

Parashat Mishpatim, Exodus 21:1-24:18

SUMMARY

In this week's Torah portion, God tells Moses, "These are the rules (*mishpatim*) that you shall set before them". These rules deal with a wide variety of issues - how one should treat slaves, strangers, widows and orphans; punishments for killing or physically hurting other people; personal liability for injuries caused to animals; how to treat people fairly; rules about loaning money; and specific directions on how to perform certain rituals. We are even directed to show consideration to enemies. Rules about Shabbat (Exodus 23:12), the three pilgrimage festivals (Exodus 23:14) and kashrut (Exodus 23:19) are also mentioned this week. God tells the people that if they serve God, they will be blessed and they respond, "All that God has spoken we will do" (Exodus 24:3 and 24:7). The *parashah* concludes with Moses going up Mount Sinai and remaining there for forty days and forty nights.

THE LAWS BEHIND THE LAWS

Shira Milgrom

Ask your average Jew-on-the street (well educated or not) for the five most important or famous texts of the Torah, and she will certainly include the Ten Commandments. But if you thumb through the average siddur, you will find that the Ten Commandments are missing from the body of the prayer book. Other famous or important Torah passages are included, like the Shema and the Song of the Sea. Why then, aren't the Ten Commandments included? Surely we could use a daily or weekly reminder of their message.

As it turns out, the Ten Commandments were once included in the early Temple service as remembered by the rabbis (see Mishnah Tamid 5:1). But even in the Talmud we have indications that the Ten Commandments were being left out of the service. Listen to the voice in Berachot 12a: "They recited the Ten Commandments, the Shema and its blessings, the Avodah, and the priestly blessing. Outside the Temple people wanted to do the same [recite the Ten Commandments], but they were stopped on account of the insinuations of the Minim." They were stopped on account of the insinuations of the Minim? What does this mean and why were they stopped?

The Minim were the sectarians, those Jews who were already on the periphery of the Jewish community, about to become Christians. Their "insinuations" were that the legal, legislative part of Torah was no longer necessary; it was enough to believe in and follow the Ten Commandments. In order to distinguish the Jewish community from the sectarians, the rabbis removed the Ten Commandments from the service, lest the average Jew-on-the-street was to walk in during the rabbinic service, hear the Ten Commandments, and conclude: "Yes, indeed, the Ten Commandments are sufficient, I don't need anything else."

And indeed, the weekly parashah that follows directly on the heels of the Ten Commandments is Mishpatim, a portion of law after law after law. It reflects the fundamental Jewish view that principles are grand and magnificent, but they are not enough to live by. "You shall not murder" is OK, but what if someone is tunneling through your home at night? What if a murder is accidental? What if the death of a human being is committed by an animal? What if? Judaism acknowledges that if life were simple, its problems could be addressed by the grand gesture of great principles. But because life is complex, it requires an intricate and subtle system of laws that address its multi-layered complexity.

Many of the laws of Mishpatim have come under serious criticism, both recently and through the centuries. Some remain enigmatic: "He who strikes his father or his mother shall be put to death." (Exod. 21:15) Some were revolutionary (e.g., the attempts to humanize the institution of slavery). Some have made their way into our home customs: "And if you make for Me an altar of stones, do not build it of hewn stones; for by wielding your tool upon them you have profaned them." (Exod. 20:22) This last example became transformed through the genius of the rabbinic tradition. When the Temple was destroyed, it was replaced not by other temples but by the home, later named a mikdash me'at, a "sanctuary in miniature." The rabbis established an extraordinary equivalency:

Temple = home
altar = table
priests = us around the table
sacrifice = bread

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And because the altar could not be built from hewn stones (it would take a tool of violence to shape them), so, too, a tool of violence is not used to cut the bread on the Shabbat table. How many of you tear the challah with your hands at the Friday night dinner?

Just as the Temple had to be a place of peace and wholeness, it is our hope that our home will also be a place of peace, not a place of hurt, competition, or violence. We reinforce these wonderful principles not only through grand gestures and statements but also through the regular practice of law and ritual.

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SLAVES' RULES OF SLAVERY

Isaac Serotta

Days after the Israelites themselves had been freed from slavery in Egypt, we find a host of laws about how the Israelites are to treat their slaves. It is a section of the Torah we would, perhaps, like to disown. How can it be that after all the cruel years of Egyptian bondage, our ancestors almost immediately begin plans for having slaves of their own?

As with other troubling texts, it may help to see the rules of slavery in their historical context. In ancient societies, slaves were not a luxury but an economic necessity. Therefore, our ancestors did not outlaw the practice but regulated the process. In this way they hoped to keep the slaves free from abuse.

Among the regulations, we find that slaves are to serve for six years and be freed in the seventh. At the end of that time, the slave may choose not to go free but instead remain a slave until the jubilee. After six years of service, could a slave really say "I love my master and do not want my freedom?" That pronouncement was required for the slave to remain in servitude.

The explanation of the laws of slavery in the Mechilta, one of the oldest works of the Midrash, makes it possible for us to understand how a slave might choose to remain with a master rather than go free. For example, the Mechilta tells us, "A Hebrew slave must not wash the feet of his master, nor put his shoes on him, nor carry his things before him when going to the bathhouse." (Tractate Nezikin) It goes on to say that even those things a student or a son might do for the master should not be done by the slave. Slaves were to be used for economic purposes, not for creature comfort.

Then the Mechilta tells us, "Just as a hired man cannot be forced to do anything other than his trade, so also a slave cannot be forced to do anything other than his trade." If the slave came into service as a barber, tailor, butcher, or baker he works at that trade for his master, and the master cannot compel him to change his occupation.

The slave also had regular hours. "Just as a hired hand works only during the day and does not work during the night," so it is with the slave. In fact, the Midrash goes so far as to suggest that if the master has only one good loaf of bread or one cup of good wine, he must give it to his slave. One can see that in Jewish tradition, the rules pertaining to slaves were a big step forward in comparison to the harsh lawlessness of the Egyptians. Could it be that the experience of Egyptian slavery led to the formulation of more humane laws of servitude?

And yet, what are we to do with this text today? Surely it does not call for a reinstatement of slavery. Nor does it matter much to us today whether our ancestors were more humane than their Egyptian masters had been. Is it possible, however, to read between the lines and find a metaphor for our own lives?

The text says, "Six years shall [the slave]serve" (Exod. 21:2), teaching us that each human being has a limited productive life. "In the seventh year he shall go out free" (21:2), reminds us that we are mortal. "If he came in by himself" (21:3) tells us we can live on our own or we can search for spirituality, a life of Torah. "He shall go out by himself" (21:3) tells us that if we do not live with spirit, then we die without it.

"If he is married=85" (21:3): One might think of the kabbalistic view of the marriage between God and Israel and realize that we can have an intimate bond with God, and if we do, "then his wife shall go out with him." (21:3) Through our lives and perhaps beyond, God is with us if we are with God.

"If his master has given him a wife and she has borne him children" (21:4) Children are our legacy. Here it can be read metaphorically. We will leave the work of our hands behind in the form of students who learned from us or in the products we created. The text asks us if we do this of our own volition or only because of the taskmaster that stands over

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our shoulder. If only because of the taskmaster, then "the wife and the children shall belong to his master, and he shall go out by himself." (21:4)

But if he says, "I will not go out free" (21:5) he acknowledges the importance of spirituality, of faith, and of Torah in his life. Then he shall ever remain close to God and serve God, not for six years, not necessarily only in this lifetime, but forever.

The haggadah tells us to remember that we were slaves. Perhaps Parashat Mishpatim can help us envision that as well. When we live our lives devoid of holiness, we are slaves to the void. When we live in God, we are not void but avadim, "servants," to the Holy One. Then we are able to say, "I love my master and wish to continue in Your service."

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"BEING A REFORM JEW IS EASY! YOU JUST IGNORE JEWISH LAW"

Mark N. Staitman

Many Reform Jews mistakenly believe that Jewish law doesn't apply to them. They often define themselves by which laws they do not observe: Reform Jews do not keep kosher; Reform Jews do not wear tefilin; Reform Jews do not refrain from driving on Shabbat. How sad that we have allowed responsible informed choice to become cavalier irresponsible abdication. This "un-Jewish" attitude toward the law is challenged by Parashat Mishpatim.

This parashah contains a series of civil and criminal laws, laws dealing with agriculture, and laws about sacrifice. Many of these laws have little direct application to modern society (laws concerning slavery or toleration of sorceresses). Most of them have some application to modern society but are not consulted because our governments have enacted laws about the same issues (e.g., assault, kidnapping, restoring lost property).

How can Reform Jews relate to the laws presented by our tradition? One way is to attempt to understand how each law can be applied to modern conditions. For example, even though some of the laws are preempted by secular law, many are not. The prohibition against striking one's parents (a capital crime) may very well be applicable today. We can "strike" our parents in many ways: physically, through thoughtless behavior, through hurtful words.

A second way to relate to the law in our tradition is to look beneath the law to the values upheld by it. All law is purposeful. All law serves to promote or secure a value. The Torah tells us, "If you lend money to My people, to the poor among you, do not act toward him as a creditor: Exact no interest from him." (Exodus 22:24) A literal understanding of this text precludes taking interest from our fellow Jews. But if we were to follow this law, Jews would be at a disadvantage as participants in modern economies. An interpretive approach to this verse might suggest that, while an individual is forbidden to exact interest, a corporation is permitted. A value based approach might teach us that we must not treat those over whom we exercise some power ("the poor among you") as less than our equals ("do not act toward him as a creditor"). We all have relationships that are based on inequality of power: Relationships like lender-borrower, employer-employee, parent-child, rich-poor. Sometimes we exploit our power in the workplace (e.g., in cases of sexual harassment or when we habitually ask our employees to work late with out reimbursement).

As Reform Jews, we cannot reject Jewish law, nor can we ignore it. We must take it seriously. We must attempt to see how the ancient laws can give meaning to our lives. We must approach them as the basis of the values that underlie our lives, that determine how civil human beings relate to one another in a way that reflects the relationship between God and Israel. The laws of the Torah constitute a challenge for the thoughtful Reform Jew because they demand study, thought, and integration. No easy task, but then, who said being a Reform Jew is easy?

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AN EYE FOR AN EYE?

Dan Bridge

How do we Reform Jews make decisions? Does an informed process lead us to choice or to the easiest action we can take?

The parashah of laws, Mishpatim, legislates that an eye (must be taken) for an eye, a tooth for a tooth, a life for a life (Exodus 21:24). It's a symmetrical punishment but one that our modern sensibilities deem barbaric: Either we're just not comfortable taking on the role of ones who maim or, perhaps, we cannot see the benefit of such action. The latter is Tevye's reaction when he proclaims such punitive action will only leave everyone "blind and toothless!"

But the fact remains that this harsh law comes from the Book of Exodus, from our Torah, from our tradition. What can we make of the (probable) contradiction between our written tradition and our world-view? A number of possibilities come to mind.

We could ignore these lines of Torah, claiming that they have nothing to offer us today. This would free us to seek out other ways of making such decisions. Perhaps we could look to other cultures or to contemporary American values, or we could take the expedient route, making our hectic lives as uncomplicated as possible. But to which cultures would we turn? Are we willing to entrust our decision making to an American society that claims the hamburger and soft drink among its major exports? And if we decide to take the easy way out, then of what worth is a 3,500-year-old Jewish tradition if we choose to ignore?

We could interpret the text literally, decreeing that sight or tooth or life be taken away from those who inflict like punishment on others, but the very name of our Reform movement suggests that we would not approve such a course of action. Some may claim that such a punishment would be a more effective means of deterrence than prison, although very few of even this group would be willing to enact the necessary legislation that would put this law into effect.

A third possibility is to interpret the text using the lens of the rabbinic or oral tradition, the path that many refer to as halachah (the rabbinic legal system). The rabbis of the Talmud change the meaning of ayin tachat ayin ("eye for eye") from a physical retribution to a financial demand made upon the perpetrator of violence. In the Mishnah, an "eye for eye" is interpreted as monetary compensation for loss of work, convalescence, and inconvenience. This is a revolutionary change made by our early rabbis. But attractive as halachah may be with regard to this issue, what happens when we disagree with it on other issues (e.g., with regard to laws concerning the status of women or work on Shabbat)? Are we willing to adhere strictly to the dictates of a legal process regardless of our personal feeling, or must we search for another way to help us make decisions?

Reform Judaism encourages informed individuals to make decisions within the context of an educated community. But from where can we obtain information we need? Perhaps we could use a little from all three of the aforementioned possibilities?

As citizens of a postmodern world, we must look to our worldview. As inheritors of a 3,500-year history and literature, we must look through the lens of text, which is Torah and the rabbinic writings. But if we view the text as the direct word of God, we may be troubled by the "absolute truths" found within. Perhaps we can borrow from the teaching of the late Rabbi Solomon Freehof, who defined halachah's role in decision making as providing guidance but not governance.

Do we Reform Jews possess a process of decision making? Perhaps, we have one, perhaps more. But for the sake of our future and our present integrity, a process must exist. We must not allow decisions to be made out of convenience, claiming, "We don't do that; we're Reform Jews." We do if we find meaning in it.

Each Reform Jew is given the responsibility to make decisions based on Jewish knowledge in concert with experience of the world. It's a process that might include communal discussions of the Torah text, of how the rabbis have handled an issue through the ages, and of how progressive people living in today's world view the situation. It's a difficult process with few clear-cut rules, but it is a process that is both rigorous and honest.

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A POWER LUNCH EXTREME

Steve Denker

Today we are no strangers to the idea of the "power meal"--a breakfast, lunch or dinner that serves as a means of moving forward a deal, sizing an associate, assessing a competitor, or cementing an important relationship. An essential component of the power meal is the opportunity that it offers participants to see and be seen in the "right" company. The power lunch is hardly a new idea. The concept of "sharing a meal to seal the deal" may be as old as human history itself.

Therefore, when we read the conclusion of parashat Mishpatim (Exodus 24:1-11), we do not find it surprising that the covenantal process between the People of Israel and God at Mount Sinai includes just such an event--a power lunch extreme--at which Moses is the main human player.

Those Israelites who were not invited to that high-level feeding must rely on the written report in the Torah to determine what happened, why, and what it means now.

Moses had the clearest vision of God and the most complete knowledge of the instructions that God delivered. However, the People of Israel could not have evolved and survived until today without the seventy-three other people--Aaron, Nadav, Avihu and the seventy elders of Israel--who dined with God and Moses and thereby became parties to the covenant.

In the rabbinic tradition, the "seventy elders of Israel" refers to a duly constituted communal authority, with the word "elder" connoting leadership position, not age. Klai Yakar on this passage points us to the Talmud, which teaches that we have always had councils of "elders" (Yoma 28b). Elsewhere, the Talmud (Gittin 36b, Sanhedrin 46a and others) assigns great legislative power to communal bodies. Some say that this communal representation was chiefly responsible for attracting *Ziv HaShechinah*--"the Light of the Divine Presence"--to Sinai for the revelation. Invoking God's presence through the community is well-known to us through the custom of saying certain prayers that require communal response--such as the *Baruch Hu*, the *Kedushah*, and the *Kaddish*--only with a *minyan*. Conversely, the sanctity of a synagogue's location can be transformed into a site for general use only by communal enactment (Megillah 26a-b). This understanding of the role of the seventy makes the continuation of unity and the sanctity of the Jewish people possible.

Parashat Mishpatim introduces the idea that God has given us covenantal ordinances that are validated by the community's involvement in revelation. And although every subsequent generation of the House of Israel lived and lives in times and conditions unanticipated by the seventy-three who accompanied Moses, we need not be distant from Sinai. Reform Judaism teaches that like our ancestors, we have a seat at the table and that as a community, we can engage in the ongoing holy process of defining the Jewish elements in our lives that bring us closer to each other and into the Presence of God.

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WHICH CAME FIRST, THE DOING OR THE UNDERSTANDING?

Jordan S. Franzel

In *Parashat Mishpateem*, the revelation of the Torah that began last week with the giving of the Ten Commandments continues. In many ways this portion is an encapsulation of the entire Torah and is sometimes referred to as the Book of the Covenant. Although this portion is titled *Mishpateem*, Judgments or Civil Laws, it contains *mitzvot* that pertain to almost every aspect of Jewish life, both secular and sacred. According to Rashi's commentary on Leviticus 18:4, these *mitzvot* fall into two categories: *mishpateem* and *chukeem*.

Mishpateem are defined as those laws that we would have (probably) set up in the absence of Torah. They include laws that appeal to our ethics, sense of morality, and sense of social justice. The *mishpateem* make rational sense and govern mostly the secular world. The *chukeem*, on the other hand, are those laws that we might not have thought of on our own. Examples of the *chukeem* are festival observances, *kashrut*, *b'rit milah*, the wearing of *tzitzit*, and fasting on Yom Kippur. These laws pertain mostly to ritual observance, and while there are many opinions on why the Torah contains such laws, no single explanation is given to us for following them. They are in the Torah simply because they are what God has commanded.

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These two categories correspond to the two levels on which we perform *mitzvot*. This is reflected in the two different responses by the Israelites upon hearing the commandments:

"Moses went and repeated to the people all the commands of *Adonai* and all the rules [*mishpateem*]; and all the people answered with one voice, saying, 'All the things that *Adonai* has commanded we will do!' " *Na-aseh*. (Exodus 24:3)

"Then he [Moses] took the record of the covenant and read it aloud to the people. And they said, 'All that *Adonai* has spoken we will faithfully do!' " *Na-aseh v'nishma*--literally, "We will do and we will hear." (Exodus 24:7)

Most of us act according to our understanding of what is right and what is wrong. In our dealing with others, in business, and in all other situations, our behavior reflects our ethics and our sense of justice. Ideally, following the *mishpateem*--the laws that pertain to the order of society--would happen almost automatically. Thus whenever our ethical and intellectual understandings lead to action, we are on the level of *Na-aseh*.

Following the *chukeem*, on the other hand, doesn't happen automatically. These laws challenge our intellect and our rational minds. Since they don't deal with the mundane, we perform them for other reasons. Some people follow the *chukeem* because they feel personally commanded by God to do so; others adhere to them because of their personal commitment to community and tradition; still others observe the *chukeem* for their emotional content. Whatever our motives for practicing these laws are, the *chukeem* have the potential to expand our experience of holiness. Because they work on a more subtle, intuitive level, these *mitzvot* lead us to a higher sense of the Divine. Thus whenever our actions lead to a deeper attainment of spiritual perception, we are on the level of *Na-aseh v'nishma*.

Being human requires that we exhibit a certain level of moral and ethical behavior. To live in the world, we have to adjust to societal expectations and act according to certain rules and regulations. The *mishpateem* represent the highest ideals of all humanity, and we practice them because that is the right thing to do. As Jews, however, we are given an extra opportunity to perform sacred acts. Because we have a unique relationship with the Eternal, we have our own ways of relating to God. The *chukeem* represent the highest ideals of the Jewish world. We strive to practice them because by doing so, we can enrich our lives with ritual and transcend the mundane aspects of the world.

As Reform Jews, we have traditionally responded with one voice to the issues of social action and mores, but it is only recently that we have collectively begun to make strides to embrace the ritual and spiritual aspects of our heritage. As we acquire more knowledge from the wealth that is our Torah, may we fulfill the ultimate goal of Judaism according to one rabbi of the spiritual tradition: May we perform the *mishpateem* with the same level of awareness and understanding that we use when we approach the *chukeem*. Thus may our everyday actions and our dealings with others lead us to a deeper experience of the Divine.

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