

Parshat Mishpatim 5779

Near the outset of their historic journey through the midbar, Bnei Yisrael had no need of new clothes (see Devarim: 8;4), groceries (they had mon), drinks (they were supplied by the well of Miriam), or even home improvements (they dwelt in temporary succot). It would be decades before they had a land of their own. So why were the civil laws in Mishpatim placed in the Torah at this time – just after sedra Yitro, which concludes with laws of the mizbe'ach?

The first of the regulations handed down in Mishpatim deals with treatment of slaves. Superficially, this seems an obscure starting point. The wisest of our kings, Shlomo Hamelech, used a clue in our sedra to decide that special pesukim should be written into the six steps leading up to his throne.

What do we understand about these themes and how are they connected?

Timing Freed slaves, with no experience of self government, internal administration or legal rights – but only of Divine Providence and the leadership of Moshe Rabbenu, needed to start somewhere. The training to become a nation could not be accomplished overnight. The positioning of civil laws immediately after the sanctified requirements for the mizbe'ach underlines the objectives of our mishpatim.

Rav S.R. Hirsch describes the stages to create the Jewish society. The starting point is our relationship with Hashem. The spirit of justice and humanity provide the vehicles for travel. All leads to the objective that every individual should be strengthened by the input of pure morality. Laws must be taught and understood before they come into full operation. Handing them down once we had reached the plains of Moav, just as we were about to enter the Promised Land would not accomplish this task. Our mishpatim needed to be inter-related with the lessons of sanctity from the mizbe'ach as their foundation.

Slavery By starting with the treatment of slaves, the Torah emphasises that even at the lowest point of society, individuals have legal entitlements. No-one may trample upon the rights of others.

Shlomo's throne Shlomo Hamelech was alert to the temptations of power and the abuse of justice. He recognised that it is not enough merely to know the issues at stake; it is important to have constant physical reminders before your eyes. So (as recorded in Devarim Rabbah 5:6) he had six prohibitions engraved on the steps up to his throne. They were taken from the end of perek 16 and the beginning of perek 17 in Devarim. Kli Yakar explains them and derives from the first passuk of our sedra why they are raised here. The mishpatim are "asher tasim lifneichem". They are "set before us". Now, which prohibitions did Shlomo Hamelech select? 1. Do not pervert justice; 2. Do not give undue respect to a litigant; 3. Do

not take a bribe; 4. Do not plant an asheira tree; 5. Do not set up a matzeiva; 6. Do not sacrifice an animal which has a blemish.

Superficially, the first three seem obvious and the second set do not seem relevant to the administration of justice. How much we miss by adopting a superficial approach!

Perverting justice occurs when the judge identifies the din (the applicable law) but hands down an award which does not follow it. Another case is when the judge reaches his conclusions on the applicable din he fails to adopt objective and substantive considerations.

Undue respect for a litigant can arise from over-solicitous care for the underprivileged or needy, or – at the other end of the spectrum – from being influenced by the wealthy or powerful. Consistency is a key to ensuring public respect for the judicial process.

Bribery doesn't merely reverse a prospective decision; but (in the words of Rav S.R. Hirsch) it beshmirches the spiritual and moral vitality of both the instigator and the recipient. Once a judge is subject to any form of influence, his ability to reach a proper conclusion (at minimum even sub-consciously) will be affected. His decision will be flawed and respect for other dayanim undermined.

Asheira was a Phoenician deity in whose "honour" trees were planted. Ramban refers to the custom of pagans to landscape their temples to attract worshippers. The Kli Yakar connects the asheira to haughtiness. The tree grows tall and its many branches offer shade to those who are near. The unworthy judge demands honour and his family bask in his reflected glory.

The matzeiva comprised a single stone. This is contrasted with a mizbe'ach made of many stones fitted together in harmony. Kli Yakar explains that a judge should not act alone. The Bet Din is made up of a group of dayanim working together, complementing one another in areas of expertise.

The prohibition upon a korban with a blemish is a reminder to seek after perfection in judgement. Any flaw undermines the outcome. Just as an iron chain is only as strong as its weakest link; the duties of members of a Bet Din must be conducted with consistency and scrupulousness.

Eternal principles for administration of justice are not merely an altruistic desire, they are fundamental to the way a G-d fearing society conducts itself. That they should be carved in the stones leading up to the most elevated member of Klal Yisrael underlines the point. An essential part of the mission of the nation that was founded with justice is constantly to strive towards the sacred administration of the purest and unadulterated Divinely granted mishpatim.