

# Parashat Mishpatim משפטים

Torah: Exodus 21:1–24:18

Haftarah: Jeremiah 33:25–26; 34:8–22

## God's Protective Guards

### General Overview

This portion begins to set out some of the specific, day-by-day guidelines for life in the redeemed community under the Covenant. This is the first parasha that consists almost entirely of specific teachings, laws, and other particulars of the Torah. The material is not narrative, nor is it poetry. Rather it is teaching that begs us to apply it to everyday life.

Before we embark on our study of this rather difficult *sidra*, we need to make some preliminary comments on properly applying the Torah. We face two dangers in this. First, if we do not carefully develop our *halakhah* (applying the Torah to our everyday lives), we can easily fall prey to legalism — the belief that one must do something, particularly something in the Torah, in order to earn, merit, or keep one's salvation. The second danger is that we might become frustrated in our attempts to apply the Torah and abandon it altogether. If we are careful in our interpretations, and in our method of developing halakhah, then we can avoid each of these dangers.

### *Halakhic Level*

When we begin to interpret the specific statutes, judgments, and other teachings, we must always seek to do so at two levels. The first level (*halachic*) is to try to understand their application to every day life. This is the area of Jewish theology called "*halakhah*." This is a Hebrew word based on the root, meaning to walk (*halakh*, הלך) / Halakhah simply means "how to walk out the Torah."

The process of forming halakhah can seem to be rather complicated. Yet, there are some basic principles which may help to keep it simple. First, we need to ascertain what these guidelines initially meant to Israel in the age in which Moshe gave them. Secondly, it is always helpful to research how the biblical instructions of the Torah were understood and practised in the redeemed community after the period of Moshe and through subsequent centuries. That, of course, is an enormous task and usually involves careful study of rabbinic resources.

### *Messianic Level*

Most, even traditional Jewish people, would agree with the first two principles, but for Messianic believers, there is a third guideline for formulating halakhah. We read in Luke 24:27 that after His resurrection, Yeshua "opened their minds to understand the Scriptures." In this passage, Yeshua was giving a very important hermeneutic principle. He was teaching that we need to look at the Torah to see what it teaches concerning *His* person/work.

If we are able to see what the specific statutes teach concerning the Messiah, this will provide much of the basis for our Messianic halakhah. In other words, we live out these teachings because of what they can picture in our everyday life

concerning Messiah — what He did for us, and who He has made us to be. Practising these precepts, therefore, becomes a way of being a walking testimony of what Messiah did and who He is.

Thus, obeying these instructions in this fashion will preclude all tendencies to legalism, where one receives merit for doing them. In addition, seeking to find Messiah's place in these teachings will be an encouragement to continue with them and not give up. There is a real goal and purpose to living them out.

## Exposition

At first glance, this *sidra* appears to be very loosely organized. However, a closer look will reveal a definite organization to these instructions. The student will notice that our proposed outline centres on the word “protection.” This term is really most appropriate for this section of the Scripture because, in essence, this is one of the primary tasks of the Torah. The Torah is not a list of rules or laws, *per se*. It is teaching that is designed to protect God's holy community. A good example of this is in the words that God spoke to Isaac concerning his father, Abraham, in Genesis 26:4–5:

I will make your descendants as numerous as the stars in the sky and will give them all these lands, and through your offspring all nations on earth will be blessed, because Abraham obeyed me and kept my requirements, my commands, my decrees and my laws.

We are told that Abraham “obeyed” God and “kept [God's] requirements.” The Hebrew in 26:5 reads

*'ekev asher shama' avraham  
b'koli v'yishmor mishmarti...v'toroti.*

אשר עקבשמע אברהם

משמרתי וישמר בקלי...ותורתי

A good rendering of this verse would indicate that God blessed Isaac because Abraham obeyed (“heard”) and guarded God's protective guards (*v'yishmor mishmarti*, *משמרתי וישמר*), that is, His laws, commandments, and His Torahs. These words were spoken well before Abraham and Isaac's descendants were at Mount Sinai. The importance of this statement is that God referred to His teachings as “protective guards.” The contents of this week's parasha are, therefore, just that — God's “protective guards” for His people.

With all of that established, we present this outline to you for your consideration:

### God's Protective Guards

I.	Protection of Slaves	21:1–11
II.	Protection from Injury	21:12–36
III.	Protection of Property	22:1–15
IV.	Protection of People	22:16, 17, 21–27
V.	Protection of Justice	23:1–9
VI.	Protection of Religion	22:18–20; 28–31; 23:10–19
VII.	Protection of the Nation	23:20–24:18

In this excerpt from Parashat Mishpatim, we will focus on section I, the Protection of Slaves.

## **I. Protection of Slaves — 21:1–11**

The first set of protective guards that we encounter in Mishpatim, are those regarding the institution of slavery. It is significant that the first set of instructions to this new nation of ex-slaves, immediately following the story of the Exodus, is concerning slavery. These people carried on their bodies and souls the indelible marks of their former brutal and harsh slavery. Moreover, they had experienced what it took to make them free. The Redeemer wanted them to remember all of this in order to impress upon their minds the blessings of freedom. Therefore,

Freeing one's servant is the theme drummed home here. . . This is a fitting introduction to the Israelite's rule of law after their redemption from the backbreaking experience of Egyptian slavery.<sup>1</sup>

In addition, Nahum Sarna further underscores the importance of this point when he remarks,

None of the other law collections from the ancient Near East opens with this topic. Hammurabi's, for example, deals with slavery last (pars. 278–282). The priority given to this subject by the Torah doubtless has a historical explanation: Having recently experienced liberation from bondage, the Israelite is enjoined to be especially sensitive to the condition of the slave.<sup>2</sup>

Slavery can be defined as either the voluntary or involuntary servitude of one person to another and was common throughout antiquity. In the ancient world, slavery was commonplace and human society made no effort to change the situation. According to ancient Greek thought (Aristotle), “humanity is naturally divided into free men and slaves.”

This parasha assumes that slavery would also be practised within the holy community. However, it also protects slaves. It provides the assurance that the type of slavery conducted by Israel would be drastically different from that carried out by the Canaanites or other surrounding idolatrous nations.

There is a beautiful hint in the text that is one of the keys to understanding this. The text makes ample provision for freedom from slavery, as indicated in the seven-fold usage of the phrase “go free” (some translations read “go out”) used in 21:1–11. This by itself is not unusual. There was even such provision in other ancient Near Eastern cultures.<sup>3</sup> However, there is a rather unusual provision in verses 5–6. It indicates that if slavery were done properly, there would be cases in the Torah community where a slave would not want to leave his master, but would actually love his master and desire to remain with him. If that happened, the Torah says that he could stay and be that master's slave for life.

The process of becoming a permanent slave seems, at first, rather unusual. We are told that the slave was brought to the door or doorpost and the master “shall bore his ear through with an awl,” presumably so that he could wear an earring, a sign of his master's ownership. But why was he brought to the door or doorpost? Rabbi Hertz provides a good answer to this question. He suggests that the piercing was done there because it may have “symbolized the attaching of the slave to the household, and may have served as permanent evidence that the slave had remained in service of his own free will.”<sup>4</sup> We are told that the

slave was in service *l'olam* (לעולם). This can mean either “forever” or “for a long, extended period of time.” The rabbis say that this period of service was, then, long, but only until the year of Jubilee.<sup>5</sup>

This kind of slavery is in stark contrast to the kind of servitude that the Israelites had experienced in Egypt. It is also diametrically opposed to the kind of slavery that so characterized the early 19th century southern United States, with all of its abuses of the black people kidnapped from Africa (graphically depicted in the classic work entitled *Uncle Tom's Cabin* and more recently in the movie, *Amidstad*).

Again, let us turn to Rabbi Hertz for his wording of this contrast between biblical servitude and sinful slavery. He writes,

Slavery as permitted by the Torah was quite different from Greek and Roman slavery, or even the cruel system in some modern countries down to our own times. In Hebrew law, the slave was not a thing, but a human being; he was not the chattel of a master who had unlimited power over him. In the Hebrew language, there is only one word for slave and servant. Brutal treatment of any slave, whether Hebrew or heathen, secured his immediate liberty (See 21:26).<sup>6</sup>

If the Israelite master walked as a redeemed person was created to walk, the slave simply would not want to leave him. Can you imagine a slave not wanting his freedom? This is how different servitude is in the redeemed community unity.

### **A. Spiritual Slavery**

This teaching affords us an opportunity to make a beautiful application concerning spiritual slavery. Just like the Israelites who were born as slaves in Egypt, so too, are all people born slaves to sin. Just as “Egypt” became the life of the Israelites, so also our “Egypt” was our life, that is, our sin was like living in Egypt, so to speak. Furthermore, like the Hebrews of old, we all suffered from the ill effects that bondage to sin produced. Moreover, it was never sin's intention to set us free. Our freedom came, just like that of the Israelites, a miraculous gift of grace, deliverance, and redemption, accomplished by the mighty hand of a loving and merciful God.

However, the Scripture, especially in the Newer Covenant, describes our new life with our Redeemer, the Messiah Yeshua, also as one of servitude. However, just as the Israelite slavery was designed to be as different from Canaanite slavery as night is from day, so also is our slavery to Messiah diametrically opposed to that of slavery to sin. Because of His love, grace, and mercy toward us, not one of us — if we really understood and accepted Him — would ever want to be released from His household (as if we ever could be!).

### **B. Female Slaves**

Another outstanding feature of the type of servitude described and legislated in 21:1–11 is the treatment of female slaves. The regulations of these verses safeguarded her personal rights and protected her from sexual exploitation.

Moreover, her servitude was, in reality, quite different than that of a male slave. This can be illustrated by the fact that two different words are used to describe each. The male slave is called in the text *'eved* (עבד), while a female slave was not called *'avdah* (עבדה), as we would expect. Rather, she is referred to as an

*amah* (אמה), instead. The use of this term marks a distinction between male and female slaves. Sarna underscores this distinction by commenting that

The Hebrew term *amah*, used here, does not mean a slave girl in the usual sense, since her status is quite different from that of the male slave.<sup>7</sup>

It may seem strange to us today to read in the Torah about God giving permission for a father to sell his daughter into servitude. However, we must remember that this servitude was quite different from male servitude. An *amah* was sold by her father into a family with the intention of marriage to the son or master of that family.<sup>8</sup> This transaction, however, was not meant to do harm to the daughter. The Torah carefully regulated it and because of that, she could not be sold into a non-Israelite family, where the Torah would not have any authority and consequently, her safety and well-being would be in jeopardy. The regulation in the Torah assured that “always she must be treated as a daughter or a free-born woman, or the forfeiture clause [v. 11] will be invoked.”<sup>9</sup>

Such a practice was, in reality, quite common in the ancient Near East, as the Nuzi documents testify.

It usually happened when the father, driven by poverty, sold his daughter into a well-to-do family enabling her to secure some measure of future security. Later rabbinic interpretation restricted the power of the father to dispose of his daughter in this way, limiting the sale to one who was still a minor (under twelve years old) and only if he was severely destitute.<sup>10</sup>

There is evidence that this practice was followed in the Israelite society even after the biblical period.<sup>11</sup> In addition, even as late as the 12<sup>th</sup> century CE, the Jewish people practised this custom, as is evidenced by the fact that the Rambam even comments on it. Here is what he thought of the practice of an *amah*. In his famous *Mishneh Torah*, he writes,

A father may not lawfully sell his daughter into servitude unless he has become poor and has nothing whatsoever left of land or movables or even personal clothing. And yet, the father should be compelled to buy her back after he has sold her because it disgraces the family. If the father has fled or died or had no means to buy her back, she must serve until she goes free. She is also to be freed automatically by the onset of puberty, unless her master has married her.<sup>12</sup>

Thus, Torah implies in chapter 21 that if the master so desired, she could become his wife — though not without her consent. We have, thus far, in our study of Torah read of a few female slaves who were elevated to marital status, such as Hagar and Keturah, who became Abraham’s concubines; Bilhah and Zilpah, the servants of Rachel and Leah, became the wives of Jacob.

### **C. But Why?**

Why does the Torah permit slavery to continue? There are at least three reasons. One reason given by some commentators is that they see the Lord providing economic benefits to Israel. Slavery, when practised under the conditions as described in Torah, provides an occupation of meaningful/skilled labour for the slave. It also makes it financially feasible for the owner to conduct his business when he does not have the overhead of high salaries to pay. This is providing, of course, that the slaves are treated with dignity and justice.

Secondly, by permitting righteous slavery, the Torah provides an important object lesson. As we have discussed above, how would we know what it is to serve the Master of masters if we do not know what Godly slavery looked like?

Finally, God always provides for His people to be unlike others who do not know Him. He designed the holy community to be distinct. We are called to be “peculiar people, called out of darkness into His wonderful light” (1 Peter 2:9), particularly unique in a Godless world. This comes to light when we contrast the biblical attitude toward slavery with that of the rest of the world.

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<sup>1</sup> Avigdor Bonchek, *Studying the Torah*, 43.

<sup>2</sup> Nahum M. Sarna, *The JPS Torah Commentary: Exodus*, 118.

<sup>3</sup> “The terms for coming (*bo*) and going (*yatsa*) (v. 3), for entering and leaving slave status, are similar to those used in the Akkadian Nuzi texts.” Walter C. Kaiser, Jr., *Exodus* (The Expositor’s Bible Commentary), vol. 2, 430.

<sup>4</sup> J. H. Hertz, *The Pentateuch and Haftarahs*, 307.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*, 306.

<sup>7</sup> Sarna, *op. cit.*, 120.

<sup>8</sup> Both Sarna and Kaiser understand that marriage is the intention of an “*amah*” transaction.

<sup>9</sup> Kaiser, *op. cit.*, 430.

<sup>10</sup> Sarna, *op. cit.* 120.

<sup>11</sup> *Ibid.*

<sup>12</sup> Maimonides, *Mishneh Torah*, Hilkot 'Avadim 4:2,8.