

Parashat Mishpatim, 5774, 2014:

Understanding Mishpat

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Dedicated to the sacred memories of my mother, Miriam Tovah bat Aharon Hakohen, father-in-law, Levi ben Yitzhak, sister-in-law, Ruchama Rivka Sondra bat Yechezkel, sister, Shulamit bat Menachem, Chaim Mordechai Hakohen ben Natan Yitzchak, and Yehonatan Binyamin ben Mordechai Meir Halevi, and the *refuah sh'laimah* of Yosef Shmuel ben Miriam.

The word “*mishpatim*,” the namesake of our *parasha* and its singular form “*mishpat*,” is found many times throughout the Five Books of the Torah. The first time we encounter it is in *Sefer Bereishit* 18:18-19. Therein, Hashem describes the charismatic nature of *Avraham Avinu* (our Patriarch Abraham), and his unique ability to pass down the *Mesorah* (the laws and mores) of our newborn faith-community:

And Abraham will become a great and powerful nation, and all the nations of the world will be blessed in him. For I have known him because he commands his sons and his household after him, that they should keep the way of the L-rd to perform righteousness and Justice (*mishpat*), in order that the L-rd bring upon Abraham that which He spoke concerning him. (This and all Bible and Rashi translations, *The Judaica Press complete Tanach*)

Mishpat in this passage clearly has the connotation of “Justice.” So, too, in perhaps the most famous verse employing our term, wherein Avraham advocates on behalf of the city of Sodom:

Far be it from You to do a thing such as this, to put to death the righteous with the wicked so that the righteous should be like the wicked. Far be it from You! Will the Judge of the entire earth not perform Justice (*mishpat*)? (*Sefer Bereishit* 18:25)

Mishpat, it appears, is so fundamental to the fabric of G-d’s Creation that even He must accede to its authentic demands. Little wonder then, that we find *mishpat* employed with this connotation in a description of Hashem’s attributes of action: “The deeds of the [Mighty] Rock are perfect, for all His ways are Justice; a faithful G-d, without injustice

He is righteous and upright.” (*Sefer Devarim* 32:4, with my emendations for clarity)

Another meaning of “*mishpat*” and “*mishpatim*” is that of a category of rational laws that, were they not stated, would have been apprehended on their own. In nearly all instances, the Torah contrasts these with the term “*chukim*.” *Talmud Bavli, Yoma* 67b interprets these terminologies in the following manner:

Our Rabbis taught: “You should perform my *mishpatim*” (*Sefer Vayikra* 18:4). These are matters that were they not actually written [by G-d] it is logical that they would have been. These are some examples: the prohibitions of idol worship, illicit sexual behavior, murder, stealing, and cursing Hashem. “... and you should guard my *chukim*” [Ibid.] These are matters wherein the Satan [Rashi, *yetzer harah*, the “evil inclination”] attempts to disprove their validity and veracity. These are some examples: the prohibitions of eating pig flesh, wearing garments comprised of a mixture of linen and wool threads, the act of relieving a brother-in-law of his obligation to marry his widowed sister-in-law (*chalitzah*), the ritual purification of the individual afflicted with *Tzarat*, and the scapegoat rite [of Yom Kippur]. [Since you cannot understand them] perhaps you will say that they are completely worthless and devoid of meaning! Therefore the Torah states [Ibid.]: “I am the L-rd your G-d.” I am He who has decreed it [i.e. the *chukim*] and you do not have permission to question them.

The Rambam (1135-1204) codifies the distinction between *chukim* and *mishpatim* in the following manner:

The *mishpatim* are those commandments wherein their rationale is revealed and the value (lit. “good”) that obtains as a result of their performance is known in this world. For example: the prohibitions of stealing and murder and the obligation to honor one’s father and mother. [In contrast,] the *chukim* are those commandments whose rationale is unknown. (*Mishneh Torah, Hilchot Meilah* 8:8)

In sum, *mishpatim* are laws that we could have derived on our own, if left to our own devices. In this sense, they are “natural laws,” even though their obligatory and immutable character derives directly from the ineffable moment of Revelation at *Har Sinai*. In contrast, *chukim* escape current human understanding. While they, too, have reasons, our cognitive limitations prevent us from their discovery.

Another sense in which the term “*mishpat*” is employed is that of ultimate judgment or decision. This is clearly reflected in the following verse:

You shall place the Urim and the Tummim into the breastplate of judgment so that they will be over Aaron’s heart when he comes before the L-rd, and Aaron will carry the judgment of the children of Israel over his heart before the L-rd at all times. (*Sefer Shemot* 28:30, with my emendations)

The expression “the breastplate of judgment” appears in the original Hebrew as “*choshen hamishpat*” with the letter “*heh*” preceding the term “*mishpat*.” This means that this garment of the Kohan Gadol (the High Priest) miraculously manifested the ability to elucidate all confusing Jewish juridical issues, since it revealed The Ultimate Judgment of the Almighty. This concept is beautifully portrayed by Rashi (1040-1105) in his glosses on *Sefer Shemot* 28:15 and 30:

a *choshen* of judgment: ... Another interpretation: [The *choshen* is referred to as] judgment because it clarifies its words and its promise comes true, *dere(s)nement* in Old French, [meaning] a clear statement... But this one [use of the word *חֹשֶׁן*] serves as an expression of the clarification of words, [meaning] that it explains and clarifies its words.
the judgment of the children of Israel: [i.e., The solution of] the matter about which they [the Israelites] are judging and debating, whether or not to do something. (Emendations my own)

In sum, we have seen that the Torah utilizes the word “*mishpat*” and its plural form “*mishpatim*” in at least three different ways:

- Justice
- A logically determinable law – in contrast to *chukim*
- The Ultimate Judgment of our Creator

In all cases, we recognize each different use of our term as emanating directly from *Hakadosh Baruch Hu* (the Holy One Blessed be He). As such, they are an inseparable part of the unceasing and commanding Voice that was first heard when man encountered G-d on Mount Sinai. May we, our children, and our children’s children throughout all

future generations be *zocheh* (merit) to hear and understand this Voice for evermore.

V'chane yihi ratzon.

Shabbat Shalom

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