

Toras Aish

Thoughts From Across the Torah Spectrum

RABBI LORD JONATHAN SACKS

Covenant & Conversation

First in Yitro there were the Aseret Hadibrot, the “ten utterances” or general principles. Now in Mishpatim come the details. Here is how they begin: If you buy a Hebrew servant, he is to serve you for six years. But in the seventh year, he shall go free, without paying anything . . . But if the servant declares, ‘I love my master and my wife and children and do not want to go free,’ then his master must take him before the judges. He shall take him to the door or the doorpost and pierce his ear with an awl. Then he will be his servant for life. (Ex. 21:2-6)

There is an obvious question. Why begin here? There are 613 commandments in the Torah. Why does Mishpatim, the first law code, begin where it does?

The answer is equally obvious. The Israelites have just endured slavery in Egypt. There must be a reason why this happened, for G-d knew it was going to happen. Evidently He intended it to happen. Centuries before He had already told Abraham it would happen: As the sun was setting, Abram fell into a deep sleep, and a thick and dreadful darkness came over him. Then the Lord said to him, “Know for certain that for four hundred years your descendants will be strangers in a country not their own and that they will be enslaved and mistreated there. (Gen 15:12-13)

It seems that this was the necessary first experience of the Israelites as a nation. From the very start of the human story, the G-d of freedom sought the free worship of free human beings, but one after the other people abused that freedom: first Adam and Eve, then Cain, then the generation of the Flood, then the builders of Babel.

G-d began again, this time not with all humanity, but with one man, one woman, one family, who would become pioneers of freedom. But freedom is difficult. We each seek it for ourselves, but we deny it to others when their freedom conflicts with ours. So deeply is this true that within three generations of Abraham’s children, Joseph’s brothers were willing to

sell him into slavery: a tragedy that did not end until Judah was prepared to forfeit his own freedom that his brother Benjamin could go free.

It took the collective experience of the Israelites, their deep, intimate, personal, backbreaking, bitter experience of slavery – a memory they were commanded never to forget – to turn them into a people who would no longer turn their brothers and sisters into slaves, a people capable of constructing a free society, the hardest of all achievements in the human realm.

So it is no surprise that the first laws they were commanded after Sinai related to slavery.

It would have been a surprise had they been about anything else. But now comes the real question. If G-d does not want slavery, if He regards it as an affront to the human condition, why did He not abolish it immediately? Why did He allow it to continue, albeit in a restricted and regulated way? Is it conceivable that G-d, who can produce water from a rock, manna from heaven, and turn sea into dry land, cannot change human behaviour? Are there areas where the All-Powerful is, so to speak, powerless?

In 2008 economist Richard Thaler and law professor Cass Sunstein published a fascinating book called *Nudge*. In it they addressed a fundamental problem in the logic of freedom. On the one hand freedom depends on not over-legislating. It means creating space within which people have the right to choose for themselves.

On the other hand, we know that people will not always make the right choices. The old model on which classical economics was based, that left to themselves people will make rational choices, turns out not to be true. We are deeply irrational, a discovery to which several Jewish academics made major contributions. The psychologists Solomon Asch and Stanley Milgram showed how much we are influenced by the desire to conform, even when we know that other people have got it wrong. The Israeli economists, Daniel Kahneman and Amos Tversky, showed how even when making economic decisions we frequently miscalculate their

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effects and fail to recognise our motivations, a finding for which Kahneman won the Nobel Prize.

How then do you stop people doing harmful things without taking away their freedom? Thaler and Sunstein's answer is that there are oblique ways in which you can influence people. In a cafeteria, for example, you can put healthy food at eye level and junk food in a more inaccessible and less noticeable place. You can subtly adjust what they call people's "choice architecture."

That is exactly what G-d does in the case of slavery. He does not abolish it, but He so circumscribes it that He sets in motion a process that will foreseeably, even if only after many centuries, lead people to abandon it of their own accord.

A Hebrew slave is to go free after six years. If the slave has grown so used to his condition that he wishes not to go free, then he is forced to undergo a stigmatising ceremony, having his ear pierced, which thereafter remains as a visible sign of shame. Every Shabbat, slaves cannot be forced to work. All these stipulations have the effect of turning slavery from a lifelong fate into a temporary condition, and one that is perceived to be a humiliation rather than something written indelibly into the human script.

Why choose this way of doing things? Because people must freely choose to abolish slavery if they are to be free at all. It took the reign of terror after the French Revolution to show how wrong Rousseau was when he wrote in *The Social Contract* that if necessary people have to be forced to be free. That is a contradiction in terms, and it led, in the title of J. L. Talmon's great book on the thinking behind the French revolution, to totalitarian democracy.

G-d can change nature, said Maimonides, but He cannot, or chooses not to, change human nature, precisely because Judaism is built on the principle of human freedom. So He could not abolish slavery overnight, but He could change our choice architecture, or in plain words, give us a nudge, signalling that slavery is wrong but that we must be the ones to abolish it, in our own time, through our own understanding. It took a very long time indeed, and in America, not without a civil war, but it happened.

There are some issues on which G-d gives us a

nudge. The rest is up to us. ©2017 Rabbi Lord J. Sacks and rabbisacks.org

RABBI SHLOMO RISKIN

Shabbat Shalom

"When [Hebrew: 'im'] you lend money to My people, to the poor person with you, you shall not behave toward him as a lender; you shall not impose interest upon him." [Ex. 22:24]

How can we ensure that Jewish ideals—such as protecting the downtrodden and most vulnerable people in our society—emerge from the abstract and find expression in our daily lives? Our weekly portion, Mishpatim, in addressing the issue of lending, provides an insight to this question, and sheds light on the core Biblical values of compassion and empathy.

The verse cited above raises several questions. First, in stating the prohibition on charging interest, why does the Torah employ a word—im—that usually means if? Our Sages note that the use of "im" in this verse is one of just three instances in the entire Torah in which the word means when instead of if [Midrash Tanhuma]. What is the significance of this exceptional usage of the word?

Moreover, why does the verse seem to repeat itself ("to My people, to the poor person with you")? Seemingly, just one of these phrases would have been sufficient to teach the lesson.

Additionally, "you shall not behave toward him as a lender," says the Torah. Why is this so? Our Sages teach that not only is it forbidden for the creditor to remind the debtor of the loan, but that the creditor must go out of his way not to cause the debtor embarrassment [ibid.]. If, for example, the creditor sees the debtor walking towards him, it is incumbent upon the creditor to change direction. Why not remind the debtor that the loan must be repaid? After all, the debtor took money from the creditor, did he not?

Finally, why is there a specific prohibition against charging interest at all? With respect to the reason for the prohibition against interest, Maimonides goes so far as to codify: "Anyone who writes a contract with an interest charge is writing and causing witnesses to testify that he denies the Lord G-d of Israel...and is denying the exodus from Egypt." [Laws of Lenders and Borrowers, 4:7] Why the hyperbole? After all, there is no prohibition against charging rent for the use of my house! Why should there be a prohibition against charging rent for the use of my excess funds?

A key lesson from our Sages provides the philosophical underpinnings of the answers to these questions. They teach that a person must view himself as if he were the poor person in need of support. We easily deceive ourselves that we are immune from the fate of poverty, a regrettable attitude that can harden us to the real needs of those seeking assistance.

I must look at the indigent as if he were I, with

the thought that I, but for the grace of G-d, could be he.

Rabbi Hayyim ibn Attar, in a brilliant illumination, beautifully explains this passage in his commentary, *Ohr HaHayyim*, which enables us to understand this difficult character change. In an ideal world, he teaches, there ought to be no rich and no poor, no lenders and no borrowers; everyone should receive from the Almighty exactly what they require to live.

But, in His infinite wisdom, this is not the manner in which the Lord created the world. He provides certain individuals with excess funds, expecting them to help those who have insufficient funds, appointing them His “cashiers” or “ATMs”, or agents in the world. Hence, we must read the verse as, “If you have extra funds to lend to my nation—which should have gone to the poor person, but are now with you through G-d’s largesse—therefore, you were merely given the poor person’s money in trust, and those extra funds that are you ‘lending him’ actually belong to him.”

If you understand this fundamental axiom—that the rich person is actually holding the poor person’s money in trust as an agent of the Divine—then everything becomes clear. Certainly, the lender may not act as a creditor, because she is only giving the poor man what is in actuality his! And, of course, one dare not charge interest, because the money you lent out was never yours in the first place.

This is the message of the exodus from Egypt, the seminal historic event that formed and hopefully still informs us as a people: no individual ought ever be owned by or even indebted to another individual. We are all owned by and must be indebted only to G-d.

This essential truth is the foundation of our traditional legal system, which is uniquely just and equitable: it is especially considerate of the needs of the downtrodden and enslaved, the poor and the infirm, the orphan and the widow, the stranger and the convert, the “chained wife” and the indigent forced to sell their land. From this perspective, not only must we submit to Jewish law, but it is crucial that our judges be certain that Jewish law remains true to its ethical foundations. ©2017 *Ohr Torah Institutions & Rabbi S. Riskin*

RABBI BEREL WEIN

Wein Online

The Talmud develops for us the complex laws that are laid out here in this week’s Torah reading. In fact, a great proportion of the tractates of the Talmud are involved in explaining the words, ideas and practical implications of the verses that appear in this week’s Torah reading.

Judaism is a religion of behavior and practicality and not only of soaring spirituality and otherworldly utopian ideas. It presupposes that there

will be physical altercations between people, that property will be damaged, that human beings will behave in a less than sanguine fashion and that monetary and physical consequences for such behavior are necessary in order to allow for society to function.

Above all else, the Torah is clear eyed about human nature and behavior. It does not believe that human beings left to their own resources and ideas will behave in a good, honest and noble fashion. The Torah stated at the beginning of its message to humanity that the nature of human beings is unhealthy and evil from the onset of life. Unless it is managed, controlled and channeled into positive deeds and thought processes steered towards higher and nobler goals, human beings will be little different than the beasts of prey, which inhabit the animal world.

This is the reason why the Torah and Talmud go to such lengths and detail to explain to us the laws and consequences of human behavior and of the interactions between one human being and another. This is what traditional Judaism meant when it said that *Baba Kama* – the laws of torts and damages – is the best book of Jewish ethics available.

The problem that has gnawed at human society over the ages is how to create and maintain a fair, just and productive society. Humankind has yet to come up with the perfect solution to this basic problem. This is not for lack of trying and experimentation. Nevertheless the search continues. The Torah reading of this week leaves me with the impression that the perfect society will not appear on this earth in this human cycle.

The laws of the Torah, as expressed in this week’s parsha, are really those of damage control. They do not envision a world of voluntary altruism on the part of all. There will be people who negligently cause damage to others. There will be people who will do so willfully. The Torah says very little about preventing such occurrences. It speaks only to legal and monetary consequences that these occurrences bring about.

This is not a pessimistic view of life and humans. Rather, it is a realistic assessment of human nature and of the inevitable consequences that are always present in the interaction of human beings. By viewing the the consequences of human behavior, only then can one hope to influence this failure and to prevent strife and damage to others.

The nineteenth century posited that humanity had turned the corner and the societies in the world would only become better and better. The twentieth century shattered that illusion. Therefore, we should remain realistic, drive defensively and work on ourselves to become better people who will not allow lawlessness and anarchy to rule our world. ©2017 *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. For more information on these and other*

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RABBI AVI WEISS

Shabbat Forshpeis

The 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. © 2017 Hebrew Institute of Riverdale & CJC-AMCHA. Rabbi Avi Weiss is Founder and Dean of Yeshivat Chovevei

Torah, the Open Orthodox Rabbinical School, and Senior Rabbi of the Hebrew Institute of Riverdale

RABBI NAFTALI REICH

Legacy

The gavel bangs down, and the room falls silent. The defendant approaches and stands before the three solemn judges. One of them begins to speak. "Young man, you have completed your six-year term of indenture and are free to return to a life of liberty. But you wish to remain a Jewish slave in your Jewish master's house and not take on the responsibilities of liberty. You heard the Creator declare, 'The Jewish people are my slaves,' and yet you choose to be the slave of a slave! Therefore, we will drill your right ear. Then you may remain indentured until the Jubilee year."

This scene dramatizes the instructions with which this week's parashah opens. But how are we to understand them? When a person violates any of the commandments he "heard," the Torah does not require that we physically drill a hole into his ear. Why then are we instructed to use this drastic method to point out the folly of choosing slavery to humans over slavery to Hashem?

Let us consider for a moment. A master has complete control over his slave and demands absolute obedience. We consider this a negative relationship to which we attach the pejorative term slavery. Parents and kings also have complete control and demand absolute obedience. Yet we consider these positive relationships. How do they differ from each other?

The answer is really quite simple. The slavemaster exercises authority to serve his own interests. The parent and the king exercise authority for the benefit of their children and subjects, and if they lose sight of this purpose, their authority loses its legitimacy.

When Hashem took the Jewish people out of Egyptian bondage on the condition of their absolute subordination and obedience, it was clearly not to serve His own needs. What could we possibly give Him that He does not already have? Hashem, by definition, is perfect and without needs. Rather, our subordination was completely for our own benefit. By loving Hashem unreservedly and submitting completely to His wisdom and will, we would rise above our mundane physical existence and elevate ourselves to the realm of the divine. By accepting the values and ideals of the Torah, we would free ourselves from the tyranny of our corporeal needs and pursuits, and experience the exhilaration of the transcendent expansion of our souls, minds and spirits. This was not slavery in the negative sense. It was the priceless gift of absolute attachment to the Creator of the Universe. It was an opportunity to bring ourselves to the highest levels of existence and fulfillment.

The Jewish slave who chose to remain in bondage heard Hashem speak of us as His "slaves"-but he did not really hear. To him, slavery to Hashem and to a man were one and the same, and to suit his comfort and convenience, he chose slavery to a man. Therefore, we drill his ear as a symbolic penetration to his consciousness, to help him truly "hear" what Hashem had said. As a "slave" of the Creator, he had been given the opportunity to gain eternal life on the very highest level, and instead, he chose the base existence of a bonded slave who lived only to fill his master's needs.

Two friends went to study in the school of a famous philosopher in a distant city. The older one, a brilliant fellow, attended all the lectures of the philosopher religiously. The younger one, however, also devoted every waking moment to the philosopher, hanging onto his every word, observing his every movement, running to fulfill his slightest wish. Two years later, when their course of study was completed, both friends did extremely well on their examinations. Nevertheless, only the younger was invited to join the faculty.

"Why not me?" the older fellow wanted to know. "I did even better than my friend. I got a perfect score on my examination, didn't I?"

"Indeed, you did," the philosopher replied. "You know all the answers about philosophy, but it has never become part of you. You are no philosopher. Your friend, however, subordinated himself to me completely and became a philosopher." In our own lives, we sometimes need to take a step back and evaluate the focus and direction of our lives. We struggle and strive in order to live as we choose-to be free. But somehow, we never seem to break free. Even when we achieve financial success, there are always responsibilities, obligations and distractions that direct our lives.

Although we can never escape the entanglements of life, we can find freedom in another direction. We can subordinate ourselves completely to the will of our loving Creator. By welding ourselves to Him, our spirits can drink the heady wine of true liberty even as we continue to grapple with the demands of living in this world. ©2008 Rabbi N. Reich & torah.org

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Avot Nezikin

Translated by Rabbi Mordechai Weiss

"When a fire goes forth...the one who kindled the fire must make restitution" (Shmot22; 5). For the damages caused by fire there are various scenarios: (1) One ignites a fire on his property and the fire spreads over his fence to his neighbor's property. (2) The fence should have been able to stop the fire, but unfortunately due to his bad luck it spread. (3) A person spread the fire that was already in progress in his neighbor's field and his action ultimately

destroyed his neighbor's field.

The Talmud sites a controversy between Rav Yochanan and Raish lakish on the reason one would be culpable when starting a fire and it spreads causing damage.

Rav Yochanan states that one is blameworthy because "fire is like one's arrows". If one aims and shoots an arrow he is accountable for the ultimate damage that could be caused. He is the initiator of the action and is responsible for the results of his action, (Eisho mishum Chitzav). Thus in case two cited above, he should be exempt because the fence was there to stop the spread of the fire.

Raish Lakish on the other hand explains that one is culpable for damages by fire because it is his property (Mamono). Fire, he believes, cannot be compared to "his arrow" (chitzav), because the fire proceeds at its own power to destroy. But rather it is compared to a person's ox that causes damage in which the owner of the ox is responsible.

Thus, in case three cited above the owner should be exempt for he was not in his own property [when the fire broke out]. (However one might retort and say that the new fire that spread which was caused by him in case three becomes his responsibility and therefore he becomes liable).

This controversy however, is not absolute. For in some instances Rav Yochanan would agree that one can become culpable because it is his "Mamon". For example, (in case two cited above) though he might not be responsible because of "Chizav" however he is still responsible because of "mamono".

If this is so, would Rav Yochanan hold the person liable where the fire that spread, he did not initiate and the fire spreads over the barrier fence?

In this case one might say that in the absence of both "mamono" and Chizav" Rav Yochanan would exempt the person from liability. ©2017 Rabbi M. Weiss and Encyclopaedia Talmudit

RABBI MORDECHAI KAMENETZKY

Sealed and Delivered

This parsha is called Mishpatim. Simply translated it means ordinances. The portion entails laws that deal with various torts and property damages. It discusses laws of damages, of servitude, of lenders and borrowers, employers and laborers, laws of lost items and the responsibilities of the finder. Many of these mitzvos that are discussed in the section of Shulchan Aruch Choshen Mishpat. But there are quite a few mitzvos mentioned that engage the purely spiritual quality of the Jew. Some of them deal with kosher restrictions, others with our relationship with the Almighty.

One verse that deals with the requirement of shechita (ritual slaughter) begins with a prelude regarding holiness. "People of holiness shall you be to

Me; you shall not eat flesh of an animal that was torn in the field; to the dog shall you throw it (Exodus 22:30). The question is simple. There are many esoteric mitzvos whose only justifiable reason is spiritual. Why does the Torah connect the fact that Jews should be holy with their prohibition of eating meat that was torn as opposed to ritually slaughtered? There are myriad mitzvos that require self-control and abstention. Can there be another intonation to the holiness prelude?

(I heard this amazing story a number of years ago from a reliable source; I saved it until I was able to use it as an appropriate parable to answer a scriptural difficulty. I hope that this is it!)

Dovid, a serious yeshiva student, boarded the last flight out of Los Angeles on his way back to his Yeshiva in New York. He was glad that they were going to serve food as he had left his home in a rush and did not get a chance to eat supper. Sitting next to him on the airplane, was a southern fellow who knew little about Judaism, and considered Dovid a curiosity. As the plane flew eastward, he bantered with Dovid about Jews, religion and the Bible, in a poor attempt to display his little bits of knowledge. Hungry and tired Dovid humored him with pleasantries and not much talking. He was pleased when his kosher meal was finally served. The kosher deli sandwich came wrapped in a plastic tray, and was sealed with a multiple array of stickers and labels testifying to its kosher integrity. His new-found neighbor was amused as Dovid struggled to break the myriad seals and reveal the sandwich, which unbelievably looked just as appetizing as the non-kosher deli sandwich the airline had served him.

"Hey," he drawled, "your kosher stuff doesn't look too bad after all!" Dovid smiled and was about to take his first bite into the sandwich when he realized that he had to wash his hands for the bread. He walked to the back of the plane to find a sink. It took a little while to wash his hands properly, but soon enough he returned to his seat. His sandwich was still on his tray, nestled in its ripped-open wrapping, unscathed.

And then it dawned upon him. There is a rabbinic ordinance that if unmarked or unsealed meat is left unattended in a gentile environment, it is prohibited to be eaten by a Jew. The Rabbis were worried that someone may have switched the kosher meat for non-kosher.

Dovid felt that in the enclosed atmosphere of an airplane cabin, nothing could have happened. After all, no one is selling meat five miles above earth, and would have reason to switch the meat, but a halacha is halacha, the rule is a rule, and Dovid did not want to take the authority to overrule the age-old Halacha.

Pensively he sat down, made a blessing on the bread and careful not to eat the meat, he took a small bite of the bread. Then he put the sandwich down and let his hunger wrestle with his conscience. "Hey pardner," cried his neighbor, "what's wrong with the

sandwich?"

Dovid was embarrassed but figured; if he couldn't eat he would talk. He explained the Rabbinic law prohibiting unattended meat and then added with a self-effacing laugh, "and though I'm sure no one touched my food, in my religion, rules are rules."

His neighbor turned white. "Praise the L-rd, the Rabbis, and all of you Jewish folk!

Dovid looked at him quizzically.

"When you were back there doin' your thing, I says to myself, "I never had any kosher deli meat in my life. I thought I'd try to see if it was as good as my New York friends say it is!

Well I snuck a piece of pastrami. But when I saw how skimpy I left your sandwich, I replaced your meat with a piece of mine! Someone up there is watching a holy fellow such as yourself!"

The Pardes Yosef explains the correlation of the first half of the verse to the second with a quote from the Tractate Yevamos. The Torah is telling us more than an ordinance. It is relating a fact. "If you will act as a People of holiness then you shall not eat flesh of an animal that was torn in the field; to the dog shall you throw it. The purity of action prevents the mishaps of transgressions. Simple as that. Keep holy and you will be watched to ensure your purity. Sealed and delivered. © 2002 Rabbi M. Kamenetzky & torah.org

YOUNG ISRAEL OF PASSAIC-CLIFTON

Law and Order

by Rabbi J.B. Love

There 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.¹ 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*.² 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.³

¹ V. Rashi to 18:13 s.v. *vayhi*.

² Ibid.

³ 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.

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 *tora 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*.⁴ 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.⁵ 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.⁶

"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 *tora she'bichsav*, the word of G-D, and it nourishes the body. The other takes place in the company of the bearers of *tora 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,⁷ and back

to the mountain and the cloud and the revelation.⁸ "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 everyday lives.⁹ "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.¹⁰ The rest lies not in the sublime but in our interpersonal relationships.¹¹ We weren't given a "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."¹²

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.

⁸ 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.)

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

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

¹¹ 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 *tora* 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 improving our interpersonal relationships.

¹² "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.

⁴ 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*.

⁵ V. Encyclopaedia Judaica, Jerusalem, Keter 1972. s.v. Oral Law and bibliography.

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

⁷ 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.

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."¹³ *mishpatim* are mentioned next to the *mizbeach*¹⁴, *sh'mita* is right next to *har sinai*.¹⁵ 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 Pharasee, 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."¹⁶

It is in the everyday "wisdom literature" of *avos* we find G-D. Ironically, it is the nations who are the "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,"¹⁷ 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 J.B. Love



RABBI SHLOMO RESSLER

Weekly Dvar

As the Torah puts it, "AND these are the laws you shall place before them..." Parshat Mishpatim

¹³ Rashi to 21:1 s.v. v'eyle.

¹⁴ Ibid.

¹⁵ Rashi to Vayikra 25:1.

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

¹⁷ 24:11.

starts by going right into the social justice code of the Torah, directly following the giving of the Torah itself. In fact, Rashi explains that we start with the word "And" to tell us that just like the last one, this Parsha was given at Sinai as well. Rabbi Zweig asks why there's a separation between the Ten Commandments and the social laws? Also, isn't it obvious that all the rules were given at Sinai, since the whole Torah was given then? Furthermore, why would the first rule described be the one about Jewish slaves, when that wouldn't even be possible for at least 14 years after the Jews settle into their land? Wouldn't it make more sense to start with more relevant laws?

As Rabbi Zweig answers, there are two understandings of our relationship between man and G-d. We undertake to accept G-d's Laws, but we also accept a responsibility for the welfare of our fellow Jew. This week's Parsha is the focus on that second responsibility, that of caring for each other: We don't steal because the rule in society is that we shouldn't steal. What makes Jews unique is that we also don't steal because we need to insure that our fellow Jew has/keeps what's rightfully theirs. If we don't care for the welfare of the other, then we've failed to maintain our own social justice. We see this difference in laws like our requirements to help another Jew load their animals, even if we happen to hate that person. We also see this difference in laws like our requirement to not ignore any lost objects we find.

With that understanding, if there's one person who hasn't realized their responsibility to their fellow Jew... it's the slave, who stole from another Jew, and gave themselves up to slavery to repay their debt. Not only did they ignore their charge to be only G-d's servant, but they also ignored the boundaries of their fellow Jew. The Torah is clearly telling us that we have a responsibility to include into society even a Jew that we'd have a reason to exclude, and that's why it's the first law described. Last Parsha contained the concept of being G-d's people, and doing what G-d needs. This Parsha focuses on the concept of being ONE people, and bringing us all together. A team is greater than its parts, but only if we each do our part for the team. © 2014 Rabbi S. Ressler & LeLamed, Inc.

