

DIMENSIONS IN CHUMASH

Parshas Mishpatim

Setting the Tone for Mishpatim

וְאֵלֶּה הַמִּשְׁפָּטִים אֲשֶׁר תָּשִׂים לִפְנֵיהֶם

These are the laws that you shall place before them (22:1)

BEGINNINGS: LETTERS AND LAWS

The discussion in this week's parsha does not take long to get started – it begins with the very first letter, the letter *vav* of the word “וְאֵלֶּה”. Seemingly, it would be appropriate for a new parsha to open afresh with the word “אֵלֶּה,” while the word “וְאֵלֶּה” appears to link this to the previous parsha, making it a continuum of sorts. Indeed, Rashi comments on the link, citing the words of the Mechilta:

מָה רִאשׁוֹנִים מְסִינֵי אִף אֱלֹהֵי מְסִינֵי

Just as the above [commandments, i.e. the Aseres Hadibros] were from Sinai, so, too, are these [laws] from Sinai.

What exactly is this Midrash informing us? Why does it need to emphasize that the contents of our parsha are from Sinai? Are not all the mitzvos of the Torah from Sinai?

Let us preface our answers to this question by raising another one:

Why does Parshas Mishpatim open with the laws of *Eved Ivri* – the Hebrew servant?

Although we may answer practically that the parsha has to start somewhere, the question nevertheless persists, for the law of *Eved Ivri* is actually based on another law which is stated *later on* in our parsha,¹ namely, that if one steals and does not have the wherewithal to pay off his debt, he is sold into servitude in order to do so. As such, our parsha seems to begin *in the middle of a situation!* That demands an explanation.

Apparently, there is something about *Eved Ivri* which sets the tone for the body of Torah law known as *mishpatim*.

¹ Shemos 22:2.

THE MITZVOS OF MISHPATIM

It is interesting to note that although the other nations of the world are also enjoined by the Torah to set up courts and adjudicate criminal cases — indeed, to do so is one of the seven Noachide Laws — there is no insistence whatsoever that they base their criminal justice systems on the *mishpatim* of the Torah.² We may ask, why not? After all, we assume that the Torah's system is the best one!

The answer to this question will lead us to a fundamental idea regarding *mishpatim*. Although these laws fall in the domain of what we might call Civil Law, nevertheless, they are ultimately part of Torah and as such, partake of the spiritual quality and makeup that pertains to every mitzvah. Indeed, as an integral part of the Divine system of mitzvos, they are *interconnected* with the rest of the mitzvos – to the extent that there are elements of other mitzvos that can be found in the *mishpatim* as well. This idea finds very clear expression in the laws of *Eved Ivri*.

The Torah states that the servant works for six years and then goes free in the seventh.³ What is behind this timing? The midrash explains that there is a parallel between the six days of the working week, which come to a halt on Shabbos, and the six years of servitude, which are terminated in the seventh year. In both cases, it is to remind those involved that Hashem, Creator of the world, continues to run it.⁴ We note that we are barely one verse into the *mishpat* of the Hebrew servant and we have already encountered an aspect of it that partakes of the mitzvah of Shabbos!

Additionally, the Torah states that if the *eved* wishes to stay on past the sixth year, he may do so only until the Yovel (Jubilee) year. The basis for this is stated explicitly later on in the Torah, namely, that the Jewish People are all ultimately Hashem's servants,⁵ hence, there is a point beyond which no Jew can exert ownership or mastery of any kind over another. When did we all become Hashem's servants? When He took us out of Egypt. Now, the *Eved Ivri* comprises not only elements of Shabbos, but of Pesach as well!

Perhaps now we can understand why gentiles are not required by the Torah to employ the *mishpatim* of the Torah. If gentiles do not have the mitzvah of Shabbos itself, there is certainly no reason for them to adopt *mishpatim* that have Shabbos in them. Likewise, if they have no mitzvah of Pesach on Pesach itself, it will hardly be of relevance to them in the Yovel year!⁶

And so, *Eved Ivri* is most illustrative of the nature of the Torah's *mishpatim* and how they are intertwined with mitzvos from other areas of Torah. As such, this mitzvah opens the parsha of the Torah dedicated to the category of mitzvah called *mishpatim*.⁷

2 Cited in *Rema*, responsa §10.

3 *Shemos* 21:2.

4 *Shemos Rabbah* 30:15.

5 *Shemos* 25:42.

6 Rav Yaakov Kamenetsky, *Emes L'Yaakov*, *Shemos* loc. cit.

7 See *Derashos HaRan*, beginning of *drush* 11.

CHUKIM AND MISHPATIM

This interconnectedness of *mishpatim* with other types of mitzvos is referred to by David HaMelech in *Tehillim*, when he states:

מִנִּיד דְּבָרָיו לְיַעֲקֹב חֻקָּיו וּמִשְׁפָּטָיו לְיִשְׂרָאֵל. לֹא עָשָׂה כֵן לְכָל גּוֹי וּמִשְׁפָּטִים בְּל יִדְעוּם

*He makes known His Word to Yaakov, His statute (chok) and law (mishpat) to Yisrael. He did not do so for all the other nations, and they do not know mishpatim.*⁸

The first verse expresses the idea that even mitzvos as diverse from each other as chukim and mishpatim are in fact intertwined. The second verse proceeds to state that as a result of this, Hashem did not transmit even the area of mishpatim to the gentiles, for it is intimately bound up with the other areas of Torah, which belong to Yisrael alone.

In this regard, we can understand why our parsha opened with the letter *vav*, linking it, as the Midrash explained, with Sinai. This was not in order to appraise us of the origins of these mitzvos, but to alert us regarding their *nature* – as an integral part of the Divine program of mitzvos given by Hashem to the Jewish people at Sinai.

THE VISION OF MISHPATIM

A second approach to this question begins by referring to an observation of the Midrash. Our parsha is not the first occasion where the Torah presents us with *mishpatim*; for we also received a number of such laws while at Marah, even before arriving at Har Sinai. The Midrash comments:⁹

This may be compared to a noblewoman, who travels with a guard both before and after her. So too, the Torah has monetary laws both before and after it, while it is in the middle.

What is the meaning of this parable? In what way do the *mishpatim* function as “guards” for the Torah given at Sinai?

The Be’er Yosef explains. A striking feature of many of the *mishpatim* is the generosity of spirit that they demand in their implementation. For example:

- ▷ Money lent to a fellow Jew cannot have interest charged on it.
- ▷ If the borrower defaults on the loan, the lender cannot enter his house to take collateral; rather, he must wait outside for the borrower to bring it to him. As the Gemara¹⁰ notes, it is unlikely that the borrower will choose his most valuable possessions to be given as collateral. Additionally, if the item is something the

8 Tehillim 147:19.

9 Shemos Rabbah beginning of Parshas Mishpatim.

10 Bava Kama 8a.

borrower needs at certain times, the lender must give it return it to him at those times.¹¹

What behind these which, while they ultimately ensure that the lender gets his money back, certainly do not seem to bring the full weight of the law to bear on the one who has to pay? Where does this measure of compassion within the *mishpatim* come from?

The answer is: From Sinai.

The events of Sinai were not just about *revelation*, they were about *elevation*. If we were to ask anyone among the Bnei Yisrael standing at Har Sinai what their goal in life was, we can be sure that no one would respond: “To make as much money as possible, and to ensure that anyone who owes me money pays it back – come what may!” The entire atmosphere was one which brought the people to an entirely higher plane, with the accompanying higher vision of how to use their assets – for the betterment of society, while ultimately being protected against loss.

This noble vision of Sinai, says the Be’er Yosef, is preserved in the *mishpatim* of the Torah. That is why they are looked on the “guards” which protect the Torah that was given there.

Nowhere is this vision more manifest than in the laws relating to *Eved Ivri*. Someone stole money and does not have the wherewithal to pay it back, resulting in being sold into servitude in order to do so. We would have imagined that the only priority in this situation is the person working off his debt, and yet, we find a host of laws regarding how to treat this servant. He cannot be given work that is demeaning.¹² His basic needs are to be provided in a manner no less than his master,¹³ to the extent that the Yerushalmi¹⁴ famously says that if there is only one pillow available, the master must give it to the servant, while he himself will sleep without one! The entire situation is summed up by the Gemara which states: “Whoever acquires a servant has thereby acquired a master for himself.”

What is behind these laws? The vision of Sinai, whereby the goal with regards to this thief is not just one of *remuneration*, but of *rehabilitation*! Perhaps we can now understand why *Eved Ivri* opens the parsha of Mishpatim, for it so strikingly portrays the Torah’s Higher Program of monetary law.

This will give us new insight into the Mechilta cited in the beginning of our discussion which comments on the opening letter *vav*, linking *mishpatim* to Sinai: Just as the earlier commandments partake of the ethos and atmosphere of Sinai, so too, do the *mishpatim*, beginning with – and represented by – *Eved Ivri*!

11 Shemos 22:25-26.

12 See Rashi to Vayikra 25:39.

13 Kiddushin 20a

14 Cited in Tosafos ibid.