

STORY OF RECEIVING THE TORAH

by Rabbi Yissocher Frand

Rabbi Frand on Parshas Mishpatim

These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: Tape # 317, Wrecking A Borrowed Car. Good Shabbos!

Civil Laws of Mishpatim Interrupt The Story of Receiving The Torah

At the end of Parshas Mishpatim, there is a narrative that recounts some of the details of Mattan Torah [the Giving of the Torah]. Indeed, although there is a difference of opinion among the early commentaries (Rishonim) regarding the timing of the narrative, Rashi's opinion is that the narrative occurred on the fourth of Sivan, just prior to Matan Torah.

According to Rashi, this section is not located in its proper sequence. It is a classic example of the principle that one cannot determine the chronology of an event from the place where it is recorded in the Torah (ayn mukdam u'me-uchar b'Torah). According to this opinion, the pasukim [verses] that are located at the end of Parshas Mishpatim, actually occurred previously -- all the way back in Parshas Yisro on the fourth of Sivan. All the events mentioned therein occurred as a prelude to Matan Torah.

In fact, the famous expression "We will do and (then) we will hear" [Shmos 24:7] is written here in Parshas Mishpatim. It is not to be found in Parshas Yisro in the midst of the Torah's main narrative of the Giving of the Torah.

The question is why? The Torah does not write chapters out of sequence in order to confuse us. There always must be a reason for the narrative to be written out of the actual sequence. We need to understand why the Torah interjected virtually all of Parshas Mishpatim, with its dozens of different laws, between the narration of Matan Torah in Parshas Yisro and the narration of the same

event at the end of Parshas Mishpatim.

The answer is that this is teaching us two lessons, tying the giving of the Torah and Derech Eretz (proper civil behavior) together. It teaches that if there is no Derech Eretz there can be no Torah -- and that without Torah, there cannot truly be Derech Eretz.

Parshas Mishpatim lays the groundwork for the culmination of the story of Receiving the Torah. Parshas Mishpatim contains the laws of how to treat a Hebrew servant - which legislates how one must treat a thief who stole from you, and is so poor that he cannot pay you back. These laws govern how to treat a thief. Parshas Mishpatim teaches us how to carefully treat our animals. It is only after Parshas Mishpatim that we can move on to consummate the story of "Mattan Torah". If there is no "Derech Eretz", there is no Torah. All the fine analysis (lomdus) and detailed logical argumentation (pilpul) of Torah study can not stand, if they are not preceded by civility and based on Derech Eretz.

The confusing split in the story of the Giving of the Torah is necessary in order to make a point: If we want to know how to properly accept the Torah, we must know how to correctly treat a widow, a worker or a thief. We must know how to be a 'mensch'. Therefore, the laws of Parshas Mishpatim must be well integrated into the story of the Receiving of the Torah, because without them, we have not properly received the Torah.

In addition, one needs a Revelation and a Receiving of the Torah to precede the laws in Parshas Mishpatim. Of course, there are Noachide Laws and the nations of the world do in fact have their own civil codes and civil laws with sophisticated judicial systems. But nothing, no system and no society, has ever provided for the protection and the rights and the feelings of an individual like the system of Torah.

The Alter from Kelm (1824-1898) comments on the pasuk [verse] in this week's portion, "Do not accept a false report" [Shmos 23:1]. The Talmud infers from this pasuk that there is a prohibition to accept or to speak Lashon Harah [gossip; tale bearing]. The Talmud [Pesachim 118a] comments on the juxtaposition of this verse with the preceding pasuk ("You shall not eat flesh of an animal that was torn in the field; throw it to the dog" [22:30]). The Talmud says that one who speaks or listens to Lashon Harah or bears false testimony against his friend is worthy of being thrown to the dogs. The Alter from Kelm asks, "Has there ever been a society on the face of the earth that has made such a 'big deal' about speaking Lashon Harah?"

I was once on an airplane, and there were two people from the same office sitting next to me. They were having a discussion about office politics. There were no holds barred. Neither of them prefaced any comments with "Excuse me, this is really Lashon Harah, but..." There were no pangs of guilt. This was open and blatant. They went on and on about this co-worker and that co-worker. Why? The reason is because they do not even have a concept of Lashon Harah. They had no concept that gossip is wrong, or evil.

"Who is like Your nation Israel, a unique nation amongst the (nations) of the earth?" [Samuel II 7:23] Do any other nations on the face of the earth have organizations and rallies and religious curricula for the express purpose of promoting the message not to gossip?

In the world at large there are "Pro-Abortion" rallies and "Anti-Abortion" rallies. That is a major issue. "Capital Punishment" vs. "No Capital Punishment" is another major issue. However, gatherings across an entire country for the purpose of promoting kinder and gentler speech? That is unheard of!

From where does this characteristic of the Jewish people stem? It stems from the fact that there was a Receiving of the Torah prior to Parshas Mishpatim (including all the basic civil laws). We know that we could not have invented all of these various legal principles on our own.

The Torah legislates that one is required to help load the donkey of his enemy before that of his friend! No society has ever made up a law that one must fix the flat tire of his sworn enemy before he fixes the flat tire of his life-long friend. That is Jewish law! "Who is like Your nation Israel, a unique nation amongst the (nations) of the earth?"

The narrative is written out of sequence -- Parshas Yisro before Parshas Mishpatim in order to teach us that had there not been Torah (Parshas Yisro), there could have never been Derech Eretz (the civil law found in Parshas Mishpatim).

Without a Divine Being, we can not begin to erect a fair and kind society (if there is no Torah there is no Derech Eretz). And without Derech Eretz, without being a 'mensch', without knowing how to take care of one's ox, one cannot possess Torah. Derech Eretz precedes Torah, and stems from it as well.

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This write-up was adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Torah Tape series on the weekly Torah portion. The complete list of halachic topics covered in this series for Parshas Mishpatim are provided below:

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