



YESHIVAT CHOVEVEI TORAH RABBINICAL SCHOOL

WEEKLY PARASHA

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Parashat Mishpatim

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Mishpatim has many, many laws. So many, that one may be misled to believing that the entirety of one's obligation as a Jew is halakha and mitzvah. However the end of this parasha makes it clear that all of these mitzvot occur in the context of a *brit*, a covenant:

And Moses wrote all the words of the Lord... And he took the book of the covenant, and read in the audience of the people: and they said, All that the Lord hath said *na'aseh vi'nishma*, will we do, and we will listen. (Shemot 24:4, 7)

A *brit* demands more than just adherence to the laws, it demands a partnership, a sharing of the vision and an incorporation of that vision into one's day-to-day life. One way this manifests itself is in the obligation to live up to not just the letter of the law, but to its spirit.

To live according to the spirit of the law requires inquiry into the underlying values of the mitzvot. This is often a highly speculative endeavor, as any study of the literature of *ta'amei ha'mitzvot*, the reasons of the mitzvot, will bear out. The range of different explanations as to the underlying value for certain mitzvot can sometimes be breathtaking. Nevertheless, it is a process that we are required to undertake if we want to truly be parties to the *brit*, to truly live our lives according to Torah values and not just Torah law.

Hazal themselves attempted to do this, while recognizing that the answers would not always be clear. Regarding the mitzvah in this week's parasha to unburden a donkey which is struggling under its burden (Shemot 23:5), the Talmud asks whether the underlying principle here is one of concern of the suffering of animals, or whether it is to help the owner whose property might become damaged. In other words, is *tza'ar ba'alei chayim*, preventing animal suffering, a Biblical principle or not? (Baba Metzia 32b).

The relevance of this question is asked first in regards to interpreting the exact parameters of this mitzvah itself.

However, once the Gemara establishes that this is a Biblical value, it becomes an independent obligation that plays out in many different contexts in the Talmud (see, for example, Shabbat 128b, and Shulkhan Arukh OH 305:18-20). This endeavor, to work to identify the values and then to see the values as operative in our lives, is a core part of understanding the mitzvot as part of a *brit*, and not just as halakha narrowly defined.

One way to sensitize ourselves to the Torah's values is by paying attention to the written Torah - to its narratives and to its *pshat*, its simple meaning. As Ramban in the very beginning of his commentary to the Torah states (Breishit 1:1), the Torah is not just a book of laws, but begins with Breishit, a book of narrative, so that we can learn the meaning of our place in this world, and the values with which we must live our lives.

Similarly, when it comes to the mitzvot of the Torah, the *pshat* of these mitzvot, even when in contrast to the narrow halakhic interpretation, is often an insight into the underlying values. Thus, the mitzvah not to oppress the stranger (Shemot 22:20) is understood by the Rabbis to refer only to the convert, while on its *pshat* level refers to a non-Jew who resides within our territory. As a result of this *pshat*, Sefer HaChinukh interprets this mitzvah as referring to anyone who is in a foreign country and lacks the safety and security of home. We could generalize it further to include anyone who is marginalized and vulnerable. Even if this is not technically included in the mitzvah, it can and should be seen as the underlying value of the mitzvah that must guide us in all our interactions with others.

Another example is the demand of "an eye for an eye" (Shemot 21:24). Why is this written so harshly if the Rabbis teach us that the actual law is that if one inflicts personal injury on another, he merely pays compensation? Ibn Ezra and Rambam explain that this

framing communicates a critical message: do not think that money really corrects the wrong. This is not, at its core, a monetary issue. On a moral level a person who willfully took out someone else's eye deserves a similar fate. In practice we will not inflict this punishment – violence begets violence and this will only be hurtful to society – so we accept monetary payment instead. But that is only a substitute, a stand-in. There is a grave wrong that has been done that never can fully be rectified.

However, this engagement with values and *ta'amei ha'mitzvot* can be dangerous. It can lead to us believing that the only thing that really matters is the reason behind the mitzvah, and the actual performance is not so important.

Hazal were well aware of this concern. "Why did the Torah not give reasons for the mitzvot?" asks the Talmud. "Because in the two places where it did, one of the greatest people stumbled as a result. It says, 'He [the king] should not have too many wives, lest they lead his heart astray.' Said Solomon: I will have many wives and not be led astray" (Sanhedrin 21b). Too much talk about reasons leads to devaluing the actual performance.

Additionally, such a focus can lead to too much latitude in interpreting and applying halakha – a forcing of the details and of the texts to conform to a person's sense of what the underlying values are or should be. *Lo darshinan taima di'kra*, we don't use the reasons of the mitzvah in determining its halakhic parameters, is a major principle in the Talmud. True, there are times, as we have seen, where the reasons do play a role, but how and under what circumstances, is a serious question. The more speculative the reason, the more it stretches the simple sense of the texts, the less weight it will have in the halakhic process.

Sefat Emet encapsulates these tensions in one of his reflections on *na'aseh vi'nishma*. He writes that by putting *na'aseh* before *nishma*, the people showed that they were committed to doing God's word regardless of if it made sense to them. Armed with this *a priori* commitment, they could engage in *nishma*, an exploration of the reasons for the mitzvot, and not be led astray. More than that, since, it was more dear in their eyes to do God's will than to understand the reasons, they merited to understand the reason. For the reasons are more "inner" (the spiritual essence, the soul) than the actual physical performance (the body) of the mitzvah.

The commitment to observe, regardless, made possible the

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highest performance of mitzvot. It allowed for the fullest religious life: the observance of halakha combined with the living of one's life according to the values of the Torah. One did not substitute the other, one reinforced the other.

And so it is for the halakhic process. Without an *a priori* commitment to submit to God's will, a person may read his own values into the halakha, may force the halakha to say something that is true to his values but false to the Torah's values, or the Torah's laws. But if one starts with a disposition of submission, then, says Sfat Emet, one can truly partner with God, for

God gave the Children of Israel the ability for their words to have the power to be part of the reasons of the Torah, just like God's words... And this is the idea of the Oral Law: that the Children of Israel merit to innovate those things that were carved out before God.

We play a role in interpreting and applying halakha. If we come to impose our will on the halakha, then we do violence to the system and we are working in opposition to God. If, however, we come to let the halakha guide us, to be led by the mitzvot and their reasons, then we can be part of the process, we can be part of discovering what those reasons are. We can engage those reasons in interpreting the halakha without the fear that we will overstep, that we will abuse this privilege.

Our voice will matter, because it is God's voice that matters most. If we start with *na'aseh*, we can reach the level of *nishma*. We can live a religious life *brit* in its fullest sense: a life of Torah observance and a life of Torah values. A life guided by God's law, and a life in an ongoing relationship with God.

Shabbat Shalom!

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