

Parshat Mishpatim 2020/5780

This week's parsha is *Mishpatim*, literally meaning, "the Laws". The 613 *mitzvot* in the Torah are divided into three categories: *mishpatim*- laws that are self-evident based on our moral code, such as "do not steal" or "do not murder". *Edot* are "testimonies" based on events. For example, that the Shabbat testifies to G-d's created the world in 6 days and rested on the seventh, making it holy. *Chukim* are decrees that have no rationale, such as our laws of kashrut; we obey them because they are G-d's decree.

This parsha could spawn a thousand sermons, but I have chosen to address two interrelated topics: laws concerning indentured slaves and laws concerning how to treat the foreigner.

Whether we like it or not, the Torah is clear to say that people, under certain circumstances, are property that can be owned. First, the notion in the Torah of an עֶבֶד, a "slave", is not the same as we grew to know from America's history of slavery. These people were "indentured servants", who likely because of debt or misfortune, needed to work for someone for a length of time to pay off their debts. The Torah is quick to add that a "master" must not mistreat, hit or starve this servant, and that at the next *schmita* year, the 7-year cycle when all fields were to be left fallow, that servant must be set free. But here's where the Torah might get problematic for us:

בְּגֵפוֹ: יֵצֵא וְהוּא לְאִדְוָתָהּ תִּהְיֶה וְיִלְדֶיהָ הָאִשָּׁה בְּנֹתָ אוֹ בָנִים לְוַיִּלְדָּהּ אִשָּׁה יִתְּנֶהָ לָּהּ אִם-אֲדָנָיו

If his master gave him a wife, and she bears him boys or girls, the woman who gave birth and her children belong to the master, and he shall go out by himself.

וְאִם-אָמַר יֹאמַר הָעֶבֶד אֶהְבֵּתִי אֶת-אֲדֹנָי אֶת-אִשְׁתִּי וְאֶת-בְּנֵי לֹא אֵצֵא חֲפְזִי:

But if the slave declares, "I love my master, and my wife and children: I do not wish to go free,"

וְהִגִּישׁוּ אֶל-הַדָּלֶת אוֹ אֶל-הַמְּזוּזָה וְרָצַע אֲדֹנָיו אֶת-אָזְנוֹ בַּמַּרְצֵעַ וְעָבְדוּ לְעֹלָם: וְהִגִּישׁוּ אֲדֹנָיו אֶל-הָאֱלֹהִים
his master shall take him before God. He shall be brought to the door or the doorpost, and his master shall pierce his ear with an awl; and he shall then remain his slave for life.

The bottom line here is that the given wife and her children belong to the master. But the Torah then teaches that if the male servant leaves, this woman and children are to be treated like the masters family, to be fed, clothed and housed as if another wife and her children.

Even in the case when a person “sells” his daughter into slavery, the new master must choose to wed her as a wife, or if he or his son decides not to, she must have a way to redeem her freedom, i.e.- to buy her freedom with several years of work. This is why Rashi interprets that the “selling” was nothing more קידושין כסף, what we would have been called “dowry money” 200 years ago. In the case of the son of the master, if he decides not to marry the servant but marries another, but then fails to provide the female servant appropriate food, clothing and even conjugal rights, her rights! she can complain to a court, who would then allow her to go free.

This then contrasts from the conditions during slavery in the US, where people were mere commodities, sold and resold, where families were broken up for profit, when people were often housed in shacks, worked all hours in inhumane conditions, starved, beaten and killed at the will of the master. They had no rights to marry, no rights to their children, and certainly no rights to go free once they paid off their debt or were subject to the next Schmita anniversary. Know, however, that slave owners in the US used, or should I say, misused, these verses in *Mishpatim* as the rationale for their horrendous treatment of their slaves.

ה אֲשֶׁר יִשִּׁית עָלָיו בְּעַל הָאִשׁוּכִי יִנָּצוּ אַנְשֵׁים וְנָגְפוּ אִשָּׁה הָרָה וַיֵּצְאוּ יְלָדֶיהָ וְלֹא יִהְיֶה אִסּוֹן עָנּוּשׁ יַעֲזִיב כֹּ
: וְנָתַן בַּפְּלָגִים

When men fight, and one of them pushes a pregnant woman and a miscarriage results, but no other damage ensues, the one responsible shall be fined according as the woman’s husband may exact from him, the payment to be based on reckoning (by the Judges).

וְגַר לֹא-תוֹנֶה וְלֹא תִלְחָצֶנּוּ כִּי-גֵרִים הֵיְתֶם בְּאֶרֶץ מִצְרַיִם:

You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt.

כָּל-אֲלֻמְנָה וַיְתוֹם לֹא תַעֲנֹוּ:

You shall not ill-treat any widow or orphan.

אִם־עֲנֵה תֵעָנֶה אֹתוֹ כִּי אִם־צָעַק יִצְעַק אֵלַי שָׁמַע אֲשָׁמַע צָעַקְתּוּ :

If you do mistreat them, I will heed their outcry as soon as they cry out to Me

(כִּם בְּחָרֵב וְהָיוּ נְשֵׁיכֶם אֶלְמָנוֹת וּבְנֵיכֶם יְתָמִים: (פְּתוּחָה אֲפִי וְהִרְגַּתִּי אֶתְּ

and My anger shall blaze forth and I will put you to the sword, and your own wives shall become widows and your children orphans.

פֶּשׁ הַגֵּר כִּי־גֵרִים הָיִיתֶם בְּאֶרֶץ מִצְרַיִם וְגֵר לֹא תִלְחָץ וְאַתֶּם יָדַעְתֶּם אֶת־נֶגְדְּ

You shall not oppress a stranger, for you know the feelings of the stranger, having yourselves been strangers in the land of Egypt.

ב לְנֶטַח אֲחֵרֵי רַבִּים לְהַטֹּת: לֹא־תִהְיֶה אֲחֵרֵי־רַבִּים לְרַעַת וְלֹא־תֵעָנֶה עֲלֵיךְ

You shall neither side with the mighty to do wrong—you shall not give perverse testimony in a dispute so as to pervert it in favor of the mighty—

(וְדָל לֹא תִהְיֶה בְּרִיבּוֹ: (ס)

nor shall you show deference to a poor man in his dispute.