

Kindly take a moment to study MISHNAS CHAYIM in the merit of
Fraydel *bas* Levi Yitzchok HaKohen *a”h*
a fellow Jew who passed away with no relatives to arrange Torah study on behalf of her *neshamah*

License to Complain

PARSHAS MISHPATIM 5778

This week’s *parshah* is well-known for the plethora of “*mishpatim* – laws” it contains. As we know, the *mitzvos* of the Torah are divided into the categories of *mitzvos bein adam laMakom* (ritualistic *mitzvos*) and *mitzvos bein adam l’chaveiro* (interpersonal *mitzvos*); a fairly substantial percentage of the latter appears herein. Additionally, there are whole tractates of Talmud Bavli – particularly in the area of *nezikin* (monetary damages) – that are based on passages from this week’s *parshah*.

But as we shall see, there is even a most significant and poignant message we can learn, which stems from a single letter – the very first one – of the *parshah*.

Only from the Source

The opening *passuk* states: וְאֵלֶּה הַמִּשְׁפָּטִים אֲשֶׁר תָּשִׂים לִפְנֵיהֶם – “And these are the statutes that you shall place before them” (*Shemos 21:1*). Rashi takes note of the letter “*vav*” appended to the beginning of the word “*eileh*,” rendering it as “*v’eileh* – **and** these” instead of just “these.” To this, Rashi applies the principle of interpretation that the “*vav*” serves as a bridge, connecting this section to the one before it. Now, one of the primary features of the previous *parshah* of Yisro was the topic of the Revelation at Sinai at which the Torah was transmitted from Heaven to Yisrael. What this connection to our *parshah* reveals, Rashi explains, is that: מָה הָרִאשׁוֹנִים מְסִינֵי אֶף אֵלֵינוּ מְסִינֵי – “Just as the previous matters originated from Sinai, so do these (*mishpatim*) originate from Sinai.”

R’ Moshe Shternbuch (*Ta’am V’da’as*) expounds on the import of this idea. It was mentioned above that the *mitzvos* are divided amongst two major categories. Now, one may have assumed that it is only the *mitzvos bein adam laMakom* that are indeed Sinai-dependent, for these are matters that one would not have been able to conceive of his own. How, for example, could one simply “figure out” the thirty-nine types of forbidden labor on Shabbos by using his own logic and deductive powers; or, for that matter, the complexities of ritual defilement and the purification process; and so on. When it comes to *mitzvos bein adam l’chaveiro*, however, there might be reason to think that these are simply a function of rationality. Perhaps fair-minded and reasonable people could formulate common-sense dictates that are necessary for the proper and peaceful functioning of a civilized society. What need is there (so one might have thought) for the Divine Intellect to promulgate such laws?

It is for this very purpose that the Torah, at the beginning of the *parshah*, seeks to connect this section with the Revelation at Sinai. That is, it wishes to disabuse us of the notion expressed in the previous paragraph. “*V’eileh ha’mishpatim*”: Make no mistake about it, the Torah is saying. Like all other *mitzvos*, the interpersonal ones are likewise tied to Sinai. In truth, it is only the Divine Intellect that is capable of truly discerning the needs of man and the underpinnings of peaceful coexistence (as, for example, the hundreds of millions of corpses throughout history resulting from international and internal conflict can attest). When all is said and done, then, it is even the *mishpatim*, the “reason-based” interpersonal *mitzvos*, that must be Divinely-ordained.

Let us turn to a Mishnaic teaching in which a similar point is manifest.

Having “*Taynos*”

The Mishnah (*Bava Metzia 6:1*) presents a scenario of an employment arrangement gone sour:

השוֹכֵר אֶת הָאֲמִנִי וְהִטְעוּ זֶה אֶת זֶה, אֵין לָהֶם זֶה עַל זֶה אֶלָּא תִרְעַמְתָּ.

“When craftsmen are engaged, but one party ends up misleading the other, there is no legal ramification other than that the injured party bears complaining rights.”

As the commentators clarify, what happened here was something along the lines of a simple failure to honor the agreement. A hired B, and B never showed up; conversely, B did show up, only to find that A changed his mind and rescinded the offer. The ruling of the Mishnah is that, as unseemly and unkind as the renegeing might have been, the injured party has no legal recourse. He receives no monetary compensation, nor does he have the legal standing or power to coerce the other to make good on the original agreement; the only thing he does have are his gripes.

But this, R’ Moshe explains in the name of R’ Yisrael Salanter, is itself a somewhat striking revelation. A full-fledged *halachah* is stated herein – namely, that in this instance, the injured party *does* have the right to complain about the dishonorable dealings. Now, as stated, this does not translate into any tangible difference; but it is a *halachah* nonetheless.

In other words, the “ruling” of the Mishnah is just that: he is sanctioned to complain. And what we derive therefrom is that this, too, requires a bona-fide ruling. That is, it is only in specific instances, based on the guidance of Chazal’s dictates, that a person is licensed to complain. In other circumstances, then, the mere act of complaining is unauthorized and considered wholly improper.

This, unfortunately, might seem like a foreign concept to some. Isn’t it a common and “natural” part of daily life to react with annoyance towards those we feel have wronged us? But from the above we see that, indeed, the matter is not so simple. Barring an official ruling from a Mishnah, it is otherwise forbidden even to harbor “*taynos*” (complaints) against others in our hearts.

On this issue, it is worth citing the advice R’ Shach once offered to a seminary student. (There was a school named Ohr HaChayim that catered mainly to girls from poor homes in development towns. R’ Shach served as a father figure for the girls in this seminary, and they would come to him to pour out their woes.) This student charged that her teachers were “picking on her,” and she proceeded to enumerate a litany of complaints. After hearing her out and addressing some of the specifics, R’ Shach urged her to re-think her whole attitude. He reminded her that, *b’eiras Hashem*, she would one day get married and raise a family: “Being a complainer,” he told the student, “is a character trait that will plague you all your life. Don’t complain, and don’t look for fault in other people’s actions. Think about the good things your teacher does for you... If you learn to look at life this way, you will also know how to look at your husband and your children” (*B’mechitzasam, vol. I, p. 375*).

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