

ParShaT *MiShPaTiM* - One Pager Series

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The Rashi comments on Mishpatim reflect inferences from parallel passages. Since parallel techniques are not as well-known as grammatical and linguistic techniques, we present a typical example.

Rashi #1: Biblical Text: Lv24-17, Ex21-12

	Subject	Verb	Object	Sentence 2	Sentence 3;
Lv24-17	A man	Who smites	Any human soul		Receives a death penalty
Ex21-12		He who smites	A man	And he dies	Receives a death penalty
Inference (Rashi text)	So man woman but not minor		So man, woman, adult, minor, or infant but not fetus	Death penalty is not just for smiting but for lethal smiting	
Notes	a)		b)	c)	

Rashi Text: #1: Kugel (1981) mistakenly mis-interprets parallel inferences in Rashi as arising from words. He calls this approach omniscience and rejects it as not-peshat since the exegete is in effect milking all nuances from each word. Berlin (1985) introduced (or emphasized) the idea of interpreting parallelism using their *grammatical functions* rather than as mere words. Thus, Berlin's book is a response to the Kugel criticism of omniscience. I take note that this approach, looking at the grammatical function versus the words, has been taken up only recently by secular scholarship. This is called *form analysis* and most people agree this was introduced by Richter (1971). The idea of analyzing midrashic comments by grammatical function was actually first introduced explicitly by Rabbi Hiyya in Sifra (Nu 18). With this background, let us explain the three Rashi comments on Ex21-12. This Rashi is in fact derived from the Meciltah on this verse.

Rashiyomi Explanation: The three inferences in the table labeled a), b), c) are derived as follows

- a) One verse has a subject, *a man*, while the other text lacks a subject, (it is included in the verb). These two texts #1) *a man* and #2) the *omission* work synergistically to apply the death penalty to i) a man (as it explicitly says, *a man*), ii) a woman, as indicated by the omission, since in Hebrew *ish* can mean restrictively *man* or it can refer to any adult, iii) but not a minor, since the *man* implies an adult.
- b) A similar analysis applies here. A death penalty applies if one smites i) a man, woman, or minor since it explicitly says *any human soul*, but ii) does not apply if one kills a fetus since the text says *smite a man*. [Note: This text does not permit abortion; rather it says there is no death penalty for it. This is true even if the abortion was committed maliciously without medical need and against the wishes of the woman]
- c) The presence of *and he dies* in one verse but not the other creates an emphasis: To receive a death penalty you must cause death (just hitting someone does not result in a death penalty).