respect to *meshikha* (pulling) a

distinction is never made between business transactions and acquisition of ownerless objects. Furthermore, if R. Elazar intends to teach the "more relevant" application to ownerless objects, why does he state his problem with respect to a business transaction? Thirdly, even granted that a distinction is made for pulling between business and other transactions, why does "Notes" conclude, "Therefore the case is brought here to teach us that if someone else intervenes . . . the latter's act of pulling is not effective." Why must the case of someone else intervening be adduced; isn't the distinction which has already been made, between business transactions and ownerless objects, sufficient?

Here, too, a look at the source clears up the reader's confusion. The *Shitta Mekubetset's* question is followed by:

5"Y] KLIVDD K51 xnn x1nn5n inp r1"131 nx yn 11721/35 xoix nmo rr 5"1
r1KI73 r1 5171 roman rinn nnnn xyn nx inrrn rrinnth [D.K—M311.1nI
xnix Ina xn5u73. 1 na nay nEmil inx K3 DX rp53Jtu nx yrin n1p5 nrx
ni intrn nnin5 1.0.5 nx ynn 5nx nip xr21 xnp nin nprnx thli npin r pun
:NI, 'TinX1731pnu nx x51 pm Tin Timmy nn 'Km nip 115331V

One may answer that the same problem may be asked with respect to found objects and therefore the Talmud inserted [the problem] here. [The problem] was not solved and we establish that [the problem was posed in] the case of a bound animal. Therefore, if someone finds his friend's bound animal and a found object is upon it, and he pulls it to acquire the found object on it, if someone else comes and takes it, the latter acquires it [since the first person has only a doubtful acquisition in it, and therefore whoever has possession may keep it in accordance with the laws of *muhzak*—A.F1. Even though we rule in business transactions [where someone made a doubtful acquisition] that we give it to the person who owned it last (*mara kama*) and the latter would not retain possession, but in the case of a found object this cannot be said [there is no previous owner since its last state was ownerless]; therefore, since he who took hold of it acquires it definitely and the one who pulled it is only a doubt, [we apply the principle that] "the doubtful is not decisive in the face of the definite."

In other words, the answer to the question is given in one sentence. R. Elazar's problem was placed in *Bava Metsia* since the same problem may be posed with respect to found objects, which are the purview of the first two chapters in this tractate. The rest of the paragraph in the *Shitta* (beginning with "*ve-lo nifsheta*"—" [The problem] was not solved") is unrelated to this answer and deals with another issue: Since R. Elazar's problem is left unsolved, what is the halakhic ruling? The ruling given by the *Shitta* is standard for such unsolved problems: we give it to the last owner (*mara kama*) or, where there is no last owner as in the case of an ownerless object, to the person in possession (*muhzak*). (This ruling, in fact, is cited in the "Halakha" section of the Steinsaltz Talmud, albeit from other sources.)

The mystery of the "answer" cited by the note now becomes unraveled: apparently assuming that the Halakhic ruling was part of the

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answer, the two separate issues addressed by the *Shitta* were mistakenly strung together into one sentence and its meaning was adjusted accordingly.³

The translator's note which follows is flawed as well. It lists the interpretations given by the Rishonim of R. Elazar's *ba'aya*. In that note we are told that

... • Rashba and Ritva take the opposite approach to Ramban. It is clear that pulling an animal is an effective way of acquiring objects on it. But for some reason the purchaser wishes to acquire these objects only through courtyard-acquisition. Hence the question is: Can an animal be used for courtyard-acquisition and under what circumstances, bearing in mind that pulling an animal is normally done with a walking animal, and courtyard-acquisition requires a stationary courtyard?

In fact, Ritva's view is identical to Ramban's. As for the interpretation set forth in the rest of the paragraph, it is similar to that of Rashba, but it is erroneously presented.⁴ In addition, the sentence in this note beginning, "Hence, etc." (even granting its interpretation of the Rashba), is incomprehensible. If the issue is "can an animal be used for courtyard acquisition," then "bearing in mind that pulling an animal is normally done with a walking animal" is irrelevant. What does pulling have to do with courtyard acquisition?⁵

On 9a we are taught that if someone makes a purchase in violation of the Shabbat laws the purchase is valid. As to why such an action is not considered null and void under a general principle which nullifies acts violating the Torah, "Notes," on p. 102, cites an explanation from *Havat Da 'at* and *Netivot HaMishpat* that this is because purchasing on Shabbat is only a Rabbinic injunction. In fact, these two works explicitly reject this distinction and offer another.⁶

In the *sugya* (pericope) on 2b, where the topic is the oath imposed on the two people in the first Mishnah who are holding on to the same garment, a note at the beginning of the *sugya* on p. 12 (beginning with "Because a claimant may rationalize . . .") states:

The early Rishonim seek to resolve a number of internal contradictions that this passage seems to contain. For example, it appears the passage is based on the assumption that neither of the parties intends to deceive the other (*leka vadai ramai*) and that both parties are acting in good faith, but the Gemara also makes the apparently contrary assumption that each of the parties may be seeking to rationalize taking something that does not belong to him.

A reader at this point in the text is at a loss to discover what is the internal contradiction. Where is it suggested that his passage is "based on the assumption that neither intends to deceive the other"? (In addition, the gratuitous use of the Hebrew term *leka vadai ramai*, a term not mentioned anywhere in the Talmud text, only serves to compound the confusion. ⁷)

Apparently, the "passage" referred to is not the immediate discussion at hand, but the entire *sugya* which extends over the next two pages in the English translation. As noted by the Rishonim, at the beginning of the *sugya* the reason for the oath in the Mishnah is given as the suspicion that each party is rationalizing taking something that does not belong to him. Later passages imply that this is not the crucial reason.

But if this is the question posed by the note, it is likely to elude the average reader. The points which appear to be contradictions should have been pinpointed; at the very least the note should have been placed at the end of the *sugya* where the reader would have some hope of divining what the contradiction is. Posing it at the beginning leaves the reader with no way of understanding the problem.

The note offers several explanations for the contradiction:

In fact, some of the proposed explanations of these contradictions come to the conclusion that certain sections of the passage are entirely superfluous. Because of this lack of continuity and conceptual unity, a number of the commentators (Rabbeinu Hananel and others) maintain that the present form of the passage is a compilation of unrelated interpretations of the Mishnah and not a single continuous line of argument.

Others (*Otzar HaGeonim*) go further and suggest that the entire passage is not part of the original text of the Gemara as edited by Ravina and Ray Ashi, but was added later by the Savoraim [who] collected all the various Amoraic explanations of the subject matter of the Mishnah and inserted them in unedited form in the text of the Gemara. (A number of examples of such a process can be found elsewhere in the Talmud.)

Nevertheless, many commentators (*Ramban*, *Rashba* and *Shitta Mekubbetzet*) reject this approach. They attempt, albeit with a certain amount of difficulty, to resolve the passages's apparent lack of cohesion and interpret it as one continuous line of thought.

There are several errors here. (1) The "proposed explanations" that "certain sections . . . are entirely superfluous" are nowhere to be found. (2) The explanation of the "unrelated interpretations" is erroneously attributed to Rabbi Hananel, who makes no comment at all on the problem. (3) The solution attributed to the *Otzar HaGeonim*, that "the entire passage is not part of the original text" of the Talmud, is problematic. If "entire passage" refers to the entire *sugya*, as we have suggested to justify the questions posed by the Notes, there is no source for this in *Otzar HaGeonim*. If it refers to the passage at hand, *Otzar HaGeonim*

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seems to ascribe to the Savoraim only a short section regarding the case in the Mishnah of a dispute over a purchase, which has no bearing on the contradiction.⁸

Even granting a reading of one citation in *Otzar HaGeonim* by which the first element of the contradiction is an insertion (see note 8), the note seems to be based on a misconception regarding the Savoraim. All comments known to be added to the Talmud by the Savoraim are their own, unlike the note which claims that there are "a number of examples" in the Talmud where they "collected all the various Amoraic explanations . . . and inserted them in unedited form." There is no example for this in the Talmud (nor does *Otzar HaGeonim* say this, as the note implies.)⁹ Thus, even if it is an insertion by the Savoraim we would still be obliged to explain why they would add a comment contradictory to other parts of the *sugya*.

The last explanation, which is not made explicit, is the one given by many major Rishonim. This view holds that there is no contradiction and the first reason is only raised as a possibility which is then rejected.

Why this simple, elegant interpretation is so casually downgraded by Rabbi Steinsaltz, and what is the "difficulty" which it poses, is unfortunately not made clear. Instead, he prefers to focus on the first interpretation (the one rejected by major Rishonim) and on suggestions of editorial errors and lack of conceptual unity.^m

III

At times the Steinsaltz Talmud suggests interpretations which are not found in any of the Rishonim and are unsupported by the text—without explanation as to why the classic interpretation has been discarded. This would have been problematic enough if the new reading were tightly logical; the problem is compounded, however, when the new reading is loose in its logic.

For example, in the *sugya* on folio 9b which we have previously discussed, R. Elazar's *ba'aya* ("Pull this animal and acquire the utensils on it"), where the animal is *not* being acquired but is merely being used as a means to acquire the utensils, is taken by the Talmud to imply that in a case where one *does* acquire the animal together with the utensils simultaneously, the purchase of the utensils would be valid. On this implication, the Talmud proceeds to ask, how is this possible, for since a "walking courtyard" does not acquire, the utensils could not be acquired by virtue of their resting on the animal. Even if the animal is standing, continues the Talmud, a standing animal has the status of a "walking

courtyard." This forces the Talmud to conclude that R. Elazar posed his *ba'aya* in the case of a bound animal, which is not a "walking courtyard"; therefore his implication is justified; namely, that if the purchaser would acquire the animal *simultaneously* with the utensils, the utensils would be his under the law of "courtyard." This is how all the commentaries read the *sugya*.

Rabbi Steinsaltz reads it differently. The conclusion of the Talmud is

if the buyer acquired the animal by pulling it, then tied it up, it could then act as his courtyard and enable him to acquire the objects it was carrying.

And he reads the previous suggestion, later rejected, that the animal is standing but untied as:

And even if you say that Rabbi Elazar was referring to a case where the animal was first pulled by the buyer and acquired by him, and then it stood in its place and acted as "stationary courtyard". . . .

In other words, R. Elazar's implication is taken to be where the purchaser first acquired an animal by pulling it and then used it as a "courtyard."

Now, the whole point R. Elazar's *ba'aya* is whether pulling the animal is valid for acquiring the utensils *by that pulling*. Consequently, the logical implication of his words (where the animal is being acquired as well) refers to where the animal is being acquired by the very act which acquires the utensils. According to Rabbi Steinsaltz' reading, however, the implication seems to be simply, can an animal be used as a "courtyard," in which case it makes no difference how or when the animal was acquired and, consequently, any mention of acquiring the animal is superfluous.¹¹

The text supports the interpretation of the Rishonim, since the implication is stated as

If the seller had told the buyer acquire the animal and acquire the utensils together with the animal . . . (translation from Steinsaltz Talmud)

The practical difference between the Rishonim's reading and that of Rabbi Steinsaltz is that, according to the Rishonim, if someone purchases utensils on a bound animal which he acquires by pulling, he acquires them both, whereas according to Rabbi Steinsaltz he might not acquire them since there is no source for this in the Talmud and perhaps, since this is an unusual way of pulling an animal, the pulling is not effective.¹²

Remarkably, Rabbi Steinsaltz in the Halakha section on page 104 cites the ruling of the authorities which emerges from the Rishonim's explanation, namely, "But if the animal was bound, so that it was unable to move, the buyer acquires whatever goods it is carrying." This is a

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ruling which according to his own interpretation has no source. The obvious question arises: If the ruling which results from the Rishonim's interpretation is acceptable as Halakha, why is their interpretation not acceptable?

Another example of an interpretation unsupported by the text is that given to the second Mishnah of the first chapter (folio 9b, p. 106). The Mishnah, in literal translation, states:

If a person was riding on an animal and he saw a found object, and he said to another person, "Give it to me," and the other person took it and said, "I have acquired it," he has acquired it. If, after he gave it to him, he said, "I acquired it first," he said nothing.

On this last sentence, the commentary explains:

But, if, after he gave the object to the rider, the person who picked it up said, "I acquired the object first" he in fact said nothing. His words are of no effect, and the rider may keep it. Since the person walking showed no intention of acquiring the object when he originally picked it up, he is not now believed when he claims that he acquired it first.¹³

The reason given, that he is not believed when he claims he acquired it first without having displayed such an intention when he picked it up, is a novel interpretation; Rashi does not read it this way. Worse than this, it cannot be reconciled with the first sentence in the Mishnah according to its interpretation in the Gemara.¹⁴

In fact, there seems to be a confusion on the part of the translator as to whether this in fact is the reason for the Mishnah. For having stated its new interpretation, the commentary then continues:

Indeed, even if we maintain that when a person picks up an ownerless object on behalf of someone else, the latter does not acquire it automatically, here by giving [unnecessary emphasis in original—A.F.] the object to the rider, he makes a gift of it to the rider.

This sentence reverts to Rashi's interpretation of the Mishnah, of which it is a partial paraphrase. However, the translator failed to note that his comment makes no sense according to his original interpretation. For even granted that "when a person picks up an ownerless object on behalf of someone else, the latter does not acquire it automatically," if the crucial factor, as the commentary has just stated, is that the finder is not believed to say that he picked it up for himself, this should not present a problem.¹⁵

IV

The commentary is not only deficient in that which it explains; it is even more so in that which it does not explain.

The *sugya* on folio 6a-b begins with a *ba'aya* regarding a person who seizes a garment from his fellow which both had been holding and which each had been claiming to own, and the latter remains silent for a while and then protests. The doubt hinges upon the psychology of the litigant who remains silent: is his silence and admission or not. Assuming that the *ba'aya* is solved and that the silence is considered an admission, an additional *ba'aya* is then posed: what is the law if instead of seizing the garment from his fellow, the person consecrates it to the Temple?

For the solution of this issue, the Talmud switches to another doubt. There was a dispute by two people over the ownership of a bathhouse and one of the litigants consecrated it to the Temple. The solution to this problem is expected to solve the first question.

One of the obvious difficulties in this *sugya*—*well-known* to Talmud students—is the connection between (a) the original problem regarding a person who consecrated a garment which he and his fellow had been holding and (b) the solution which is adduced from the case of the bathhouse. The former problem seems to be, as in the one in the Gemara preceding it upon which it is based, one of human psychology: should temporary silence be considered an admission. On the other hand, in the case of the bathhouse there is an objective doubt unrelated to silence and admission. Neither of them, as in the case of the garment, seized the bathhouse from the other while the other remained silent; the problem is simply to whom did the bathhouse originally belong. How, then, does the case of the bathhouse solve the original problem (of the consecration by one of two litigants who seized a garment which they were both holding), which is a psychological issue?¹⁶

This difficulty in the flow of the text cries out for comment and, in fact, the commentaries explain it well.¹⁷ However, Rabbi Steinsaltz chooses not to deal with it either in the commentary or in the notes, as if there were no difficulty at all with the logic.¹⁸

Rabbi Steinsaltz does, however, see fit to pose a question of another sort:

• . . Perhaps the Sages stopped using the bathhouse because the person who dedicated it was entitled to at least half of it in any event, and since it was impossible to determine precisely which half belonged to him, the entire bathhouse had to be treated as if it had been dedicated! . . .¹⁹

The assumption made by this question is startling. Why are we expected to assume that each person is entitled to one-half of the bathhouse?

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It seems to be based upon the assumption that both litigants are in physical possession of the bathhouse which would create a ruling of each receiving one-half.²⁰ But this interpretation is not in the simple meaning of the text and, without any hint of it in the commentary, unlikely to have been assumed by the reader.²¹ On the contrary, the very next note²² informs us that the ruling in the case of the bathhouse is not that each receives one-half but ("*kol de-alim gevar*" — "*let the stronger party win*"), a ruling which applies, as a previous note on p. 8 has informed us, "only where neither claimant is in possession of the object in dispute." In other words, each litigant of the bathhouse does not deserve one-half; what, then, is the basis for the note's question?

Another example where both the commentary and the notes forsake the reader is on folio 8a.²³ We learn there that two people can pick up an object together only if each picks up his half for himself as well as for his fellow; otherwise this is not a valid act of lifting (*hagbaha*). Rava states that two people may acquire an object by picking it up together even according to the view that it is not equally valid to pick up an object exclusively for one's fellow (*ha magbiah metsia le havelo lo kana havelo*). He proves this by adducing a Baraita which states that two people who steal an object together are culpable, even though when one person steals on behalf of another, the latter is not culpable, under the principle that there is no agency for a sin, *en sheliah li devar avera*.

Both the law of "two people who steal together" and the comparison to the issue of picking up an object for one's fellow, beg for interpretation. Rashi explains the law in this manner: "one person did the stealing but intended to steal it both for himself as well as on behalf of his fellow. In this case both are culpable; yet if one person steals for another, the former is culpable because there is no agency for sin." One person cannot steal an object only for his fellow because he cannot be his agent for a sin. Why does this principle not apply if someone steals both for himself and for his fellow?²⁴

Even granted that for some reason it does not apply to the latter case, what comparison can be made between stealing in this manner and picking up an object for oneself and another? In the former case we seem to be dealing with an appointed agent who for some reason has validity even in the case of sin. The latter case is not one of an appointed agent but of someone who on his own picks up an object for himself and his fellow. How can the two cases be compared?²⁵

These issues are, of course, addressed by the commentaries, but the editor neither notes the difficulties nor alleviates them. Again, the intelligent reader who will certainly note the logical inconsistencies is left confused.

V

While ignoring passages which cry out for an explanation, as above, the notes often go into detail explaining issues whose purpose seems irrelevant and which occasionally contradict other notes.

For example, regarding the mode of acquisition of "courtyard" (*kinyan hatser*), a background note on p. 104 states:

Acquisition by means of a courtyard is not self-evident, because it does not refer to a person's ownership of land, which according to the Halakah extends downward to the center of the earth and upward to the sky. Hence everything beneath the earth belongs to the owner of the land.

However, in this case we are referring to the ability of a courtyard to acquire things that are not part of the ground itself, but come from elsewhere. . . .²⁶

This note is bent on negating an interpretation of *kinyan hatser* by which it refers to the acquisition of the subterranean parts of a purchased piece of land. It is unclear why anyone would consider this odd interpretation to be "self-evident."

Regarding a bailee (*shomer*) who is judged liable to pay but who must nevertheless swear that the deposit (*pikadon*) is not still in his possession, the Gemara (5b) argues that he should be disqualified from swearing according to the view that the oath of someone suspected of violating monetary laws is not trusted, *migu dehashid amamona hashid ashevuata*, since in this case the bailee is being suspected of violating the prohibition against coveting another's property (*lo tahmod*). On this question a note comments:

Rosh makes a distinction between two categories of *hamsanim*, "takers by force"—even when money is given for the article taken: (1) One who forces another person to agree to a sale. . . . (2) One who takes an article against its owner's will and leaves him money, even though the latter has not agreed to part with his property. In this instance, there is an element of robbery involved.²⁷

The reader is left totally in the dark as to the relevance of the two categories of "takers by force" suddenly introduced here. What textual problem is this information designed to alleviate?²⁸

A note on p. 13 explains at length that we do not administer oaths to persons who would be willing to steal and lie without hesitation, and that since, we assume that the person "is essentially an honest man, he will recoil from taking a false oath and will tell the truth."²⁹ But this question, whether one who is suspected of stealing is also suspected of swearing falsely, is the subject of a lengthy discussion later in the Gemara

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(pp. 53-58). Should not a reference have been made to that discussion, rather than stating this concept as an undisputed principle?

A note on p. 49 explains that a robber is disqualified from an oath under the principle that *migu dehashid amamona hashid ashevuata*³⁰ while a lengthy note on p. 54 explains why this disqualification of a robber is independent of this principle.³¹

VI

The Notes seem occasionally to stretch the intent of the text. In the Gemara 9b the concept that an animal is a "movable courtyard" (*hatser mehalekhet*) and therefore disqualified to serve in acquisition by *hatser*, is said not to apply to objects which fall into a moving boat: they will be acquired by the boat, which is not a movable courtyard because "the boat is at rest; it is the waters which move it." This concept, we are told by the notes, foreshadows the theory of relativity:

. . . In fact we find basic discussion of the definition of motion in various places in the Talmud [of which this is one example—A.F.], and to some extent they foreshadow the essential problem of the theory of the relativity of motion, where the question (though formulated entirely differently) is: What is the structure of coordinates by which motion is determined? In certain contexts the issue is whether one adopts the point of view of the observer, who is standing elsewhere and is stationary in relation to the moving object, or that of the object itself, which can be said to be in a state of rest.

But if the boat is not considered to be moving because motion is determined with respect to the object itself, why then is an animal, which relative to itself does not move, considered to be moving?

In explaining why one may not pick up an ownerless object for another, *ha-ma gbiah metsia le-havero lo kana havero*, a note on p. 83 explains:

Although a person's agent may perform certain acts of acquisition for him, this normally applies when the person sending the agent has some prior claim to the property (having paid for it or the like). . . . This, however, is not the case with a found object. Since the agent has no prior claim to the object, it cannot be argued that the agent has been empowered and authorized to act by the person who sent him. . . .³²

As for the dissenting opinion that one may pick up an object for another, this is because

this is a special instance of acquisition, in which a person may acquire something for someone else.

The basis for many statements made here is unclear. (1) Nowhere do we find that the ability to appoint an agent depends on one's "prior claim to the property." Certainly one may appoint an agent to receive a gift.³³ (2) The standard explanation for the law under discussion is that given on folio 10a, that one may not make himself an agent for another where it harms *others*—*ha-tofes le-ba'al hov be-makom shehav le-aherim lo kana* (who, in this case, are those who would like to acquire the ownerless object). Why does the note not mention this reason?³⁴ (3) The reason given for the dissenting opinion, that this is a "special case," is meaningless without explaining why it is a special case.

VII

An adult beginning student once visited one of my Gemara classes and heard me explain at length some difficulties in a Talmudic passage. Afterwards, he said to me, "I don't understand why you are so bothered by all this. I was taught that the Gemara is not supposed to make sense."

It turned out that the teacher who had introduced him to Talmud was himself a novice and was unable to field some of his students' questions. Whenever a student would challenge his teacher's weak interpretations, the latter would reply that this is the way of the Gemara: it is not supposed to make sense.

I was reminded of this episode as I studied many parts of this volume, trying to imagine the impact it would make on a beginning student. Rabbi Steinsaltz, who has published many volumes of his Talmud in Hebrew during the last twenty years, is, of course, hardly a novice. But I nevertheless fear that an intelligent student utilizing the Steinsaltz Talmud as his personal instructor might in fact conclude that Talmud in general is not supposed to make sense. Instead of the tight, rigorous and majestic process of true Talmudic study, he will be unable to avoid the impression that the classical Talmud is intellectually flabby, inconsistent, and often trivial.

Unfortunately, the very beauty of the external production only serves to enhance this false perception. No one would dare suspect that so great an amount of resources, effort and publicity—as well as good writing—would be invested into anything which is not an accurate presentation of the Talmud.

The Steinsaltz Talmud is bold in its conception and ambitious in its scope. However, to this writer, the product of this massive undertaking falls disappointingly short of its mark.

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NOTES

- Each citation from the English Talmud subjected to criticism below will be duly noted as to whether it also appears in the Hebrew Steinsaltz Talmud.
- Introduction, p. 2.
- This misreading appears as well in the notes to the Steinsaltz Hebrew Talmud, attributed erroneously to Mahari Avuhav. (The attribution in the *Shitta* is r1"73 which stands for DIrr. It is surprising that it has gone through so many printings without this obvious error having come to the editor's attention.
- The question, according to Rashba, is not as is stated in Notes, "Can an animal be used for courtyard acquisition and under what circumstances," for he explicitly states that in the circumstances of the *ba'aya* the animal may certainly be used as a *hatser*. Rather, the question is, does *meshikha* (pulling) of the animal take effect to acquire the animal in these circumstances.
- The notes in the Hebrew Steinsaltz suffer as well from inaccuracies in the presentation of the views of the Rishonim. In addition, the opinion of Tosafot is cited as that of Rashba.
- Havat Darat to Yoreh De' a 1:3, Netivot HaMishpat to Hoshen Mishpat 208:2*, both by the same author, Rabbi Yaakov of Lisa. These are the only places where these works discuss the issue. The notes to Hebrew Steinsaltz Talmud contain the same error.
- The term *vadai ramai*, is used at the end of the *sugya*. *Leka vadai ramai* is a term used only in the Rishonim.
- The only possible exception is the citation in *Otzar HaGeonim* by *Me'a Shearim* to *Rif* which states:
I have heard that "ve-neheze zuze miman nakat" is an insertion into the text. It is probable that it is the version of the Savorai Rabbis from the beginning of the chapter to "lema matnitin."
- If this second sentence is taken to mean that the entire *sugya* from the beginning of the chapter is an insertion, this would indeed remove one of the elements of the contradiction. However, such an explanation is problematic, for it would then contradict the previous sentence which states that only the section on purchase is an insertion. Also, none of the other Geonic sources cited state this. It probably means that the insertion is part of the text with which the Savoraim taught the Talmud from the beginning of the chapter.
- B. M. Lewin, *Rabbanan Savora'i veTalmudam*, Ahiever, 5697, where all known commentary by the Savoraim is listed, also has no such example.
- Since this note derives from the Hebrew Steinsaltz Talmud, most of the objections just made apply as well to that edition.
- The Hebrew Steinsaltz Talmud, does not have this novel reading.
- See Rashba who points this out.
- This same interpretation is offered in the Hebrew Steinsaltz edition.
- This reads:

If a person was riding on an animal and he saw a found object, and he said to another person, "Give it to me," and the other person took it and said, "I have acquired it," he has acquired it.

The Gemara (on the next page of the text) explains that according to the opinion that "if a person picks up a found object for another the latter acquired it" (*ha-magbiah metsia le-havero kana havero*), this clause refers to a case where shortly after picking up the object the walking person claims that he originally picked it up for himself (if he would not have picked it up for himself, he could not claim that he wanted to take possession of it after he picked it up, since according to this opinion it already belongs to the rider). Since, then, in this clause the object belongs to the one who picked it up, he obviously is believed in his claim. This directly contradicts the editor's interpretation of the second clause that one who "showed no intention of acquiring the object when he originally picked it up" is not believed.

- The answer to this question, which states, "by giving the object to the rider, he makes a gift of it to the rider," suffers from a similar problem. If the finder did not acquire it for himself (his claim that it is his is not believed) and if he has no right to pick it up for the rider (we are assuming now that it is not legally valid to do so) then the object remains ownerless. How, then, can one make a gift of an object which was never his?

16. Rashi compounds the difficulty by applying a psychological aspect to the case used to solve the bathhouse problem, that of a doubtful firstling, which presents a problem in simple *peshat* with which the commentaries deal. Nevertheless, Rabbi Steinsaltz incorporates this Rashi into his commentary without explaining, or even noting, the difficulty.
17. See *Maharsha* to Tosafot, s.v. *ve-ha. Ran* is even more elegant: he explains that the original *ba aya* is not a psychological one but is based on the assumption that doubt regarding the seized garment is not solved. The doubt is, who is considered to own an object that one holds only out of doubt?
18. The Hebrew Steinsaltz Talmud fails as well to deal with this problem.
19. This same question appears in the Hebrew Steinsaltz Talmud.
20. This is in accordance with the first Mishnah, where two people who are in possession of a garment who come before the court are told to split it after an oath.
21. *Shitta Mekubetset*, citing his master, the source of this question, gives this as an alternative interpretation, but this is not the view of the major Rishonim, nor even of *Shitta Mekubetset* himself in his second explanation.
22. The Hebrew Steinsaltz Talmud does not have this next note.
23. This applies to the Hebrew edition of the Steinsaltz Talmud as well.
24. As cited in "Notes," this question is, in fact, included in the reason why Tosafot rejects Rashi's interpretation. Still the Steinsaltz commentary (running commentary, p. 85, 6 lines from bottom) uses Rashi's interpretation without giving a reason for it.

As a result of this question, this note states, Tosafot explains that the case of "two people who steal together" is one where two people stole an object by lifting it up together. But an intelligent student will immediately notice that the explanation of Tosafot seems to solve nothing. Since, as stated above, when two people pick up an object each must pick up his half for the other or else neither is considered to have made a valid act of lifting, should not the same principle invalidating agency for sin apply where two people steal by lifting an object together? Since they must each pick up his half for the other person, each is serving as an agent for a sin. In other words, the very same question which caused Tosafot to reject Rashi applies to the new interpretation which they give. Although the commentaries explain this (the best-known is that of *Netivot HaMishpat* in 105:3), the note ignores the logical difficulty.
25. See *Pene Yehoshua*, among other commentators, who discusses this issue.
26. This note does not appear in the Hebrew Steinsaltz Talmud.
27. This same note appears in the Hebrew Steinsaltz Talmud.
28. The source of this note, *Rosh* in the *Shitta Mekubetset*, refers to the Gemara's answer to its question, which is, that people do not consider *lo tahmod* to apply where one pays money for the coveted object, as in the case of the bailee. Upon this Tosafot asks that nevertheless the prohibition against appropriating an object from another even where one pays money for it, *hamsan*, should apply. This comment by the Rosh cited in the note is intended to answer this question by distinguishing between two sorts of *hamsan*, one of which does not apply to a bailee. None of this, of course, could be divined by the reader from the note as it is presented, especially since it refers to the question of the Gemara and not to the answer.
29. This note does not appear in the Hebrew Steinsaltz Talmud.
30. This note is not in the Hebrew Steinsaltz edition.
31. The latter note is, by the way, another example of the problematic quality of explanation in the Notes. The logic behind many of the opinions is left totally obscure.
32. This note does not appear in the Hebrew Steinsaltz Talmud.
33. This might be a misreading of *Ran* and *Nimuke Yosef* to *Bava Metsia* ha that one cannot be an agent to acquire property unless he is "an agent of the owner of the property" (*sheluho shel ba'al ha-mamon*), which refers to the donor or seller of the property not to the recipient.
34. A note to folio 10a (p. 110) giving the background for this reason begins

A person's capacity to acquire something for someone else apparently depends upon his having become his agent, even if he has not been officially appointed . . .

This note states that, if not for the fact that one is harming others, one may serve as a self-appointed agent. This contradicts the principle stated here that one may not do so.