

Some Comments on Mishpatim
Rabbi Eliot Malomet January 29, 2022 27 Sh'vat 5782

שמות כ"א:א' ואלה המשפטים אשר תשים לפניך: **Exodus 21:1** *These are the rules that you shall set before them:* This is an interesting choice of words. It's not as if everyone received a manual, and this is quite a large set of rules covering many areas. How would they be able to remember them or understand them? Rashi comments that the words **תשים לפניך** *you shall set before them* convey a sense that they were properly arranged, easily accessible, and required minimal effort to comprehend. אשר תשים לפניך – כשלקח הערוה ומכרן – *like a table fully laid before a person with everything ready for eating.* Law codes have an inherent tension: they aspire for brevity and clarity and yet they always require interpretation.¹ As much as the rules are a "set table," the joy of Jewish life, is to participate in the spiritual and intellectual feast of study.

כ"א:ו' והגישו אדניו אל-האלקים והגישו אל-הדלת או אל-המזוזה **ורצע אדניו את-אזנו** במרצע ויכדו לעלם: **21:6** *his master shall take him before God. He shall be brought to the door or the doorpost, and his master shall pierce his ear with an awl; and he shall then remain his slave for life.* This is for the slave who chooses to remain with his master even after the amnesty of the seventh year. Why does he get his ear pierced? Rashi cites a stunning midrash: *Rabban Yohanan ben Zakai said: The ear which heard on Mount Sinai, (20:13) "Thou shalt not steal" and yet its 'owner' went and stole and was therefore sold as a slave — let that ear be pierced! Or, in the case of he who sold himself from destitution, the ear which heard on Mount Sinai, (Leviticus 25:55) "the children Israel are My servants" and whose 'owner' went and got himself another master (to enslave him)—let it be pierced!* אמר רבן יוחנן בן זכאי: און זאת ששמעה על הר סיני לא תגנב, והלך וגנב, תרצע. ואם מוכר עצמו, און ששמעה על הר סיני כי לי בני ישראל עבדים, והלך וקנה אדון לעצמו, תרצע. Explanation: The slave is some-one who, because of destitution, insolvency, or debt, uses the value of his labor to pay off his obligation. A thief who cannot afford to pay his penalty becomes an indentured servant to pay off his debt.

¹ Maimonides attempted to condense Jewish law into a concise, brief code. But as soon as his Mishneh Torah was disseminated, it inspired commentators to elucidate it. The Shulhan Arukh, (the "Set Table") the next major code of Jewish law encountered the same reaction.

But what happens when they get used to being a slave and want to stay with their master! To Rabban Yohanan ben Zakai this means that they have not heard the liberating words of Sinai. Neither the thief nor the poor person heard the message that human freedom is a prerequisite for human dignity. Because they did not hear the message, their ear is pierced. The moral catastrophe here is that this slave sets out to acquire a personal master לעצמו אדון וקנה אדון - and is rejecting freedom, the great principle of the Torah.

כ"ב:כ"ב אם-ענה תענה אתו כי אם-צעק יצעק אלי שמע אשמע צעקתו:

22:22 *Oh, if you afflict, afflict them...! For then they will cry, cry out to me, and I will hearken, hearken to their cry.* Read this verse closely and you will note that every verb is doubled. Doubling verbs **intensifies** them. Thus, the abuser in this case is someone who is unusually cruel. The victim's supplication is unusually intense, and God's response, will be felt deeply and resolutely. God has already demonstrated how responsive He is when an entire people cries out to Him. What He has done for a downtrodden people, He will continue to do for a victimized orphan or widow. Rabbenu Bahya writes that the doubling of verbs signifies that *God will give a hearing for every single cry* ועל כן הוצרך הכתוב לכפול הצעקה והשמיעה **כדי ליתן שמיעה על כל צעקה וצעקה**.

כ"ב:כ"ו כי הוא כסותה לבדה הוא שמלתו לערו במה ישכב והיה כייצעק אלי ושמעתי כייחנן אני:

22:26 *it is his only clothing, the sole covering for his skin. In what else shall he sleep? Therefore, if he cries out to Me, I will pay heed, for I am compassionate.* This is the case of someone who has pledged his garment as collateral for a loan. The lender is not allowed to keep the garment past nightfall. This would have been excessively cruel as the debtor has nothing to keep him warm at night. The Torah is mindful of the vulnerability of the weaker party and presents this rule to protect him. And as we saw in the previous case, God will listen to his cry. Because the weak, the destitute,

Look at any traditional edition of any code and you will see the laws concisely stated, and reams of commentary on the sides arguing and explaining them.

and the vulnerable have no one to protect them, God promises that He will personally attend to their plight.

כ"ב:לי ואנשי קדש תהיון לי ובשר בשדה טרפה לא תאכלו לבלב תשלקון אתו:

22:30 *You shall be people of holiness to Me: you must not eat flesh torn by beasts in the field; you shall cast it to the dogs.* We have already seen Israel described as a שושן קדוש וגוי קדוש a *kingdom of priests and a holy nation.* (19:6) The terminology of this verse is slightly different. *people of holiness* means that they are to be mindful of the holy, that is, aware of the boundaries of behaviors that result when God is at the center of your consciousness. In other words, a Jew is not to be a scavenger. Feh!

כ"ג:ה' בירתא תמור שנאף רביל תסת משאו וחדלת מעזב לו עזב מעזב עמו:

23:5 *When you see the donkey of one who hates you crouching under its burden, refrain from abandoning it to him, unbind, yes, unbind it together with him.* This is a stunningly odd commandment. Obviously, if your friend was in a predicament, you would rush to help. But this person in distress is someone who hates you! It is easy to turn away, to detach, and to ignore such a person. Worse, to say, "Na na, nana na!" The Torah wants us to rise above our natural score-settling inclinations. The oddest of circumstances can bring antagonists together, and who knows what could happen then? In this instance it is a suffering animal. But this idea can be applied to other circumstances as well. *Whomsoever you see in distress, recognize in them a fellow human being.* (The motto of the Royal Canadian Lifesaving Society)

כ"ג:י"ט ראשית בכורי אדמתך תביא בית ה' אלקיך לא-תבשל גדי בחלב אמו:

23:19 *The choice first fruits of your soil you shall bring to the house of the LORD your God.*

You shall not boil a kid in its mother's milk. We derive the entire system of separating meat and dairy from this verse. The tradition suggests many reasons for why this combination is prohibited. But a compelling case can be made for a very simple reading: do not eat animals in their infancy, that is, while they are still in the suckling stage. Scholars note that this verse is located in the context of festal celebrations. During those occasions, pilgrims would offer burnt offerings and offerings that were cooked (boiled) and then eaten. *In its mother's milk* is simply another way of saying, *while it is still in the suckling stage.* There is something to be said for this interpretation.

כ"ד:ז' ויקח ספר הבית ויקרא באזני העם ויאמרו כל אשר דבר ה' נעשה ונשמע:

24:7 *Then he took the record of the covenant and read it aloud to the people. And they said, "All that the LORD has spoken we will do and we will hear!"* The people have already indicated (19:8) that they are willing to do what God has said, *everything that God has spoken, we will do-נעשה.* But here the ratification of the covenant includes *נשמע-we will hear.* Tradition understands this statement is an expression of commitment. First we commit to doing what is being asked of us, then we will understand it. Or, by doing what is being commanded we will then shape our lives and grow into the human beings that God wants us to become. But it is possible to read this in the context of the Sinai story. When the words were initially spoken, they simply could not hear what was being said because of the thunder, the quaking of the mountain and the loud trumpet blasts. Now that things have settled down, they declare that they are ready to do what God has spoken, and also ready to hear it again with clarity and focus and without distraction. We will do what you ask, and now we will give you our undivided attention.

Shabbat Shalom!

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