

CLASS 62 - MISHPATIM

by Rabbi Heshy Grossman

"V'Eleh HaMishpatim" - "Just as the first laws were from Sinai, so too, these [laws] were also from Sinai." (Rashi, Shemos 21:1)

Is there reason to believe that the Mishpatim were not given on Sinai? In what manner are they distinguished from other parts of Torah?

The Mishpatim are rules that can be understood by cognitive reason, and they deal with court procedures, property, damages, debts, and laws of monetary exchange. Though many of these proceedings have been adopted by the nations, we are prohibited from bringing our own disputes before their courts. Though at first glance they appear to be similar, the Torah reveals that basic logic derives from Sinai, and even the instructions for the world of commerce have a Heavenly source.

In our shiur this week we will explain the distinction of Mishpatim, and how they reveal the Dvar Hashem in a unique manner.

1

"...In the morning the Torah was given, and in the evening, the Mishpatim." (Shemos Rabbah 30:8)
"V'Eleh HaMishpatim.....these are the Dinim that you should arrange before them. These are the orders of Gilgulim, the judgment of the souls, and each individual is judged to receive its punishment." (Zohar, Mishpatim)

"If there is Din below [on earth], there is no Din above [in heaven]; if there is no Din below, there will be Din above.....Therefore, Hashem says: guard the Mishpatim, so that there will be no cause to do Mishpat above, as it says: 'V'Eleh HaMishpatim'." (Tanchuma Mishpatim 5)

".....there is no Din above - for G-d will draw back from anger. But, if on earth they hide from punishing sinners, then there will be Din above, in all the world." (Etz Yosef, ad. loc.)

Clearly, the Mishpatim of our Parsha are related to the Midas HaDin of HaKadosh Baruch Hu, and the law carried out by the Bais Din and Sanhedrin serve as surrogate and substitute for punishments that would be meted out instead by a Heavenly court.

Still, these laws are considered to be a function of night, while the body of Torah is given by the light of day.

Perhaps we can explain these ideas by analyzing the first of these Mishpatim, the man sold into slavery as an Eved Ivri. After proclaiming allegiance to his newfound master, the servant is punished by having his ear drilled to the door post. Having heard at Sinai that man is bound only to G-d, his willingness to be subject to another master is a betrayal of the Torah's covenant.

This is quite puzzling. True, the slave, who hears "Ki Li Bnei Yisrael Avadim" (VaYikra 25:55) - for the Bnei Yisrael are servants to Me - has ignored the derived implication of this verse: he can not be servant to anyone else. But this refusal to hearken to G-d's command should be equally true of all sins. One who eats treif, for example, also disregards a command, one even more clearly expressed in the Torah, yet we find no other requirement to put a sign of rebellion through man's ear.

Apparently, this form of slavery is particularly insidious.

The Ramban explains that each of the Mishpatim of this Parsha parallel the Ten Commandments. The first law, Eved Ivri, is a corollary of "I am the Lord, your G-d, who has taken you from the land of Egypt." Just as the first command is a general principle that incorporates all the others, similarly, the laws of Eved Ivri expresses ideas that encompass all of Torah thought.

How is this so?

Chazal teach that this individual was sold into slavery as a result of his own theft. Unable to repay his debt, Bais Din sells him to the highest bidder.

What is the underlying characteristic of theft? The thief imagines a G-d who cannot see. This element of denial exists in every sin, and it is this principle that highlights all Mishpatim.

If man would be conscious of G-d's presence, he would be unable to violate His word. Because he has refused to yield to the mastery of G-d, he is now forced, measure for measure, to subject himself to a different master. Hence, the thief is sold into slavery, his ear now bound to another. And, as he himself so recently expressed: 'I love my master and my wife...'. Having opted to live with human perceptions, he remains stranded in the world of his own choosing, a world of utter darkness.

2

At times, Hashem judges the world with Mishpat. This is an expression of Din, and is clear indication that the world is directed by a higher Hand. Still, Chazal indicate that Mishpat is also Rachamim, for effective punishments are actually merciful. All to indicate that justice imposed by G-d is the means by which man's future is insured.

Gilgulim, the wanderings of the soul, are another method by which man's eternity is guaranteed. Having failed to maximize life's full potential, G-d gives man another chance to rectify his prior shortcomings.

This is true in a national sense as well. At times, G-d deals harshly with the Jewish people, showing a strong hand, sending them to near despair. This is the long night - the time for judgment, a time

when Mishpat prevails. And though we may lose sight of our destination, the Torah has taught long ago - these too were given at Sinai.

The Mishpatim are designed to guide man through this world. Laws of slavery, damages, theft, and many other areas of human imperfection will be directed by Bais Din and Halacha.

At first glance, one may believe that laws of conduct and commerce are of human derivation, and share nothing with lofty metaphysical ideals of philosophy and theology.

The Torah teaches otherwise: "V'Eleh Hamishpatim Asher Tasim Lifneihem - and these are the laws that you shall place before them - before 'them' and not before the nations." (Rashi, Shemos 21:1)

Although these very principles are shared by all reasonable men, allowing our Torah to be judged by human standards is a desecration of G-d's name, for each detail of law actually reflects heavenly spheres.

A world without boundaries allows for no other elements. The immanence of G-d's presence obliterates everything else, and hence, the act of creation is known as 'Tzimtzum' - G-d hiding His presence to produce an 'Olam' - from the root 'He'elem' - a hidden and concealed dimension. The world that is revealed to us in shape and form is possible only because Hashem covers Himself.

The Divine name of creation is 'Elokim', and this name simultaneously defines both Midas HaDin - Divine punishment - and the judge of Bais Din who personifies human Mishpat. Just as a world of unlimited dimensions would be overwhelmed by the timeless transcendence of an otherworldly existence, similarly, a lawless state would lead to anarchy and chaos, with no man finding his place, unable to claim property of his own.

Ironically then, in a world of darkness it is the law of man that allows for G-d's presence to be perceived, much as the harshness of Midas HaDin brings the world into existence. Law provides man with a limited space and boundary, and punishment further directs his behavior towards accepted procedure.

This is the ultimate kindness.

The Mishpatim are given at night, in a world that cannot see the Torah's light.

Have a good Shabbos.

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