

Selected Shorts: Mishpatim
Rabbi Eliot Malomet February 13, 2021 Rosh Hodesh Adar 5781

שמות כ"א:א'
(א) וְאֵלֶּה הַמִּשְׁפָּטִים אֲשֶׁר תִּשְׁיִם לִפְנֵיהֶם:

Exodus 21:1

(1) *And these are the rules that you shall set before them:* The first word of this verse – nay, the first letter! (ו) – connects the series of laws that we find in this parasha to the utterance of the Ten Commandments at Sinai. The Ten Commandments ought to be understood as the core principles of the Torah, and the laws that follow are the details. Judaism is not only a religion of ideas, but a religion of laws. Each of the laws functions as an element of the foundation of an entire legal system. Entire tractates of the Talmud are based on the laws found in this parasha.

שמות כ"א:ב'
(ב) כִּי תִקְנֶה עֶבֶד עֶבְרִי שֵׁשׁ שָׁנִים יַעֲבֹד וּבְשִׁבְעַת יֵצֵא לְחֻפְשֵׁי חָנָם:

Exodus 21:2

(2) *When you acquire a Hebrew slave, he shall serve six years; in the seventh year he shall go free, without payment.* It may seem odd that the first law in this code deals with the Hebrew slave – an indentured servant who, because of theft, poverty or debt, was required to render that debt through servitude. Set in the historical context of civilizations that practiced perpetual slavery, the idea that a slave had mandatory emancipation in the seventh year was revolutionary. It was a direct reminder that all humanity was equally subordinate to God. We have already read in the Ten Commandments that the slave was endowed with the right to a Sabbath, as the master was prohibited from forcing him to work on that day. Thus, the slave experienced a weekly taste of freedom and dignity and joy; full humanity. The Bible, contrary to other codes of its era, places within the morally troubling institution of slavery, the seeds of its ultimate undoing.

שמות כ"א:ג-כ"ה'
(ג) וְאִם־אֶסֶן יִהְיֶה וְנִתְּתָה נַפְשׁוֹ תַּחַת נַפְשׁוֹ: (כד) עֵינָיו תַּחַת עֵינָיו
שֵׁן תַּחַת שֵׁן יָד תַּחַת יָד רֶגֶל תַּחַת רֶגֶל: (כה) כְּוִיָּה תַּחַת כְּוִיָּה
כַּפֵּץ תַּחַת כַּפֵּץ חֲבוּרָה תַּחַת חֲבוּרָה: (ס)

Exodus 21:23-25

(23) *But if other damage ensues, the penalty shall be life for life, (24) eye for eye, tooth for tooth, hand for hand, foot for foot, (25) burn for burn,*

wound for wound, bruise for bruise. Probably one of the most misunderstood and misinterpreted verses in the entire Bible. It ought to be obvious to everyone that this text was never meant to be taken literally since it is impossible to render the equivalent physical (and emotional) damage upon the perpetrator as that which was inflicted on the victim. No two bodies are the same, therefore no two maiming's could be equal. Moreover, in punitively maiming the perpetrator, one can possibly of cause greater physical and emotional damage, which could even result in death. The death penalty is only applied to murder, since the only a life can equal a life. The “eye for an eye” text is a legal formulation for monetary compensation. The text “is actually a general statement of legal policy that formulates the abstract principle of equivalence and restitution in concrete terms.” (Sarna). In other words, if you cause physical harm, the only remedy that approximates the goal of justice and equivalence is monetary compensation.

שמות כ"ב:כ'
(כ) וְגַר לֹא־תוֹנֶה וְלֹא תִלְחָצֶנּוּ כִּי־גֵרִים הָיִיתֶם בְּאֶרֶץ מִצְרָיִם:
Exodus 22:20

(20) *You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt.* Your experience of victimhood does not give you the moral superiority to afflict others. On the contrary, the gravity of your experience as strangers in Egypt obligates you to refrain from wronging the strangers in your midst. We have here the introduction of a principle that we will continue to see over and over again: empathy. But there is also the introduction of another principle: your responsibility as a free person to rise above victimhood. (And, you know how it feels to be a stranger; see below 23:9)

שמות כ"ג:ד'
(ד) מִדְּבַר־שָׁקֶר תִּרְחֹק... (ז)

Exodus 23:7

(7) *Keep far from a lie...* Rather than an explicit law against lying, ie, *Don't lie*, the Torah uses spatial language, *Keep far from a lie*, to teach that lies exert a palpable influence over an area, akin to defilement or contagion. Just as coming within a certain space lead to defilement or contagion,

coming into the sphere of lies, will lead you to lie. Lies, like Covid, require social distancing.

שמות כ"ד:ג'
 (ג) ויבא משה ויספר לעם
 את כל־דברי ה' ואת כל־המשפטים
 וילעזו כל־העם קול אחד ויאמרו
 כל־הדברים אשר־דבר ה' נעשה:

Exodus 24:3

(3) *Moses went and recounted to the people all the words of God and all the rules; and all the people answered with one voice: and they said:*

“All the things that the LORD has commanded we will do!”

עֵם suggests that here Moses related the commandments in the context of a narrative or a speech; a peroration or a set of introductory remarks that creates the context of the acts that follow as we would expect in any ceremony. Something like this: *“My Fellow Israelites: We have experienced a great liberation, and within a short while, we shall be embarking to the land God has promised our ancestors, and we will inhabit that land. God has made a covenant with us, it bonds us to Him forever. I have just spent some time with God on the mountain and I am relating to you the laws and statutes that will govern us...”* The Israelites respond in unison with a preliminary statement of acceptance: *All the things that God has said we will do.* Then the following things happen:

1. Moses writes the document (through that day and perhaps that evening.)
2. He gets up early the next day and builds an altar.
3. He designates 12 pillars for the 12 tribes.
4. He appoints “young men” to officiate over the sacrificial rites.
5. Bulls are slaughtered and their blood is collected in basins.
6. Bulls are burnt as burnt offerings and roasted as edible sacrifices.
7. Blood is sprinkled on the altar.
8. The covenant document is read exactly as written without embellishment.
9. The people declare their final response: *We will do and we will obey.*
10. Blood is sprinkled on the people and the final declaration is made.

With the tradition’s overwhelming focus on the people’s response, נעשה ונשמע, we fail to notice

(possibly for reasons of squeamishness as well!) that that the final act of this ceremony is the sprinkling of blood on the people and Moses’ declaration, הנה גם־הברית. We cannot overstate the power of this act. It symbolizes the bond between God and Israel. The blood “indexes,” ie. formally marks/designates, the people as God’s possession. It formally “seals” the relationship. Israel’s words of ratification, נעשה ונשמע, should therefore be seen as the precursor to God’s reciprocal ratification.

שמות כ"ד:
 (ד) ויקח ספר הברית ויאמרו
 כל אשר־דבר ה' נעשה ונשמע:
 ויקרא באזני העם

Exodus 24:7

(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 heed!”

Entire books of midrash and commentary have been written on this verse. As the ultimate motto of Jewish commitment, these two words resonate to this day. They indicate that action comes first; understanding follows. First you educate behavior, and behavior cultivates understanding. Throughout our lives, our understanding of God’s will evolves; thus to be a Jew is to be in a constant state of growth both in behavior and understanding; in other words, it is to be in a dynamic relationship with God. The fact that this is expressed in the future tense orients the religious imagination beyond the past and the present. At its very inception, the Jewish people is oriented towards a future of deeper divine understanding.

שמות כ"ד:י"ח
 (יח) ויבא משה בתוך העגן
 ויניח את־הספר
 ויקרא משה בקול
 ארבעים יום וארבעים לילה:

Exodus 24:18

(18) *Moses went inside the cloud and ascended the mountain; and Moses remained on the mountain forty days and forty nights.* And so our parasha ends with an ascent. Why forty days? Perhaps this is a unit of time necessary for transformation. Moses will be apart from the people. But how will the people cope with his absence? Stay tuned! Shabbat Shalom!