

The CHASSIDUS PERSPECTIVE with Reb Yoel Kahn

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THE MISHPATIM PARADOX

This week's *parshah* begins with the *possuk*, "And these are the *mishpatim* you should place—*tasim*—before them." The Yerushalmi explains that the word *tasim* is related to the word *sima*, a treasure, referring to the secrets of Torah.

The concept of a *hidden* treasure would seem to be more related to *chukim*, the mitzvos that are beyond and *hidden* from our grasp. What is the connection of *sima* to *mishpatim*, the mitzvos whose reasons are revealed and understood?

Another question:

When listing a number of mitzvos, it would seem logical to begin with a mitzvah that first of all is common, and secondly is of a positive nature. The first mitzvah in Parshas Mishpatim—the laws of an *eved ivri*—is neither of these. It is both uncommon and troubling for a person to steal, have no money to pay for the theft, and be sold by *Beis Din* as a slave. Why does the *parshah* begin specifically with this mitzvah?

STARTING WITH SLAVES

There are two categories in the *avodah* of a Jew, that of a *ben* and that of an *eved*.

When a son serves his father, the emphasis is not on his *bittul* to his father, rather on their inherent unity. The desires, enjoyment, and mindset of the son are similar to those of the father, and they are the underlying cause for his fulfillment of his father's wishes.

However, the way a slave serves his master is just the opposite. It's not necessary for him to understand the reason behind his master's command; to the contrary, it's preferable if he doesn't understand it, fulfilling it instead with *bittul* and *kabbolas ol*.

Now, one might presume that these are two separate types of *avodah* that relate to two different segments within mitzvos: *chukim* should be performed as an *eved*, and *mishpatim* should be kept as a *ben*.

This is one of the reasons Parshas Mishpatim begins with the laws of slaves, to teach us that the foundation of all mitzvos, *mishpatim* included, is *bittul* and *kabbolas ol*.

THE FOUNDATION OF MISHPATIM

Why indeed must *mishpatim* be performed with *kabbolas ol*? What's wrong with fulfilling them due to their reasons?

In fact, even non-Jewish courts sometimes understand and rule as the Torah states in Choshen Mishpat. This is apparent from Chazal's statement on the above-mentioned *possuk*, "You should place before *them*," and not before gentile [courts]." The fact that this conduct must be negated demonstrates that their resolutions can sometimes coincide with those of the Torah. If so, why can't this logic be the motivation to fulfill these laws? And why indeed can't these cases be bought to gentile courts?

“Parshas Mishpatim begins with the laws of slaves, to teach us that the foundation of all mitzvos, *mishpatim* included, is *bittul* and *kabbolas ol*.”

But this itself is the point. Even *mishpatim* must be performed because they are Hashem's command, not solely because of the logic they contain. There are two reasons for this, one concerning the *gavra*—the person fulfilling the mitzvah—and one relating to the *cheftza*, the mitzvos themselves:

1. The proper way for a person to fulfill a mitzvah is like a slave, who performs his master's command whether or not it has a reason. (This would hold true even if there would be variations in mitzvos, some comprehensible and others not; a person must fulfill them regardless.)
2. Furthermore, the mitzvos themselves—every one of them—are inherently the Will of Hashem. The only difference is that some remain in this pure state while others are given a logical side as well.

SMALL, BUT SOMETHING

It's one thing to say that a mitzvah must be done with *kabbolas ol*. But here we're saying that these mitzvos are *called by the Torah* with the name *mishpatim*, laws that can and should be grasped with intellect. If the foundation of mitzvos is the Will of Hashem, why is it necessary to understand them?

The answer lies in the first Rashi of the *parshah*. The opening phrase, "And these are the *mishpatim*," teaches us that these laws were given from Sinai as well, just like the mitzvos of Parshas Yisro.

"Although the foundation must be *kabbolas ol*, the idea is not to perform mitzvos in a dry, monotonous fashion."

What is the significance of being given from Sinai?

The Gemara says that the Torah was given on Har Sinai, the lowest mountain, to teach us that Torah must be studied with humility. If so, why wasn't the Torah given on a flat plain, or better yet, in a valley?

This demonstrates that although the foundation must be *kabbolas ol*, it must permeate one's understanding and existence as well. The idea is not to just have *kabbolas ol*, to perform the mitzvos in a dry, monotonous fashion. It is likewise important to understand the *mishpatim*, just as Har Sinai is a *mountain*. But just as Har Sinai is the *smallest* mountain, the foundation must be *kabbolas ol, naaseh venishma*. Why do we also try to understand? Because this itself is the Will of Hashem.

MINE, YET BEYOND MY GRASP

The fusion of these two ideas (*kabbolas ol* and understanding) is expressed in the opening words of the laws of *eved ivri*, "Ki *sikneh*—If you will acquire."

Kinyan, acquisition, comprises two concepts:

1. When a person studies Torah, he must learn it until he *acquires* it. As the Gemara says, a *talmid chacham* has the ability to forgo his honor if he so desires, because the Torah he has studied is now *his* and its honor is subject to his discretion.

How does the Torah become a person's possession?

The Chida rules that the ability for a *talmid chacham* to forgo his honor is limited to a scholar who researches the subject and understands it properly. If one possesses a knowledge of Shulchan Aruch but not a thorough understanding of the sources and underlying reasons, he may not forgo his honor, because the Torah does not belong to him. To *acquire* Torah means to understand it.

2. Chassidus explains that *kinyan* refers to *Atzilus*. (This is hinted to in Kiddush Levanah. An expression is used for each of the four Worlds, and "*koneich*" is used to describe *Atzilus*.) This means that a person must realize that his understanding of Torah is limited to *Briah* and below; the Torah as it exists in *Atzilus*, however, is far beyond his grasp.

This seems to be a paradox. On the one hand, Torah must be studied and understood, and at the same time, one must realize that it is higher than his understanding!

This is the issue the Yerushalmi is coming to address. When viewed through the lens of the revealed part of Torah, these two ideas indeed conflict. For both sides of the paradox to exist together, one must study the hidden treasure of *pnimiyus Hatorah*.

For further study, see the *maamar Ve'eileh Hamishpatim 5741 Sefer Hamaamorim Melukat, Adar-Sivan*, pp. 18ff.)

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