

# Toras Aish

## Thoughts From Across the Torah Spectrum

**RABBI DOV KRAMER**

### Taking a Closer Look

**A**s its name implies, Parashas Mishpatim deals primarily with Jewish civil law. Where were these civil laws given? Rashi tells us (Shemos 21:1) that the connecting "and" at the beginning of the first word ("and these are the laws") indicates that just as the earlier stated laws (i.e. the Ten Commandments) were given at [Mt.] Sinai, so too were these laws given at [Mt.] Sinai.

The commentators ask why we have to be told this. Since our Parasha comes immediately after the revelation at Mt. Sinai and the commandments that followed, why would we assume otherwise? Besides, Rashi tells us elsewhere (Vayikra 25:1) that we learn that every detail was taught on Mt. Sinai because the Torah tells us that even the laws of Shemita (which weren't relevant until we reached, and were living in, Israel) were taught at Sinai. Why do we need to be taught that the civil laws were also taught there? Aren't they included in "everything?"

Rashi continues by asking why these laws were taught immediately after laws pertaining to the altar (answering that this teaches us to place the Sanhedrin, the Jewish Supreme Court, next to the Temple). But if the civil laws were taught at Sinai too, why wouldn't they follow the laws that were taught right after the Ten Commandments? The commentators are therefore puzzled why Rashi, who usually poses this question only when the order seems out of place, asks it here as well.

The Mechilta brings two opinions about where these civil laws were taught. Rabbi Yishmael (whom Rashi appears to be following) says that they were taught at Sinai, while Rabbi Yehuda says they were taught at Marah (Shemos 15:25). Rashi (ibid) tells us that included in the laws taught at Marah were civil laws. In fact, Rashi refers to this three times in our Parasha. First he tells us (24:3) that the "mishpatim"

that Moshe read to the nation before they accepted the Torah included the civil laws given to them at Marah. He then tells us (24:4) that Moshe wrote down the Torah from the "Beginning" up to the giving of the Torah along with the commandments given at Marah. The "book of the covenant" that Moshe read to them (and they accepted with the famous "we will do and we will listen") is again described by Rashi (24:7) as the Torah from the Beginning until that point in time (matan Torah) and what was commanded at Marah. But, while we now understand why Rashi had to tell us that these laws were taught at Sinai (rather than at Marah), we now have a different issue to contend with; if the "mishpatim" referred to the civil laws taught at Marah, why does Rashi "switch sides" sometimes following Rabbi Yishmael's opinion that these "mishpatim" were taught at Sinai and others times following Rabbi Yehuda's that they were taught at Marah?

If we examine the wording of a similar source, the Midrash Hagadol, we find something quite interesting. "Rabbi Yehuda says that the mishpatim were given to Israel at Marah - before the Torah was given. In case you would think that they were not repeated at Sinai, the Torah says 'and these are the mishpatim.' Rabbi Yishmael says that every place it says [the word] 'these' [it comes to] exclude the earlier ones, [while] every place it says 'and these' [it comes to] add onto the earlier ones. Here, where it says 'and these' it adds onto the earlier ones; just as the earlier Commandments [were] from Sinai so too are the mishpatim from Sinai." According to this, both Rabbi Yehuda and Rabbi Yishmael agree that the mishpatim (civil laws) were taught at Sinai, and that we learn this from the connecting "and." They only differ about whether they were first taught at Sinai or whether it was being repeated at Sinai after having been taught earlier at Marah. The Riva (15:25) says explicitly that Rashi follows the opinion that it was first taught at Marah and repeated at Sinai.

Now let's look at the first Rashi in our Parasha again. Rashi doesn't quote Rabbi Yishmael, but uses his wording to explain why Mishpatim starts with the connecting "and." Based on the above-quoted Midrash Hagadol, we can see that Rabbi Yehuda also uses it to show that the civil laws in Mishpatim were given at Sinai - although according to him it shows that they were given *again* at Sinai, despite having been previously given at Marah. (See Gur Aryeh, who

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suggests that since the Torah is one entity, it had to all be given together at Sinai, just as it had to be repeated in its entirety in the Ohel Moed and then again at Arvos Moav.) We might have thought that since it was given at Marah it didn't need to be given again at Sinai, so the Torah tells us (through the connecting "and") that it was.

In Zevachim (115b), Rabbi Yishmael says that only the general concepts of all the commandments were given at Sinai, with the details given in the Ohel Moed. The Or Hachayim explains that therefore, according to Rabbi Yishmael, the connecting "and" tells us that even the details of the mishpatim were given at Sinai. We have already seen that Rashi (on Vayikra 25:1) follows Rabbi Akiva's opinion in Zevachim that every detail was given at Sinai. It follows, then, that Rashi uses the connecting "and" like Rabbi Yehuda, to show that despite being taught at Marah, the mishpatim were repeated at Sinai.

Had the mishpatim been first taught at Sinai, their placement after the Ten Commandments raises no issues. Because (according to Rabbi Yehuda) they were first taught at Marah (and, according to Rashi on 31:18, Moshe didn't finish discussing them with G-d until 40 days after the Ten Commandments were given), Rashi needed to explain why they were placed here (after the laws about the altar). And because learning from the connecting "and" that they were taught at Sinai is not mutually exclusive with the possibility that they were first taught at Marah, there is no problem with Rashi telling us at the beginning of the Parasha that they were taught at Sinai while telling us towards the end that they had already been taught at Marah. © 2006 Rabbi D. Kramer

**RABBI BEREL WEIN**

## Wein Online

One of the main issues that the Torah deals with in this week's parsha is that of slavery. The Torah envisioned two types of servants. One was Jewish, who was basically a hired hand for a period of six years or until the yovel (Jubilee year) arrived, whichever came first. This servant had the right to renew his indenture past the six-year period if he so desired but never past the time of the arrival of the yovel year. The Torah obviously disapproved of the

renewal arrangement, for the servant first had to suffer having his ear drilled before continuing service to his master.

Rashi, quoting the Talmud states that the Lord is disappointed, so to speak, in the servant's choice of continued indenture since "they [the Jews] are my servants and are not meant to be servants to others servants." There are compelling human reasons for the arrangement of servitude. It was to repay items that had been stolen or to provide some sort of home setting and living for the very destitute and homeless. It is also humanly understandable that inertia and fear of outside social conditions and having to begin life anew may contribute to the servant wishing to remain a servant to a kind and decent master for longer than the six-year period. Nevertheless, from all of the restrictions that the Talmud discusses on the treatment of servants it is obvious that the project of slavery could not ever be of financial or economic benefit to the masters of those servants.

The prophets of Israel in later generations also spoke out strongly against the institution of slavery amongst Jews. As such, it seems that the Torah saw this arrangement as a method of social rehabilitation of petty criminals and the unfortunate dregs of society. But in its moral view of human life, the Torah had scant room for slavery as a social or economic institution. There was also a set of laws that governed the purchase and maintenance that governed the second type of servant - the non-Jewish one.

If that be the case, that the Torah did not favor at all the institution of slavery, then why did the Torah allow its existence within Jewish society at all? This difficult question has challenged all of the commentators to the Torah, especially those of the last two centuries. There is no doubt that for millennia slavery was an accepted social institution in the world, even in the civilized world. It took a four-year bloodbath with over six hundred thousand dead to end slavery in the United States in the middle of the nineteenth century. There is slavery still existent in parts of the world even today. There is a conception in Torah that the Torah dealt with the reality of the weakness of human behavior and allowed under very strict and hoarded circumstances behavior and institutions, which were not in the purview of the great moral framework.

The story of the yefat toar - the beautiful non-Jewish captive woman taken in war and permitted to the Jewish soldier under rigorous conditions and restrictions - is an example of such a Torah attitude in a difficult situation that allows behavior because of social conditions that does not really meet the standards of Torah morality. The idea of slavery is perhaps one of those examples. In any event, slavery has been non-existent in most of the Jewish world for many centuries and the study of slavery and its laws and restrictions remains today a theoretical study without current

practical implications in Jewish life. © 2006 Rabbi Berel Wein- Jewish historian, author and international lecturer offers a complete selection of CDs, audio tapes, video tapes, DVDs, and books on Jewish history at [www.rabbiwein.com](http://www.rabbiwein.com). For more information on these and other products visit [www.rabbiwein.com/jewishhistory](http://www.rabbiwein.com/jewishhistory).

### RABBI SHLOMO RISKIN

## Shabbat Shalom

Judaism has often been called (derogatorily) the religion of law, but the truth is that Judaism gave to the world the great idea of a G-d of love - Y-HVH. It is this redeeming G-d who created every human being in His image and displayed to all of the nations His desire for everyone to be free when the totalitarian despot Pharaoh was forced to free the subjugated Israelites. And our G-d is a G-d of unconditional love: when Moses asks the question of questions, "Show me your ways on earth," the Almighty responds "Y-HVH Y-HVH," "Redeeming love, Redeeming love". The repetition is explained by our Talmudic Sages to mean, "I am the G-d of redeeming love before you sin, and I am the G-d of redeeming love after you sin" (Exodus 22:18, 34:6, Rashi ad loc).

Yes, our Bible presents a legal system which it commands the Israelites to follow "for your good." But the purpose of the law is to bring us close to the G-d of love, the goal of the law is to create a more perfect society of peace. It is as Chaim Nahman Bialik declared concerning the Tractate Shabbat: "It is a book of many laws, even minutiae of details, but the sum total of these legalisms is a day - the Sabbath - which is wholly poetry and song." With this perspective in mind, it is important to study this week's Biblical reading of Mishpatim. I will ask legalistic questions about the order of the text; but what I hope will emerge is a ringing declaration concerning the inalienable rights of the human being.

Our Biblical portion is a continuation of the Decalogue - specifically of the inter-personal relationships of ethics and morality which the Decalogue emphasizes - but with a strange order which seems to lack rhyme or reason. Our reading opens with the laws relating to a Hebrew servant. It then goes on to catalogue the penalties for acts of murder - willful as well as accidental - for kidnaping, for striking or cursing one's parents, for killing a servant, for causing a miscarriage, for damaging an organ or limb of a servant (Exodus 21:1-28).

The text then goes on to delineate the laws of damage done by one's property (one's ox, one's open pit) and then the damage done by an individual who steals someone else's ox or sheep. The Bible then returns to damage done by someone's animal and then returns to the case of stealing an object which one was entrusted to guard. That section concludes with the responsibility one incurs for damages done to an object

which one borrowed, the segment known as the "guardians" (shomrim).

A close reading of these verses (Exodus 21:1 - 22:1) reveals serious questions as to the logical order (or lack thereof) of this legal document. If the text following the discussion of servitude begins with human beings who murder or damage - and therefore a man who steals another, a kidnapper, is included in this list (Exodus 21:16) - why does the text wait many verses later until it includes the case of an individual who steals an animal, and precedes it with a law concerning damage wrought by oxen, not by human beings?! (Exodus 21:37). And then the Bible continues to delineate animals who do damage, and only afterwards returns to a thief who steals the silver or vessels he had obligated himself to guard (Exodus 22:6). Why not group all the cases of stealing together? And why do the laws of damages begin with the laws of a hired laborer?

As I believe Elhanan Samet conclusively proves in his study of Mishpatim, the order of the groupings of the various categories of the laws becomes clear when we realize that the laws are catalogued in accordance with the severity of damage done to the victim rather than to the status of the assailant. Hence the first category opens with crimes of humans perpetuated against humans, from murder to kidnaping to maiming. This category would also include the case of the ox who kills a human being (in this I would differ from Samet), since the owner of the ox is guilty of manslaughter and must make restitution with "the redemption (value) of his life" (21:29). These are all cases of human victims!

The next category includes damage done to animals, and therefore the human theft of an animal fits within this classification. And finally, the last category deals with damage done to the inanimate objects, and so it concludes with an individual who steals the silver or the vessels he was given to guard (Exodus 22:6).

The introduction to all of these laws is the law of servitude: our Bible utilizes the term *eved*, which in Egypt meant slave, but here defines it, indeed, transforms it from within to mean a hired laborer, for a limited number of years and for non-servile tasks. Remember that the very first of the Ten Commandments revealed at Sinai was, "I am the Lord who took you out of the land of Egypt, the house of bondage", the Lord who detests enslavement and ultimately caused Pharaoh and his cohorts to drown in the Reed Sea. How fitting it is that the very first group of laws following the Decalogue re-define slavery to mean hired labor!

And G-ds abhorrence of slavery is a direct corollary of His having created every human being in His image (Gen. 1:27), with the inherent right to be free. And if the human being is inviolate, he dare not be unjustifiably murdered, maimed or stolen from. Hence

the first category of damages, following the laws of the hired laborer, emphasize the fact that one human being dare not violate the ultimate value - and inviolability - of another human being. What follows is the prohibition of damaging another person's livestock, and finally damaging another's inanimate possessions. What appeared at first to border on legalistic casuistry now emerges as a most powerful declaration of the Biblical Axiomatic truth: every human being must be seen as an end unto him/herself, and not as a means to someone else's end - not him and not his possessions!

The Canaanite slave is another category in Jewish law, which may very well be obsolete nowadays and which we will discuss at another opportunity. It is instructive nevertheless to study the final words of Maimonides in his Mishneh Torah, Laws of Slaves (9,8):

"The trait of piety and the way of wisdom teach that an individual must be merciful and pursue righteousness so that he not place a heavy yoke on his (Canaanite) slave and not cause him anguish...he must eat whatever the householders eat... he may not be humiliated by hand or by words... but must be addressed gently with his complaints listened to...'Did not one stomach make me?, He (G-d) made him and formed him from one womb'..." © 2006 *Ohr Torah Institutions & Rabbi S. Riskin*

**RABBI AVI WEISS**

## Shabbat Forshpeis

**T**he Talmud states that the source of prayer is the biblical phrase: "And you shall serve Him with all your heart." (Deuteronomy 11:13) Service is usually associated with action. One can serve with his or her hands or feet but how does one serve with the heart? The Talmud concludes that service of the heart refers to prayer. (Ta'anit 2a)

Interestingly, Maimonides quotes a slightly different text from this week's portion as the source of prayer. He states that "It is an affirmative commandment to pray every day as it says 'and you shall serve the Lord your G-d.'" (Exodus 23:25) (Rambam: Laws of Prayer 1:1). What is the conceptual difference between using this source as the basis for prayer and using the text quoted in the Talmud?

Rabbi Yosef Caro suggests that the verse from Deuteronomy cited by the Talmud may be understood as simply offering good advice rather than requiring daily prayer. It may alternatively refer to the service of learning Torah. The text in Exodus, however, deals clearly with prayer. (Kesef Mishneh on Rambam, ibid)

Another distinction comes to mind. Rabbi Shlomo Riskin notes that the text quoted by Maimonides is found in the context of sentences that deal with liberating the land of Israel. It is possible that Maimonides quotes this text to underscore the crucial

connection between prayer and action. Prayer on its own is simply not enough.

It can be added that the Talmudic text quoted as the source for prayer may be a wonderful complement to the text quoted by Rambam. Remember the sentence quoted in the Talmud states and you shall serve your G-d "With ALL your heart." Note the word all. In other words, while one should engage in action, prayer has an important place. Even in a life full of action, the prayer that one must find time for, must be with one's entire, full and complete devotion. It may be true that quantitatively, prayer may have to be limited, but qualitatively it must be deep and meaningful.

The balance between action and prayer is spelled out in the Midrash when talking about Ya'akov (Jacob). The Midrash insists that when Ya'akov prepares to meet Esav (Esau) he prays deeply. Yet, at the same time, he is fully active by preparing for any outcome of this most unpredictable family reunion. The balance between prayer and action comes to the fore. (See Rashi Genesis 32:9)

More than ever, we need to internalize the integral connection of productive action with deep prayer. In that way we could truly serve G-d with all our heart. © 2006 *Hebrew Institute of Riverdale & CJC-AMCHA*

**MACHON ZOMET**

## Shabbat B'Shabbato

*by Rabbi Amnon Bazak*

**I**n the end of this week's portion, the Torah describes how Moshe climbed up Mount Sinai, accompanied by three important figures and seventy sages: "And He said to Moshe, rise up to G-d, you and Aharon, Nadav, and Avihu, and seventy elders of Yisrael, and you shall bow down from far away" [Shemot 24:1]. However, the Torah emphasizes the difference between Moshe and the seventy-three people who accompanied him. "And Moshe himself will approach G-d, while they will not approach. And the people will not ascend with him" [24:2].

In a subsequent verse, we are told about how this command was carried out. "So Moshe, Aharon, Nadav, Avihu, and seventy elders of Yisrael rose up" [24:9]. From this point on, what is to be expected is a description of how Moshe continued on alone, leaving Aharon, Nadav, Avihu, and the sages "far away." But that is not what happened. "And Moshe rose up together with his disciple Yehoshua, and Moshe ascended to G-d. And he said to the elders, remain seated here until I return to you. Behold, Aharon and Chur are among you, whoever has anything to say can turn to them." [24:13-14]. Nadav and Avihu have disappeared, replaced by two other figures-Yehoshua and Chur. What was the reason for this surprising change?

It can be assumed that this change took place because of what is described in a verse that appears

between the two stages of the process. "And they saw the G-d of Yisrael, and under His feet was like the picture of a brick of sapphire, pure as the essence of the heaven. And He did not harm the nobles of Yisrael, who saw G-d, and they ate and drank." [24:10-11]. Rashi notes that the "nobles of Yisrael" were Nadav and Avihu. The statement that G-d did not harm them seems to imply that in principle they deserved some Divine punishment. What was the sin of Nadav and Avihu?

It is likely that their sin was viewing G-d, that is, approaching too close to the Divine presence, as opposed to the original command-"And Moshe himself will approach G-d, while they will not approach." Out of a feeling that they also deserved to be close to G-d, Nadav and Avihu violated the prohibition and approached, in order to "see" G-d. According to the strict letter of the law, Nadav and Avihu should have been severely punished on the spot. But in order not to interfere with the festive atmosphere, G-d did not harm them at that point and their sin was hidden. In any case, they were removed from their positions of accompanying Moshe and replaced by Yehoshua and Chur.

In the end, it became clear that Nadav and Avihu did not learn their lesson as a result of these events. The next time there was a festive occasion that where the Shechina appeared, in the Tabernacle and not at Mount Sinai, Nadav and Avihu were once again not able to control their desires. Once again, they tried to be at the center of the activity, by bringing fire from the outside (Vayikra 10:1), an act that is similar in principle to the attempt in this week's portion to approach G-d and see Him. But at that time they were not forgiven, and G-d did indeed punish them. Thus, the root of the sin that eventually brought their death can be found in this week's Torah portion. If Nadav and Avihu had understood their sin and the fact that G-d had forgiven them when the Shechina appeared on Mount Sinai, perhaps they would have mended their ways and they would not have been punished on the day the Tabernacle was dedicated.

**DR. AVIGDOR BONCHEK**

## What's Bothering Rashi

**A**fter the Ten Commandments in parshat Yitro, the Torah gives us parshat Mishpatim, which deals with many laws. Most, though not all, are civil laws between man and man. Some are truly revolutionary, like the law to give released slaves a special 'Retirement Package.' Below we read of medical compensation for someone injured in a brawl.

"If he gets up and about outside on his staff, the one who struck is absolved." (Exodus 21:19)

"On his staff"-RASHI: "In his [former] healthy state and vigor."

Rashi takes the words 'upon his staff' in a figurative sense. What would you ask here?

The Torah says "he went outside on his staff." Why not take these words literally? Remember the rule, "The Torah verse never abandons its plain meaning." We also know that Rashi generally prefers the "plain meaning" (see his comment to Genesis 3:8) so why does he abandon it here?

An Answer: The previous verse tells us that if man hits another man, but does not kill him, yet the injury causes him to be bedridden, then (our verse says) "if he rises and goes outside on his staff" the villain is free from punishment for murder.

But Rashi implicitly asks: Why is he free? Seeing that the injured man is still showing signs of his injury (he needs a staff to get around), he still might have a relapse and die. Why, then, is the aggressor free from punishment? How does Rashi's comment deal with this difficulty?

An Answer: Rashi's interpretation (his healthy state and strength) avoids this difficulty. It says that only if the injury is completely healed ("he goes about on his own strength") is the aggressor free.

We must keep in mind that the aggressor is being held as a possible murderer (see the next Rashi-comment "And the one who struck will be absolved").

Note that our verse says that in any case the aggressor must pay for the victim's medical expenses and loss of wages. So the only charge that is in doubt is the charge of murder. How can we absolve him of such a serious charge if the injured man still has not recovered completely? Thus Rashi (and the midrash Mechilta) says he is no longer crippled; he walks around on his own, unassisted, strength.

But how can Rashi turn the words of the Torah on their head? "On his staff" seems to mean weak, needing assistance, yet Rashi says "strong."

An Answer: The Hebrew word "mishenet" means "a support"; but here the word is "mishanto," "his support." Rashi takes the word "his" to mean his own, internal, support and not an external support, which in the final analysis is not really "his." The Ibn Ezra makes the same point by saying that the Torah used the word "mishenet" to tell us the man is not dependent on others for getting around.

The Ramban quotes Rashi and then goes on to say: "In my opinion mishanto is to be understood literally [a staff] just as in the verse 'every man with mishanto [his staff] in his hand in his old age' (Zechariah 8:4). Scripture is thus stating that if the injured person's health improves sufficiently to enable him to go out walking as he wishes in the streets and in the broad ways with his staff like those healed with some prolonged disabling injury, 'then he that smote him shall be free.' It also teaches us that if the injured man is careless [later] about his health and dies after that, in his weakness, the assailant is free from the

death penalty. Scripture says 'and he walks outside' because it speaks of the ordinary way of life, for injured men who were laid up in bed do not go out walking again until their wounds have healed and they are out of danger, this being the sense of the phrase 'and he walks outside,' because if he just gets up and walks in his house on his staff and then dies, the assailant is not free."

The Ramban continues: "In the words of the Mechilta 'If he rises up and walks' I might think this means within the house, Scripture therefore says, 'outside.' But from the word 'outside' I might think that even if he was wasting away [the aggressor would be free]; Scripture therefore says 'if he rises up.'"

This explanation [the Ramban continues] too is very correct, that Scripture should be saying that if the injured man gets up completely from his bed and goes steadily outside without having to go back to his bed when returning from outside, as those do that are wasting away, even though he is weak and has to lean on his staff, the assailant shall be left off. In general all this is to be interpreted as being figurative language expressing people's usual conduct. The basic rule is that he must have been assessed as being capable of recovery."

By his final statement it would seem the Ramban does agree with Rashi, that the term "mishanto" is not to be taken literally. Yet this would contradict what he said at the outset of this commentary, i.e. that the word should be taken literally!

In one word, how are the words "walking on his staff" seen by: The Ramban? Rashi?

Answer: Ramban: as an example. Rashi: as a metaphor.

The Ramban is saying that if, in fact, the injured man recovered sufficiently to walk outside on his cane, then the assailant could no longer be held accountable for any future setbacks. This is an example, says the Ramban, of the kind of a reasonable, normal-type recovery, and therefore the assailant is free of any further responsibility. Walking around outside is but a common example of healthy recovery from an injury.

So it is both an example and a general rule. The rule, as the Ramban clearly says is: That he must be assessed as being capable of recovery.

Rashi, on the other hand, says that "walking outside on his support" is but a metaphor of a complete recovery. But in fact, if the man was still using a cane, even if he walked outside, he could not be considered completely recovered. If he had a relapse, according to Rashi, the assailant would be responsible. There is a clear difference in Halacha between Rashi and the Ramban.

This dispute is a fortunate opportunity to examine the different approaches to Torah interpretation by these two great expositors. To better

understand Rashi, let us see his source. It is in the Mechilta. It says: "If he rises up and walks outside upon his support," that means restored to his health. This is one of three expressions in the Torah which Rav Yishmael interpreted figuratively..."

Rashi follows Rav Yishmael that this verse is to be taken figuratively. We can deduce from Rav Yishmael's statement that all other verses in the Torah (besides the three he mentions) are not to be taken figuratively, rather in their "simple meaning," p'shat. We know that Rashi is committed to p'shat interpretation, but this is qualified by the Sages' view of p'shat. This is an important point to understand if we are to fully appreciate Rashi's approach to p'shat interpretation. For Rashi, p'shat is not independent of the Sage's view. P'shat, in Rashi's approach, is tempered by midrashim which can fit into the words of the Torah. As Rashi said in Breishis, (Genesis 3:8) he is interested in "p'shuto shel mikra and the aggados that explain the words of the Scripture in a manner that fits in with them." In short, Simple Sense, p'shat, interpretation also includes under its umbrella the interpretations of the Sages, as long as the Torah text can accommodate them. In our verse an authoritative Sage, Rav Yishmael, says that the verse is to be taken figuratively and Rashi does so.

This view of p'shat is not universally accepted among the Rishonim. For example, the Rashbam, Rashi's own grandson, argues with Rashi over the p'shat interpretation of various verses. Many Rishonim understand p'shat as we might, vis-a-vis what makes most sense in the context of the verse.

The Ramban views Torah interpretation similarly to these Rishonim and differently from Rashi. He will often argue with Rashi regarding the interpretation of a verse and the argument frequently revolves around what is considered p'shat. In our verse the Ramban, while fully aware of Rav Yishmael's opinion, offers a different view. While Rav Yishmael takes the words "walking on his support" as a metaphor, the Ramban sees the literal interpretation as closer to p'shat and does not hesitate to say so. For him p'shat and Rabbinic interpretation are two separate realms, they need not be combined nor confused. Rashi seems to combine midrash and p'shat and molds from them his own type of p'shat. He does this out of conscious consideration of the Sages' view. Rashi's only qualification for using midrash as p'shat is that the midrashic meaning must fit into the words of the Torah.

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## **YOUNG ISRAEL OF PASSAIC-CLIFTON**

### **Law and Order**

by Rabbi J.B. Love

**T**here is more than a bit of confusion in the order of the narrative in the *parshiyot* beginning with *parashas yisro*. We aren't quite sure if Yisro came

to the desert before or after the revelation on Sinai.<sup>1</sup> We haven't heard the last word on whether he gave his advice after the following *yom kipur* or the following year and we aren't sure if he left immediately or in the following year as recorded in *b'midbar*.<sup>2</sup> Furthermore, there is a wide dispersal of the parts of the revelation story throughout the next few chapters. We were told of the preparations for the "descent" of G-D on the mountain in chapter 19. This is followed by the decalogue followed by a few rules of worship in chapter 20. Our *parasha, mishpatim*, begins with a long series of civil and ritual laws, apparently transmitted during Moshe's stay on the mountain. These make up chapters 21 through 23. Chapter 24, however, according to Rashi, tells of what took place both before *matan tora* (v. 1-8) and immediately after it (v. 9-18) without skipping a beat.<sup>3</sup>

There are, I believe, with G-D's help, two reasons for this phenomenon which, in the final analysis, are one. The first is to show an obvious need for *toras she'b'al pe*. The Torah wasn't given with source criticism as an option for explaining such discrepancies. It was given with the obvious need for *midrash*.<sup>4</sup> Much has been written about the Oral Torah's being taken for granted by the Written when using words like *totaphos* or *m'lacha* or terms like *sefer k'risos* which were evidently understood by the recipients of The Torah because the meaning of such terms was part of their tradition of language.<sup>5</sup> In the same way we must understand that narrative sections such as the ones in these few *parshios* tell us that there must have been a "key" of some sort that came along with the text. What better place to make that point extremely obvious than in the story of *matan tora*.

There are also literary "parentheses" around these two *parshiot* which give us insight into the second reason for the dislocation of information.<sup>6</sup>

"And Aharon and all the elders of Yisrael came to eat bread with Moshe's father-in-law before G-D." (18:12) Says Rashi zl, "Hence, one who enjoys a meal at which scholars recline has virtually enjoyed the aura of the *sh'china*."

"And they visualized the Divine and they ate and they drank." (24:11) Says the Targum, "They saw

the glory of the Divine and, with the pleasure of having their sacrifice accepted, it was as if they ate and drank."

On the one hand we have the spiritual experience which virtually fulfills the physical, on the other, the physical exercise which provides the spiritual experience. On the one hand they saw G-D on the other they experienced the camaraderie of *talmidei chachamim*. One event takes place at the revelation of *toras she'bichsav*, the word of G-D, and it nourishes the body. The other takes place in the company of the bearers of *toras she'b'al pe*, the word of man, and it feeds the spirit.

In the same way, the chapters of these *parshios* take us from Moshe's court to G-D's mountain, back again to the mundane laws of man and man, surrounded by some ritual but physical laws,<sup>7</sup> and back to the mountain and the cloud and the revelation.<sup>8</sup> "The people come to me to seek G-D." (18:15) "To seek *talmud*," as Rashi paraphrases the Targum. "I judge between them and tell them the laws of G-D." (18:16) This is how we "seek G-D." Not only in the sanctuary but in the marketplace as well.

The spirituality of the Torah is here on earth. We will be a "kingdom of priests and a holy nation" (19:6) but we shall do it with our dealings with each other, within our society and our every day lives.<sup>9</sup> "I am G-D and no-one else is." That is the extent of what G-D Himself has to tell us. The rest is deliverable by Moshe.<sup>10</sup> The rest lies not in the sublime but in our interpersonal relationships.<sup>11</sup> We weren't given a

<sup>1</sup> V. Rashi to 18:13 s.v. *vayhi*.

<sup>2</sup> Ibid.

<sup>3</sup> All this, again, according to Rashi, v. On 24:1 and 12. Ramban zl consistently avoids the explanation of chapters or verses in the narrative being out of order. V. On 18:1, 24:1, also B'raishis, 35:38 and B'midbar, 9:1 among others.

<sup>4</sup> Even the critics, themselves, when faced with the problem of how the "redactor" thought he could get away with such open discrepancies, must admit that he subsumed an existent dependence on *d'rash*.

<sup>5</sup> V. Encyclopaedia Judaica, Jerusalem, Keter 1972. s.v. Oral Law and bibliography.

<sup>6</sup> As well as giving us an insight into why the Yisro story is told where it is.

<sup>7</sup> I.e. the laws which follow the decalogue which, while being man-G-D related, are also directed at the subordination of the physical. The *sh'mita* and holiday laws which follow the civil code in *mishpatim* are also a means of sanctifying the mundane like planting and harvesting. These are the bridges between the totally spiritual, i.e. the decalogue and the tabernacle, and the mundane, civil law.

<sup>8</sup> We could, in theory take the words at the beginning of *parashas mishpatim*, "These are the laws which you should put before **them**," as referring to the judges mentioned in *yisro* before the revelation. If we also understand the narrative at the end of *mishpatim* as referring to events after the revelation (Ramban and Ibn Ezra), we literally go from the court to the mountain, back to the court and back to the mountain. (Even according to Ramban.)

<sup>9</sup> In fact, we are a *mamleches kohanim* through our ritual practice and a *goy kadosh* by virtue of our sanctifying the mundane.

<sup>10</sup> Only the first two statements of the decalogue were spoken by G-D and heard by all the people.

<sup>11</sup> Even those which are thought of as between man and G-D such as taking the Name in vain or *shabbos* have their root in the workaday world. One only needs to swear in civil matters and *shabbos* is a respite from work. These were Moshe's arguments for the giving of the *toras* to humanity. Even the ritual laws, even the *chukim*, according to Ramban (to D'varim 22:6) and possibly Rambam, are directed toward improving our character traits. *Imitatio Dei* doesn't seem to be a goal in itself but, rather a way of

“religion” on Sinai, we were given a code by which to live. We were not shown the way to rise to heaven but how to bring G-D to earth. “For this is the purpose of creation.”<sup>12</sup>

Access to the “word of G-D” is given to all. The *tora she'bichsav* is available to everyone. And everyone who has access to it seems anxious to use it to obtain spiritual perfection. At the same time perfection of society is left to morality, conscience, and government. It is interesting that once *tora she'bichsav* becomes part of a society's culture, it is The Ten “Commandments” which become the spiritual springboard for that society. Seldom the “Old Testament,” mind you, but that part of it which establishes a relationship of man to G-D in G-D's realm of experience. All the rest must be “rendered unto Caesar”.

Not so, say our *parshios*, with the help of the Chazal. “Just like those (the decalogue) were from Sinai, so are these (the civil code) from Sinai.”<sup>13</sup> *mishpatim* are mentioned next to the *mizbeach*<sup>14</sup>, *sh'mita* is right next to *har sinai*.<sup>15</sup> Eating and drinking is as much a spiritual experience as a sacrificial offering and one of the objectives of the acceptance of the offering is the physical fulfillment it brings. *tora*, and all the more so, the give and take of *tora she'b'al pe*, the *tora* of this world, is the way to G-D.

Listen to a Gentile scholar describe the predicament other Gentiles found when looking at the seemingly mundane aphorisms of *pirkei avos*.

“Apart from the direct intercourse of prayer The study of Torah was the way of closest approach to G-D; ... To study Torah was, to the devout Pharisee, to “think G-D's thoughts after him,” as Kepler said. Non Jewish readers seldom have the least comprehension of this, and, in consequence they point out that Aboth rarely refers to G-D. This is true but it is beside the mark. Wherever Torah is mentioned, there is G-D implied. He is behind the Torah, the Revealer of what is revealed.”<sup>16</sup>

It is in the everyday “wisdom literature” of *avos* we find G-D. Ironically, it is the nations who are the

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improving our interpersonal relationships.

<sup>12</sup> “For the basis for *olam haba* is the return of the soul to its source to unite with the *sh'china* but it is **certainly better** when the *sh'china* unites below as was the object of the creation.” (Gaon of Vilna zl to *shir hashirim* 1:3 emphasis mine.) Small wonder legend has it that the Gaon held his *tzitzis* in his hand when he was dying and he cried, “Where I'm going I won't be able to get a *mitzva* like this for a few pennies.” (V. *Avos* 4:17) So much was this world necessary for a ritual practice. We'll surely not be able to find a chance for *tzedaka*, *gemilus chesed* and *ahavas yisrael* over there.

<sup>13</sup> Rashi to 21:1 s.v. *v'eyle*.

<sup>14</sup> *Ibid*.

<sup>15</sup> Rashi to *Vayikra* 25:1.

<sup>16</sup> R.Travers Herford, *The Ethics of the Talmud: Sayings of the Fathers*, N.Y. Schocken 1972, introduction, p.15.

“people of the book” and the revelation, and we who are the people of the word and the world. No one makes this clearer than Ramban zl. “They ate and drank,”<sup>17</sup> he explains, “For it is an obligation to celebrate the acceptance of the *tora*. ‘Rabbi Elazar said, From here [we learn] to make a feast when we finish the *tora*.’” We celebrate the spiritual with the physical since, for us, the physical is the vehicle for the spiritual. © 1998 Rabbi JB Love & Young Israel of Passaic-Clifton

**RABBI SHLOMO RESSLER**

## Weekly Dvar

In Parshat Mishpatim, the Torah goes through all the rules that govern our everyday lives. So detailed are these rules, that it even talks about seeing your enemy's donkey carrying a heavy load(23:5). As Onkelus explains, we have to put away our hatred and help that donkey with its load. As Rabbi Liebowitz explains (in *Majesty of Man*) we have to learn to suspend our hatred, even though that hatred is totally justified (or else it would surely be wrong to hate)! How can the Torah expect us to stop hating someone long enough to help him with his donkey? And if the point is to help your enemy, why does the Torah have to show us using a case with the person's donkey? The answer is that we have to learn to control our feelings. We may have a legitimate reason to feel a certain way, but not if it prevents us from doing what's right! We can't let our ideals get in the way of our morals! Feelings are a gift we must use constructively. The more you care about something, the better you take care of it. Too often we get caught up in our own feelings, and forget how to use them. We all need to take a deep, long, hard look at ourselves and learn to do what is right, and suspend the feelings we shouldn't have! Especially when it effects more than the people involved! The donkey is used in the Passuk to open our eyes and make us realize that our feelings towards others effect more than just us and them, but those around them, as well as those around us! Although we may not see it all the time, we effect our surroundings more than we know. We **MUST** work on ourselves, if not for our own sake, at least for the sake of those around us that ARE being affected. © 1998 Rabbi S. Ressler & LeLamed, Inc.



<sup>17</sup> 24:11.