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Edition

פרשת משפטים
Parshat Mishpatim

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RIGHT IN FRONT OF US

JORDAN LANDES ('18)

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In the world today, it is easy for the “Average Joe” to believe that spirituality only comes from above and can not be found down below. How could there be kedusha right here on planet Earth? Isn't that what makes Hashem divine, that God is up above and we are all the way

down on a different level of the universe? We say in the beginning of our tefilla every day, “ובשמי השמים העליונים” --“Hashem is in the highest heaven of heaven.” That is where all the holiness must certainly lie.

Parshat Mishpatim is comprised of an enormous amount of halachot. We see laws of the field and the

marketplace in the physical world. Yet it is very hard to become fully invested in these laws when it feels like they are empty of Hashem's presence. How does performing work on your property bring you closer to Hashem? How does halacha deliver spirituality to the world?

In response to this question, Rav Moshe Weinberger suggests a powerful idea that is an integral thought process to the Jewish people in the world today. Rav Weinberger says that seekers of God ask where Hashem is, so they look to the sky and search for answers. They believe God is out there somewhere. But the Torah's answer to that question is: “All Hashem has in the world is the four amot of halacha” (Brachot 8a). Hashem is found in the little, seemingly minor details of halacha that we often quickly glance over. Hashem is right before us in every action we do. We don't need to look up. Look straight ahead.

Rav Kook argues in his sefer, Orot HaTorah, that the reason why it's a huge avodah to learn Torah SheBa'al Peh is because we are taking Torah SheBich'tav and

bringing it down to our physical world. The words of Hashem come alive in New York City. Hashem's halacha is palpable in Italy. It's all around the world.

This week's parsha is a reminder that while we believe Hashem is high above us in a lofty place, He is actually closer than we think. Every action we do, from the minute we wake up, is a blessing from Hashem. Halacha is God attempting to connect with us. Find new ways to incorporate halacha in your life and Hashem will become more visible as well. We should all be zocheh to get closer to Hashem each and every day.

VALUE OF HUMANITY

LEORA KROLL ('17)

In Parshat Mishpatim, Hashem instructs Bnei Yisrael on how our courts should administer penalties for harming or killing another person. The Torah explains the rules in three different scenarios:

- (1) If someone is struck by a rod but does not die, then he shall be repaid for the time he took to recover.
- (2) If someone is struck by a rod and dies, then the murderer shall surely be avenged.
- (3) If a pregnant woman is caught between two men fighting and she is struck and miscarries, then her husband can decide a payment owed by the offender.

The laws pertaining to this subject are summarized by saying:

וְאִם־אָסוֹן יְהִי וְנִתְּתָה נֶפֶשׁ
תַּחַת נֶפֶשׁ. עַיִן תַּחַת עַיִן שֵׁן
תַּחַת שֵׁן יָד תַּחַת יָד רֶגֶל תַּחַת
רֶגֶל

“But if there is a fatality, you shall give a life for a life, an eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot” (21:23-24).

It is hard to believe that the Torah is really commanding the Jewish people to take another life, to fight fire with fire, and go against what we've always been taught that “two wrongs don't make a right.” The word “תַּחַת” is used in the summary pesukim above, but how do we really translate this word? Is it supposed to be taken literally to mean that if an offender takes the eye of a victim, the victim should do the exact same thing back to him, taking the perpetrator's eye?

In the previous pesukim, the Torah makes clear that monetary compensation is the necessary penalty; why, in its summary, does the Torah seem to command corporal compensation? Hammurabi's Code, the first official code of laws for the Babylonians, makes clear that “an eye for an eye” is to be taken literally. Is the Torah interpreted the same way? Why does the Torah create confusion by seemingly alternating between monetary compensation and corporal punishment?

The Ibn Ezra, following the gemara in Bava Kama, explains that the pasuk cannot logically be interpreted literally. After all, you can't be sure the victim will hurt the offender in the exact same way he was hurt. If someone knocked out one-third of your eyesight, you cannot be certain that you will knock out the exact same third of theirs. Even worse, what if the victim kills the offender in his attempt to have their “eye for an eye.” The Ibn Ezra offers a technical answer and solves the uneasiness about the pasuk by explaining that the Torah would not be commanding us to really give corporal punishment because it simply is not possible to “take an eye for an eye, a tooth for a tooth....”

The Rambam in his Mishnah Torah (הלכות חובל ומזיק) offers another approach to the question. Rather than eliminating the issue using a rational argument, the Rambam provides a more contextual answer. The Rambam explains that “תַּחַת” means “deserving.” The pasuk is not saying to take “an eye for an eye” but rather, “that who takes an eye deserves an eye”; the offender deserves to be harmed for the crime, but is not actually harmed in a literal way. The previous pesukim explicitly state that the penalty is monetary compensation, so the Rambam expands that explicit translation to explain the meaning of “נֶפֶשׁ תַּחַת נֶפֶשׁ.” The word תַּחַת is ambiguous; through context clues the Rambam is able to come to a conclusion that fits with our “halachik ethos.”

The answers offered by the Ibn Ezra and Rambam both come to the same conclusion that our pesukim are not to be taken literally, but why is the wording ambiguous to begin with? Why is the Torah even forcing us to ask this question? Why isn't the Torah more explicit?

This past semester at Stern College, I took a Jewish Ethics class taught by Dr. David Shatz, who explained a purpose for the ambiguous text in the Torah. Through the ambiguity, the Torah is trying to convey a certain value -- the value and importance of the human body. Had the Torah explicitly prescribed monetary compensation in summarizing the perek, that would have limited the importance of the human body. It would have been saying that the human body is just something that can be paid off, that the human body is something that has a limited monetary value. The ambiguous language instead offers some poetic justice, conveying the lesson that the human body is priceless. We use the context to determine the halachic interpretation, but we look at the p'shat reading to convey the values of the Torah.

THE FRAMEWORK OF JUSTICE

LANA ROSENTHAL ('17)

This week's parsha begins, "וְאֵלֶּה הַמִּשְׁפָּטִים" and subsequently lists 53 mitzvot -- 23 mitzvot aseih and 30 mitzvot lo ta'aseih. Along with these laws are listed the consequences for those who violate them. Most of these consequences seem proportionate -- those who incur damage pay the cost of the damage, and those who destroy a life pay with their own lives.

One pasuk, however, describes a seemingly disproportionate consequence:

כִּי יִגְנֹב אִישׁ שׁוֹר אוֹ-שֶׁה וּטְבַח
אוֹ מִכְרוֹ הַמִּשֶׁה בְּקָר, יִשְׁלֵם
תַּחַת הַשׁוֹר, יֵאָרְבַּע-צֵאן, תַּחַת
הַשֶּׁה

"If a man steals an ox or sheep and slaughters or sells it, five oxen shall he pay for the ox, and four sheep for the sheep" (21:37).

Generally, a thief is required to pay double the amount he stole in restitution. The Akeidat Yitzchak explains that one payment compensates the owner for his loss and the second payment serves as retribution.

Why, then, must a livestock thief pay four-fold or five-fold as opposed to double?

While this question seems narrow and technical,

Rabbi Yaakov Beasley suggests that these anomalous payments teach us about the role of consequence, and thereby the goal of law.

The Akeidat Yitzchak explains that were a person to steal livestock without intention to slaughter or sell it, he'd only have to pay double. However, when he slaughters or sells the animal, he performs four or five different acts of thievery. In taking the animal to slaughter it, he must steal it, tie it up, prepare it, and kill it, etc. To sell the animal, he must steal it, search for a buyer, agree on terms of sale, and complete the sale. (According to Akeidat Yitzchak, the fine for stealing a sheep is less than that for stealing an ox because it is easier to sell a sheep or slaughter a sheep.) According to this approach, the thief must pay as punishment; the more he does wrong, the more he will be punished.

Rabbi Baruch Epstein, in the Torah Temimah, espouses a different view on the payment. He suggests that the payment for livestock is four-fold or five-fold because of the centrality of livestock to the economy. If a thief steals a sheep or an ox, he's not only stolen an object but a means of working the field and growing food. Livestock is livelihood. Therefore, theft of a farm animal is much more damaging to a person than theft of a regular object and, as a result, the thief is required to compensate the victim accordingly. This approach views the payment not so much as a punishment for the thief but as rectification for the victim.

Finally, Rav Shimshon Raphael Hirsch suggests that the payment is about neither the perpetrator nor the victim, but society as a whole. Livestock, he explains, are left outside, unguarded. The owner puts his trust in the community not to steal his livelihood. Therefore, a person who steals from him violates, or steals, the trust of the community. Since he has wronged not only the individual from whom he stole but also the community, his punishment is greater.

Together, these answers teach us the meaning of justice. God's laws give us the framework for forming a just society. Each of us is an integral part of a greater community and we must do our parts to uphold the laws to ensure a just society.

KEEP YOUR FRIENDS CLOSE AND YOUR ENEMIES CLOSER

TAMARA KAHN ('17)

Immediately following the Ten Commandments in the previous parsha, Hashem commands Bnei Yisrael to build a mizbe'ach. This week's parsha begins with Hashem continuing to transmit a set of laws to Bnei Yisrael. Rashi comments that the juxtaposition between these laws and the laws from the previous parsha is to establish that these laws, too, were given from Har Sinai, and to give an instruction to place the Sanhedrin next to the Beit Hamikdash. In symbolic terms, we are instructed to place the legal aspects of Judaism adjacent to the spiritual ones, and success is a combination of the two.

Parshat Mishpatim lists many laws; one of them being to help unload your enemy's donkey from its burden (23:5). This law has many practical implications. It is forbidden to cause an animal's suffering, so unloading the donkey and relieving its suffering is a mitzvah in and of itself. But the Torah here specifies that it is your enemy's donkey, so while it might be against your natural instinct to help your enemy, you should overcome that instinct, as stated in the gemara (Bava Metziah 32b).

This topic as discussed in the gemara is often quoted in relation to the scenario of either helping your friend unload his donkey or helping your enemy unload his. Despite the prohibition of causing suffering to animals, it is a mitzvah to help your enemy unload his donkey rather than help your friend unload his, because conquering your natural instinct is preferable.

The Sefer Olam Hamidot elaborates on the imperative for all people to fix their inner selves by going against their nature, to purify their middot and become better people. Rabbi Lord Jonathan Sacks comments that the Torah only mandates that you help your enemy, which will "dissipate" the hatred, not to unrealistically love your enemy; the Torah acknowledges the concepts of friends and enemies, and does not attempt to conflate the two. Rather, it attempts to foster tolerance, unity, and growth.

The law of helping your enemy unload his donkey is an example that reflects the idea inherent in the first pasuk of the parsha: that this parsha is linked to the previous one in that it connects the laws to the spirituality. On the surface level, it seems like a simple commandment in the Torah to help your enemy. But understanding beyond the surface level helps us internalize how we can use this law to grow in our spirituality and connection to Hashem and become better Jews and better people.

Overcoming our yetzer, our natural instinct, is a challenge that Hashem gave to us in this world, but instead of simply commanding us to overcome our yetzer, He provided the means through which we can achieve this goal, and we can reach this high level through the fulfillment of His commandments.

THE TEXTUAL AND HASHKAFIC BASIS FOR "MY SON, THE DOCTOR"

BAILEY FROHLICH ('16)

The idea of "the Jewish doctor" is deeply rooted in our collective Jewish consciousness. A classic stereotype is the Jewish parent who wants his or her child to be a doctor. This phenomenon dates back to our prominent Sages who were physicians themselves, like Rambam, Ramban, and Shmuel Bar Abba, the *Amora*.

It is in this week's parsha, Parshat Mishpatim, that we see the source for this long-standing tradition. In the context of two men who engage in a brawl and one injures the other, the Torah states:

“אם-יָקוּם וְהִתְהַלֵּךְ בַּחוּץ, עַל-
מְשַׁעֲנֵתוֹ וְנִקָּה הַמַּכֶּה רַק שְׂבִיתוֹ
יִתֵן, וְרָפָא יִרְפָּא”

“If he gets up and walks about outside on his support, the assailant shall be cleared; he shall give only [payment] for his [enforced] idleness, and he shall provide for his cure” (21:19).

Once the victim becomes well enough to walk around on his own, the assailant is obliged to “provide for his

cure,” which in practical terms means paying for his medical bills, or **ישלם שכר הרופא**, according to Rashi based on the Targum.

Although the Torah previously mentions the concept of healing, such as when Hashem states in Parshat Beshalach, “**כִּי אֲנִי ה' רֹפֵאֶךָ**” -- “I am Hashem your Healer” (Shemot 15:26), it is *only* in a divine context when Hashem is acting as the healer. By requiring payment for medical services, which are provided by a physician, our parsha is first to recognize, albeit tangentially, the concept of the human healer.

Concordantly, the gemara in Bava Kama highlights the fact that this pasuk of **וְרָפָא יְרָפָא** is the basis for the permission of a doctor to administer medical care to a sick person:

“דבי ר' ישמעאל אומר ורפא ירפא מכאן שניתן רשות לרופא לרפאות” -- “Rav Yishmael says that from the words “**וְרָפָא יְרָפָא**” we can give permission to a doctor to heal” (Bava Kamma 85a).

However, this statement in the gemara reveals a perplexing discrepancy between our Sages' view of the medical profession and our contemporary perspective: Why do our Sages feel the need to highlight a textual basis for the permission of a doctor to heal? Is it not a given that medicine is a commendable, let alone *valid*, profession?

Rashi's comment on this statement of the gemara further confounds our question. In a short comment, Rashi chooses to explain the *havah amina*, or initial assumption, of Chazal:

“ולא אמרינן רחמנא מחי ואיהו מסי” (Rashi, Bava Kama 85a).

According to Rashi, Chazal *must* explicitly grant permission to doctors to heal, because otherwise we might think that human intervention in sickness is not allowed. Since illness has divine origin, in that Hashem chooses whether or not to bring it upon a person, it is logical to turn to the source in order to get healed! Just as we saw earlier in Shmot, Hashem states that He is our Healer, and indeed in the bracha of *asher yatzar* we refer to Him as “**רופא כל בשר**” -- “healer of all flesh”. Thus, a person should engage in prayer and repentance if he wants to be healed. In

light of this, it seems that it would be brazen and even haughty for humans to try to intervene in this divine domain! The role of the doctor seems antithetical to this idea that Hashem is the only one in control of human health.

Yet the *maskana*, or conclusion, of the gemara seems to reject the extreme way of thinking that Rashi elucidates. Why do our Rabbis allow physicians to “circumvent” Hashem's role as the ultimate Healer? How can we justify our parents' and grandparents' obsession with the phrase, “My Son, the Doctor”?

Rav Pinchas Friedman, in the *Shvilei Pinchas*, provides a fascinating explanation which has *hashkafic* implications as well. He explains that there are two fundamental differences between divine and human healing: pain in recovery and certainty of recurrence.

Although innovative medical and anesthetic techniques attempt to reduce the patient's pain during and after a given procedure, oftentimes surgeries are painful, recoveries are arduous, and treatments are more than unpleasant. Furthermore, the doctor *cannot* guarantee that there will be no relapse — although the fever may have disappeared, the wound reduced to a scar, and the tumor resected, there is no such thing as a full cure, as the person can very likely get sick again with the same or different illness. Only Hashem can prevent further recurrence of an illness, and only Hashem can miraculously heal without pain.

The Belzer Rebbe explains that when a person gets ill, the first thing a person should think to himself is that Hashem brought about this illness because of his sins. Thus the person should introspect to find any deficiencies he may have and subsequently do a full teshuva. However, because of the painful nature of disease, a sick person is simply not in the right state of mind to do *teshuva* — he cannot focus on it amidst his pain and suffering. Thus Hashem provides the human physician, who is a temporary and imperfect healer, to heal the person just enough so that he can fully complete the teshuva process. Only with this completion of the teshuva process can a full recovery from the sickness be guaranteed.

In this way, the doctor is not only the provider of physical health, but also plays a critical role in the

spiritual health of a person, as the doctor grants his patient the opportunity to engage in internal reflection and change. The doctor is *not* interfering in the divine domain but rather partnering with Hashem in His mission to heal, in both the physical and spiritual sense.

Indeed, this is a doctor's role even in the secular world. While a physician is tasked with the responsibility of prescribing medication, choosing a treatment plan, and performing procedures, the physician also represents, in a more holistic sense, a dear advisor and "life coach," guiding his patients on the proper path towards a healthy lifestyle, smarter choices, and an overall happier way of living. Thus it is no wonder that the stereotype of "the Jewish doctor" has persisted throughout so many generations.

A MORAL TRADITION

LEOR LEVENSON ('16)

Up until this point in the Torah, the Jews have only received a few isolated mitzvot, including Kiddush HaChodesh, Sanctification of the New Moon and, most importantly, the Ten Commandments. With the "big ideas" out of the way, the Torah addresses the minutiae of mundane Jewish life. Parshat Mishpatim serves as the proper introduction to these laws, beginning with the laws of the Eved Ivri.

The Torah begins its discussion on everyday life with a law about a Jewish slave. This leads us to ask why would the Torah, a book of laws and morals, begin with some of its most morally ambiguous laws, like slavery, when it could have started with a much more meaningful first lesson like *ve'ahavta lere'acha kamo-cha*: loving your neighbor?

Additionally, even the case of Eved Ivri is unclear; Rashi (Shmot 21:2) quotes a midrash that doubts whether an Eved Ivri refers to a Jewish slave or a non-Jewish slave. Although the midrash ultimately classifies the Eved Ivri as a Jewish slave, this amount of ambiguity in the Torah is very odd. Why did the Torah choose this mitzvah to be the first mitzvah of Parshat Mishpatim? Why didn't the Torah prioritize clarity, and simply write "When you purchase an

Eved Yisraeli," or "When you purchase an Eved Yehudi"? What is so special about the word "Ivri" that the Torah decided to include that word despite the ambiguity it presents?

There must be a special lesson that the first section of Parshat Mishpatim is coming to teach us.

Perhaps, the correct connotation of the word "Ivri" will answer both questions. The connotation of a word can be deciphered/discovered by exploring other contexts in which the word is used. The word "Ivri" alludes to the most famous character in Tanach, Avraham Avinu, who is designated as "Avraham the Hebrew". We see this same label being given to Yosef, the midwives in Egypt, and Yonah haNavi.

Avraham is called an Ivri in Bereshit (14:13), when a messenger informs him that Lot has been kidnapped. Bereshit Rabbah (42:8) explains, citing Rabbi Yehuda, that "Ivri" means that Avraham was on the far side ("me'eiver") of the world from everybody else. Moreover, the Psikta Rabbati (33:3) observes that while everyone else around Avraham was concerned with idolatry and hedonism, Avraham was concerned with serving Hashem as best as possible, which required doing acts of kindness and upholding justice in the morally-corrupt world around him.

This indicates that the connotation of the word "Ivri" is one of defying corruption and acting as a voice of morality in an otherwise amoral or immoral context. Now it makes sense why Avraham is called an Ivri; he opposed idolatry and child sacrifice. He fought immorality with morality; thus his descriptor as "Ivri" is fitting.

This can answer the previous questions about the beginning of Parshat Mishpatim. Why did the parsha start with the specific language of "Ivri" and not "Yisraeli," and why did it choose to begin the halachic framework with slavery?

The Torah makes an important point about morality. The word "Ivri" teaches that even in the most morally difficult situations, like slavery itself, our actions must be conducted in a manner suitable of an Ivri. One must remember that s/he is an Ivri and his/her slave is an Ivri, and that even in cases of seeming immorality, such as slavery, one must always uphold the

kindness and justice of our tradition. We must never lose sight of our guiding moral compasses, the same compass of Avraham Avinu that has guided and continues to guide Bnei Yisrael to this day.

TRUE CHARITY

KOBY HARARY ('16)

We have all heard the expression, “imagine if it was you”. When we see something tragic or dreadful, we can't help but picture if it had been ourselves, chas v'shalom. In this week's parsha, we have a commandment from Hashem to do exactly that. The Torah commands us to give money to poor Jews and then explains other money-related halachot, as it states:

“אִם-כֶּסֶף תִּלְוֶה אֶת-עַמִּי, אֶת
הָעֵבֶר עִמָּךְ לֹא תִהְיֶה לוֹ, כְּנִשְׂאָה
לֹא-תִשְׁיָמוּן עָלָיו נֶשֶׁךְ”

“When you lend money to My people, to the poor person [who is] with you, you shall not behave toward him as a lender; you shall not impose interest upon him” (22:24).

Rashi explains the wording “אֶת הָעֵבֶר עִמָּךְ”, as: when you give tzedakah, you have to put yourself in the shoes of the poor person. You must feel his pain and shame and be able to relate to him.

It is said about the Chatam Sofer that one harsh winter in Hungary, he decided to start a charity for poor families who could not afford firewood to keep themselves warm; the conditions were unbearable for many and he felt that he had to do something. He went around collecting money and visited a very wealthy man who had a reputation for being cheap. When the Chatam Sofer knocked on the door, the wealthy man opened the door and asked the Rabbi to come inside. But the Chatam Sofer refused and began to talk with the man about his well-being, while the rich man, still in his pajama robe, started to get colder and colder. Once it reached the point where the wealthy man was freezing, the Chatam Sofer agreed to go inside. Inside, the Chatam Sofer told the man about the charity and in response, the rich man wrote a generous check.

Afterwards, the wealthy man was curious and asked the Chatam Sofer to explain why he had asked the man to stand in the cold, improperly dressed, when they could have met inside. The Chatam Sofer apologized and explained that if the rich man did not stand in the bitter cold and did not feel for just 10 minutes what the poor families that he was collecting for feel all winter long, he simply would not have been able to write the generous check.

The Chatam Sofer offers a different explanation on the pasuk, “אֶת הָעֵבֶר עִמָּךְ” He suggests that one has an obligation to raise the poor person to be at the same level as you and not, chas v'shalom, look down upon him. The poor person is a ben melech just like any Jew and, even more so, should be thanked for giving others a chance to do the mitzvah of giving tzedakah.

Rav Mordechai Benet, the rebbe of the Chatam Sofer, quotes a gemara (Rosh HaShana 4a) that says that someone who declares that the money they give to tzedakah is in order that their son should live or that they merit Olam Haba is considered to fulfil the mitzvah in the highest form. How can this be the highest form of tzedakah? Isn't he doing the mitzvah with ulterior motives?

Rav Benet explains that the gemara is discussing an individual who gives tzedakah to an important person, knowing the important person needs tzedakah, but is too embarrassed to accept it. The gemara is saying that the individual is not giving tzedakah to the important person, rather, the important person is doing the individual a favor by accepting it. Through accepting the tzedakah, the important man would give the individual a bracha to allow his son to live and enable the gates of shamayim to open to his filot.

Rabbi Moshe Bamberger, from whom I heard this dvar torah, tells the story of a man who was learning in kollel for a long time. It was known that man and his wife were struggling financially, but the man refused to accept tzedakah from anyone. One day during his learning, a visitor came up to him and mentioned that there was a huge box of dented cans of fish at the store that the owner gave him for free because the food could not be sold in the store. The visitor asked the poor man if he wanted to buy the cans of food from him since he was not sure what to

do with all of the fish. The man, who was in need of money, agreed to pick up the fish the next morning. What the poor man did not know was that later that day, the visitor from the kollel went to the store, bought a huge box of perfectly good canned fish, and brought it home for his children to smash the cans to look like they were unsellable. The next day, the poor kollel man bought the fish for almost nothing per can.

Tzedakah gemurah is tzedakah that is about the poor person, not about ourselves. The Beit HaLevi explains that when the Torah says “וְהִזְקֵתָּ אִתּוֹ” -- “and you should hold him” (Vayikra 25:35) when discussing helping a poor person, it means that one must help someone struggling before he falls and becomes a real poor person.

The Beit HaLevi says that you have to treat a poor person the same way we care for our etrogim on Succot. It does not matter how a poor person looks, because the way we act and the compassion we have to show is a standard and we must hold ourselves accountable. May we merit to sanctify Hashem's name among our people and to strengthen ourselves to strive for the true power of the gift of tzedakah.



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