

Parashat Mishpatim 5782, 2022:

The Power of Mishpat

Rabbi David Etengoff

Dedicated to the sacred memories of my mother, Miriam Tovah bat Aharon Hakohen, father-in-law, Levi ben Yitzhak, sister, Shulamit bat Menachem, sister-in-law, Ruchama Rivka Sondra bat Yecheiel, Chana bat Shmuel, Yehonatan Binyamin ben Mordechai Meir Halevi, Shoshana Elka bat Avraham, Tikvah bat Rivka Perel, Peretz ben Chaim, Chaya Sarah bat Reb Yechezkel Shraga, Shmuel Yosef ben Reuven, Shayndel bat Mordechai Yehudah, the *Kedoshim* of Har Nof, Pittsburgh, and Jersey City, and the *refuah shlaimah* of Mordechai HaLevi ben Miriam Tovah, Yocheved Dafneh bat Dinah Zehavah, and the health and safety of our brothers and sisters in Israel and around the world.

The Ramban *zatzal* (Nachmanides, 1194-1270) begins his analysis of our *parasha* by noting that *mishpatim* (ordinances and civil laws) are the first category of *mitzvot* presented. This contrasts with what took place at Marah (*Sefer Shemot* 15:25), wherein *mishpatim* are referenced only after *chukim* (statutes), “there He gave them a statute (*chok*) and an ordinance (*mishpat*), and there He tested them.” (This and all Tanach translations, *The Judaica Press Complete Tanach*). The Ramban proposes that in our *parasha*, the Almighty wanted to present this group of *mitzvot* before any other, “...for if a man does not know the laws of house and field or other possessions, he might think that they belong to him and thus covet them and take them for himself.” (Ramban, *Commentary on the Torah* translation, Rabbi Dr. Charles B. Chavel) A lack of knowledge of this class of *mitzvot* would, therefore, eventuate in chaos, anarchy and the breakdown of civil society. As such, the Ramban maintains that the first *pasuk* of our *parasha*, “And these are the ordinances that you shall set before them,” (21:1) underscores the crucial nature of these “just ordinances, which they [the Jewish people] should establish amongst themselves, so that they will not covet that which does not legally belong to them.” He buttresses his words with a partial quote from a version of *Midrash Shemot Rabbah* (30:15) that is no longer extant: “the entire Torah depends upon *mishpat*,” and concludes, “that is why the Holy One, blessed be He, gave the civil laws directly after the Ten Commandments.”

Our version of this midrash differs markedly from the Ramban's text:

Rabbi [Yehudah HaNasi] said: “Just like the Holy One, blessed be He, warned us [of the singular import] of the Ten Commandments, so, too, did He warn us regarding the [unique significance] of [observance of] the Law (*HaDin*). Why is this the case? [This is so, since] the [existence] of the entire world depends upon it. As the text states: ‘A king establishes the country *b'mishpat*...’ (*Sefer Mishle* 29:4) and through it [*mishpat*] Tzion will be built. As the text states: ‘Tzion shall be redeemed *b'mishpat* and her penitent through righteousness.’” (*Sefer Yeshayahu* 1:27, midrash translation and brackets my own)

Immediately after the word *din* is deployed in this midrash, citations containing the word, *mishpatim*, follow—suggesting that it is the most representative and powerful form of *din*. As we have seen, the Ramban's text of the midrash reads, “the entire Torah depends upon *mishpat*,” whereas our version is far broader in scope, “the entire world depends upon it [*HaDin=mishpat*].” This formulation is congruent with the celebrated axiom of Rabbi Shimon ben Gamliel in *Pirkei Avot* 1:18: “Rabbi Shimon the son of Gamliel would say: ‘By three things is the world sustained: *HaDin* (law), *HaEmet* (truth) and *HaShalom* (peace). As it is stated, ...*emet* and *mishpat shalom* (judgment of peace) you shall judge in your cities.’” (*Sefer Zechariah* 8:16, *Pirkei Avot* translation, Chabad.com)

My rebbe and mentor, Rabbi Joseph B. Soloveitchik *zatzal* (1903-1993), known as the “Rav” by his followers and disciples, asks a fundamental question regarding the order of the *perakim* in Parshiot Yitro and Mishpatim that helps illuminate a fundamental dimension of *mishpatim*:

Following the *giving of the Ten Commandments* [Parashat Yitro], the Torah should have proceeded immediately with Chapter 24 of Parashat Mishpatim, in which God tells Moshe to seal the covenant with the people. Instead, there is an interruption between these two chapters. Parashat Mishpatim, with its many detailed laws of *Nezikin* [torts], seems to depart from the context... Why was it given such preference? (This and the following Rav Soloveitchik quotes, *Darosh Darash Yosef: Discourses of Rav Yosef Dov Halevi Soloveitchik on the Weekly Parashah*, Rabbi Avishai C. David, editor, pages 165-166, brackets and underlining my own.)

The Rav's answer to his question gives powerful voice to the intrinsic meaning of *mishpatim*:

Parashat Mishpatim is not only a description of laws between human beings and a moral code. It lays out an entire framework of civil relationships. Why should the Torah address the question of financial commitments? Why should the Torah care about the situation of a paid or unpaid watchman? ...Parashat Mishpatim discusses issues of *kinyanim* (acquisitions), *hazakot* (presumptions of ownership) and *shtar* (the transfer of promissory notes). These monetary issues have no place in a moral code. The conclusion, then, is that civil laws carry religious significance. Destruction of property and trespassing are not merely violations of civil law but moral transgressions.

The analyses of *mishpatim* undertaken by *Midrash Shemot Rabbah*, the Ramban and the Rav, lead us to a greater appreciation of their meaning and status within Judaism. The midrash teaches us that the entire world depends on *mishpat* for its very survival, the Ramban informs us that *mishpatim* are the lynchpin of civil order and the Rav elucidates their moral significance and role in Jewish thought and practice. Little wonder, then, that Yeshayahu declared so long ago, “Tzion shall be redeemed *b'mishpat* and her penitent through righteousness.” With Hashem’s help and our fervent desire, may this time come soon and in our days. *V’chane yihi ratzon.*

Shabbat Shalom

Past *drashot* may be found at my blog-website: <http://reparashathashavuah.org>

The email list, *b’chasdei Hashem*, has expanded to hundreds of people. I am always happy to add more members to the list. If you have family or friends you would like to have added, please do not hesitate to contact me via email rdbe718@gmail.com.

*** My audio *shiurim* on the topics of *Tefilah* and *Tanach* may be found at: <http://tinyurl.com/8hsdpvd>

*** I have posted 164 of Rabbi Soloveitchik’s English language audio *shiurim* (MP3 format) spanning the years 1958-1984. Please click on the highlighted link: [The Rav zatzal](#)