

INTERNET PARSHA SHEET
ON MISHPATIM - 5758

B'S'D'

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RavFrاند@torah.org "RavFrاند" List Rabbi Frاند on Parshas Mishpatim
Parshas Mishpatim: One Who Cheats In His Business Doesn't
Believe in G-d Our Parsha begins "And these are the statutes that you shall place before them." There is a very famous Rashi on the words "And these". Normally "these" would mean "to the exclusion of others". But Rashi says that the conjunction "and" adds to what came before (vov mosif), in Parshas Yisro. In Parshas Yisro, G-d gave us the Ten Commandments. Rashi here says that just as the Ten Commandments were given at Sinai, so too the laws that are recorded in Parshas Mishpatim were also given at Sinai. The truth of the matter is that this Rashi requires understanding. There is another famous Rashi [Vayikra 25:1] on the words "On Mount Sinai" (mentioned in connection with Shmita) which asks, "What is the connection between Shmitah and Mount Sinai?" Rashi there answers that just like the laws of Shmita were given with all their rules and intricate details at Sinai, so too all other commands were given with their rules and intricate details at Sinai. If that is the case, what is Rashi adding here, by telling us that the laws of Parshas Mishpatim were given at Sinai? We know that -- the whole Torah was given at Sinai! The Ramba"n says a very interesting thing. According to the Ramba"n, Parshas Mishpatim and the Parsha of the Ten Commandments were said together at the initial meeting of G-d with Moshe on Sinai (prior to the 40 day period when Moshe learned the rest of the Torah). Subsequent to that, Moshe Rabbeinu came down, taught the Jewish people what he had learned from G-d and then went back up to Mount Sinai to learn more. What emerges from this Ramba"n is that the laws of one ox going another ox, of digging a hole in the public domain, or paying workers on time, all the mundane intricacies of life have the same status and were given at the same time as the Ten Commandments. Therefore, Rashi is stating something significant. But, is it not peculiar that almost in the same breath as G-d spoke "I am the L-rd your G-d who took you out from Egypt...", the foundation of Judaism, He also told us about our responsibilities when we borrow our neighbor's car? Why does Parshas Mishpatim rate the same session as "I am the L-rd your G-d"?

Rav Moshe Feinstein, zt"l, said that this comes to teach us that if a person does not keep Parshas Mishpatim (monetary laws), he doesn't believe in "I am the L-rd your G-d" either. "I am the L-rd your G-d" is the theory --- I believe. But the other side of the coin, the practice, is do you cheat in your business? If you cheat in your business, you do not believe in "I am the L-rd your G-d". Rav Moshe continues, if a person believes in G-d with more than lip service, then the person believes that G-d provides him with a livelihood. If a person believes that G-d provides the livelihood, then what reason is there to cheat? "A person's livelihood is fixed for him from Rosh HaShannah" [Beitzah 16a]. If one believes that, there is no need to cheat. Anyone who cheats, does not believe it. That is why "I am the L-rd your G-d" is in the same session as the law of how to pay one's workers.

There was recently a meeting in New York of the Association of Jewish Certified Public Accountants; an organization appropriately called Cheshbon. Rav Schwab told this group that a person who is dishonest in business is a Kofer b'Ikhar (He denies G-d). For the same reason that we mentioned -- that if a person really believed, he would not need to cheat. One cheats because he thinks -- "this will get me the parnossah". Cheating indicates that he does not believe that G-d will take care of him. Then Rav Schwab continued by saying the following. "You will ask that we see people who cheat a tremendous amount and are nonetheless, successful. Now if parnossah comes from G-d, how can that be?" Rav Schwab explained that such people's money comes from the 'Sitra Achra', from the forces of impurity in the world, not from G-d. No good will ever come out of the

money that comes from the powers of impurity (Kochos HaTumah) in the world. He or his children or someone down the line will never see satisfaction (nachas) from that money. The 'test' of earning a livelihood is not only a test of telling the truth, of not stealing, etc. It is a test of 'I am the L-rd your G-d'. Daily, we are put to the 'test' of whether or not we really believe. If we really, really believe, then there is never a reason to be less than 100% honest in our dealings with other people and with ourselves. Transcribed by David Twersky; Seattle, Washington twerskyd@aol.org Technical Assistance by Dovid Hoffman; Balt, MD dhoffman@clark.net RavFrاند, Copyright (c) 1998 by Rabbi Y. Frاند and Project Genesis, Inc. Project Genesis: Torah on the Information Superhighway learn@torah.org 6810 Park Heights Ave. <http://www.torah.org/> Baltimore, MD 21215

drasha@torah.org ONE STEP BACK - TWO STEPS FORWARD --
DRASHA PARSHAS MISHPATIM 2/20/98

Among the complicated fiduciary matters that this week's portion discusses, the Torah deals with seemingly simple and mundane issues as well. The Torah talks about donkeys. Heavily laden donkeys that belong to your enemy. The Torah tells us, "if you see the donkey of someone you hate and you refrain from assisting him, you shall repeatedly help him" (Exodus 23:5). Obviously the interjected phrase "and you refrain from assisting him" begs clarification. After all, if you mustn't refrain from helping him, why mention it in the first place? Rashi explains that the words are to be read rhetorically, "Would you refrain from helping him? How can you let a personal grudge take precedence over the poor animal's pain? Surely you shall continuously help him." The Talmud (Bava Metzia 32) takes the words at face value and explains that there are actually certain situations where one must actually refrain from helping unload donkeys. I would also like to offer the verse at face value.

As a youngster, I heard the following story about the great mussar luminary, Rabbi Yisrael Salanter. Rabbi Salanter was traveling by train from Salant to Vilna and was sitting in a smoking car holding a lit cigar. A young man accosted him by yelling about the putrid odor of the smoke. Other passengers were appalled. After all, they were in the smoking car. Despite that, Rabbi Salanter extinguished the cigar and opened the train's window to dissipate the fumes. It was only a few seconds before the young man slammed the window down, while screaming at the elderly sage for opening it. Rabbi Salanter apologized profusely to the man young enough to be his child, and buried himself in a Jewish book of law. Upon arriving in Vilna, the young man was horrified to see throngs of people gathered to receive one of Europe's most prominent Rabbis. The man immediately ran to the home where Rabbi Salanter was staying. He began to beg forgiveness. "Don't worry," explained Reb Yisrael, "a trip can make one edgy. I bear no ill will. Tell me," continued the mussar master, "why did you come to Vilna?" The young man explained that he was looking to become an ordained shochet, (slaughterer), and an approbation from a Vilna rabbi would be universally accepted. Rabbi Salanter smiled. "My own son-in-law, Reb Elya Lazer, can ordain you. He is a Rav in Vilna. Rest up and tomorrow you can take the test. The next day, it was apparent that the man needed more than rest, for he failed miserably. However, that did not deter Rabbi Salanter. He encouraged the man to try again. For the next several weeks, Rabbi Yisrael arranged for tutors and prepared the young man well enough to pass Reb Elya Lazer's make-up exam along with the tests of a host of other well-known Vilna rabbis. He even arranged for the man to get a job. Before leaving Vilna, the man appeared before Reb Yisrael with tears in his eyes. "Tell me, Rebbe," he cried. "I was able to understand that you could forgive me for my terrible arrogance on the train. But why did you help me so much? That, I can never understand." "Reb Yisrael sat him down, held his hand and explained. "It is easy to say 'I forgive you'. But deep down, how does one really know if he still bears a grudge? Way down in my heart I actually was not sure. The only way to remove a grudge is to take action. One who helps another develops a love for the one he aided. By helping you, I created a true love which is overwhelmingly more powerful than the words, 'I forgive you'."

The Torah tells us that if you see the donkey of your enemy keeling from

its burden and you want to refrain from helping, know then, that now is the time to help. The minute your feet falter, then it is time to quicken the pace, overpower your emotions and make a move. The Torah understands human nature all too well. The sub-conscience speaks very loudly and often tells us to take three steps backwards. That is the time to make a move that will heal old wounds and close open sores. Overpowering kindness will not only help ease burdens off a donkey, it will make things a lot lighter for you as well.

Good Shabbos Rabbi Mordechai Kamenetzky Dedicated in memory of Morris Propp by Mr. and Mrs. Ephraim Propp Mordechai Kamenetzky - Yeshiva of South Shore rmk@torah.org 516-328-2490 -- Fax 516-328-2553 <http://www.yoss.org> Drasha, Copyright (c) 1998 by Rabbi M. Kamenetzky and Project Genesis, Inc. Rabbi Mordechai Kamenetzky is the Rosh Mesivta at Mesivta Ateres Yaakov, the High School Division of Yeshiva of South Shore, <http://www.yoss.org/> Project Genesis: 6810 Park Heights Ave. <http://www.torah.org/> Baltimore, MD 21215

Enayim@shamash.org mishpatim Enayim L'Torah SOY of Yeshiva University There's a Hole in Your Ear, Dear Liza Yosef Zahtz

The day finally arrived. Shimon walked over to his dear friend Reuven and said, "Reuven, it's time to go." Reuven got up and walked over to his wife to say goodbye but she was crying so much, she couldn't speak. He hugged his two little daughters and began to walk out the door and down the steps. When he reached the bottom of the steps, Reuven had changed his mind. He ran back up the steps, into the house, yelling, "I can't leave! I must stay with my family!" Amidst tremendous joy, Shimon and Reuven left the house, and walked over to the court. At the door, Shimon called for the judges, and in their presence, he punched a hole in Reuven's ear with a spike.

Does something strike you as being odd in the above story? (While it may never have occurred, it is entirely possible that similar events did happen.) Why should a master pierce his slave's ear? Rabban Yochanon ben Zackai (Kiddushin 22b) seems to provide us with an answer. The ear, according to him, is the organ which heard G-d proclaim on Mount Sinai, "Ki Li Bnei Yisrael Avadim" - "Israel is My servant" and shall not become slaves to My own servants. This man, who chose to become a slave and ignore G-d's command, deserves to have his ear pierced. Ben Ish Chai points out that the verse quoted wasn't said on Mount Sinai. Because of this, he understands it as referring to the first of the Ten Commandments, where G-d recalls how he took Israel out of Egyptian slavery. While this may explain why a slave gets his ear pierced, it does not explain why a thief or murderer does NOT get his ear pierced. After all, the same logic should apply, and since these prohibitions were also commanded at Mount Sinai, why should they not receive the same punishment? What is so special about the first commandment? In the Talmud (Shabbos 105a) the same R' Yochanon asserts that the first word of the Ten Commandments, "Anochi" is an abbreviation for "Ana Nafshai K'siviv Y'havis" - "I [G-d] gave myself over within scripture." R' Yochanon understood Sinai as more than a promulgation of legal codes - G-d actually revealed himself within the Torah. Since that moment, when the entire Jewish nation heard Him speak, within each Jew resides an awareness of G-d's presence. This awareness allows a Jew to harmonize his own aspirations with G-d's purpose. Since Sinai, each Jew has boasted his own spiritual compass. In our Gemara, R' Yochanon continues to expound the centrality of this idea in Jewish life. According to the medrash, the first two commandments, unlike the other eight, were spoken directly by G-d to Israel. With these first words G-d communicated Israel's purpose and implanted within each Jew an awareness of his mission. R' Yochanon emphasizes this point with his use of the words "ozen she'shama kolo" - as shama implies internalizing as opposed to merely hearing. When a slave decides to stay with his master, he shows a complete disregard for a Jew's mission in life. The Gemara tells of the luxury in which slaves lived. When a slave decides that he prefers a pampered life of materialism in servitude, ignoring his spirituality, he refuses his duty as G-d's servant. That's why we pierce his ear. We are trying to drive home to this slave, that while we understand why he doesn't want to leave his wife and kids, he has nonetheless chosen the wrong lifestyle for a G-d fearing man. We as religious people, must realize that the lifestyle we choose

reflects our own mission. Choosing a life of materialism over spiritualism means ignoring G-d's word within us. ...

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Hamaayan The Torah Spring Edited by Shlomo Katz - Mishpatim
Sponsored by Rochelle Dimont and family in memory of father-in-law and grandfather Rabbi Shmuel Elchanan Dimont a"h Elaine and Jerry Taragin on the yahrzeits of Mrs. Shirley Taragin a"h and Mr. Irving Rivkin a"h

At the end of this week's parashah, the story of Matan Torah/The Giving of the Torah continues. There we read Bnei Yisrael's famous statement, "Na'aseh ve'nishmah"/"We will do and we will hear." R' Yaakov Ettlinger z"l (19th century; author of Aruch La'ner and mentor of R' Samson Raphael Hirsch z"l) observes that twice before in the Torah (Shmot 19:8 and 24:3) Bnei Yisrael responded, "All that Hashem spoke na'aseh/we will do." Why the third time did they add, "ve'nishmah"/"and we will hear"? What does it mean to "hear" the Torah after "doing" it? The midrash relates that Bnei Yisrael asked of Hashem (Shir Hashirim 8:6), "Place me like a seal on Your heart." Hashem responded (see *ibid.*), "The heart is sometimes seen and sometimes not seen. I will place you as a seal on My hand, which is always visible." R' Ettlinger explains: Bnei Yisrael asked Hashem to promise that He would accept their service of Him if they devote their thoughts to Him. Hashem responded, "I will do better than that. The heart is sometimes seen and sometimes not seen.' Sometimes you will understand My mitzvot and devote your hearts to Me, and other times you will not understand. I promise to accept your service when you perform deeds for Me, whether you understand them or not." Doing the mitzvot before "hearing" them means doing them without understanding their reasons. (Obviously they did not mean they would do the mitzvot before hearing about them, for how can that be?) This is the meaning of the halachah that one lays the hand tefilin before the head tefilin, i.e., we bind ourselves to Hashem with our hands (deeds) before our head (mind) is with Him. The first time (19:8) Bnei Yisrael said, "na'aseh," was before they had heard a single mitzvah. In that verse, they merely expressed their desire to receive the Torah. The second time (24:3) was after they had heard the mitzvot, and then they expressed their intention to keep the mitzvot. Only thereafter was it appropriate to add, "ve'nishmah" - we also will attempt to delve into the mitzvot and understand them. (Minchat Ani: Parashat Yitro) ...

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weekly@jer1.co.il Torah Weekly - Mishpatim 5758 Highlights of the Weekly Torah Portion Parshas Mishpatim Shabbos Shekalim <http://www.ohr.org.il> ... The Letter Of The Law "And these are the statutes 1/4" (23:9) You can distinguish Judaism from other religions easily enough. Jews don't eat pork. They wear prayer-shawls. But when it comes to social justice, you might think there's not a large difference between Judaism and other religions or systems of morality. However, you'd be wrong. Although the Torah's code of social justice is superficially similar to other codes, there's an enormous difference. And that difference lies in one Hebrew letter: Vav. (The letter vav at the beginning of a word means "and.") Rashi explains that the reason our Parsha begins "And these ..." rather than just "These ..." is to connect this week's Parsha to last week's. Just as the laws of man's relationship with Hashem come from Sinai, so too the laws of social justice come from Sinai. In Judaism, even the laws of social justice are by Divine mandate from Sinai. In the rest of the world, they are based on civility and pragmatism. No society can exist without some code of acceptable behavior, but the difference between the Torah and every other system of laws is enormous and fundamental. No man-made law can withstand the onslaught of a person's baser instincts. In times of trial and test, these laws go "out the window." Rivers of innocent blood have flowed in wars in every era, including our own, in spite of the fact that "You

shall not murder" is a universally accepted tenet. For a Jew, the essential imperative in social law is not moral, pragmatic or cultural. Rather it is the Will of Hashem, no less than not eating pork or wearing a prayer shawl. This is what gives the Torah's code of social justice power and durability thousands of years after its institution. Source - Rabbi Shlomo Yosef Zevin

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Production Design: Lev Seltzer The Jewish Learning Exchange of Ohr Somayach International 22 Shimon Hatzadik Street, POB 18103 Jerusalem 91180, Israel Tel: 972-2-581-0315 Fax: 972-2-581-2890 E-Mail: info@ohr.org.il Home Page: http://www.ohr.org.il (C) 1998 Ohr Somayach International - All rights reserved.

mj-ravtorah@shamash.org Shiur HaRav Soloveichik ZTL on Parshas Mishpatim mishpatim.98

(Shiur date: 2/20/74) Hashem told Moshe to ascend the mountain where He will give him the Luchos Haeven, Torah, Mitzvah. The Gemara (Berachos 5a) says that Mitzvah means Torah Shbeal Peh, the oral law. What is the connection between Mitzvah and the oral law? The Rambam mentions in his introduction to the Mishnah Torah that Mitzvah is the oral law, based on the verse where Hashem told Moshe to command Joshua in front of the congregation... and Moshe placed his hands on Joshua and he commanded him. The Yalkut comments that Tzivuy means Divrei Torah. The Rambam says that Elazar, Pinchas and Joshua received Torah from Moshe but Joshua, who was the student of Moshe, was the one who received the Mesorah from Moshe. The term Tzav, to command, is found throughout Tanach in the context of one generation transferring control to the next generation. For instance we find that Chizkiahu Hamelech was told to command his household when he was on his deathbed. The intent was to pass on the tradition to the following generation that will succeed him. We also find that Hashem said that Avraham would command, Yetzaveh, and pass on the tradition to his children and his household after him.

It is interesting to note that the Rambam specifies the order of the tradition from generation to generation, starting with Moshe to Joshua through Rav Ashi. The Rambam mentions that Pinchas received the tradition from Joshua. We know that Pinchas was among the close circle of students of Moshe. Why is only Joshua mentioned as the recipient from Moshe even though Pinchas also was Moshe's student? Why instead is Pinchas mentioned as the student of Joshua? Even though they all were taught by Moshe, only one of them was appointed to be the keeper of the Mesorah for his generation. Joshua was the appointee in the generation that he led, while Pinchas was the appointee in the generation that he led. While many people in a generation learned Torah, only one person in each generation was appointed the transmitter of the Mesorah. The oral law is called Mesorah because it is handed from generation to generation. It is up to the teacher and leader of the generation to decide who to entrust with the Mesorah for the next generation. We find an example of the transfer of the Mesorah where Avraham gave all that he had to Isaac and Avraham gave gifts to the children of the concubines. Rashi says that he gave Isaac a blessing. This blessing was the Mesorah, and the Torah tells us that Avraham handed the Mesorah to the child of his choice, Isaac. Isaac transmitted this Mesorah, Bircas Avraham, to the child of his choice, Jacob and not to Esau, prior to sending him to the house of Lavan. Just like the father selects the child to whom he will transmit his tradition, the teacher must do the same. That is why Moshe commanded Joshua and gave him alone (and not Pinchas) the mantle and tradition of the Torah.

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Michlelet Torah Viregesh[SMTP:mtv1@netvision.net.il] MISHPATIM

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I. THIS WEEK WE HIGHLIGHT THE RASHBAM COMMENTARY Preface: All in the Family; Getting Reacquainted In the Parsha of VAYETZE' we made the exegetical acquaintance of RASHI's grandson, RASHBAM, and compared their interpretations of Yaakov's journey and dream. In this Parsha we will compare their interpretations of several items of Halakhic importance.

Part One: How long is Forever? In 21:5-6 the Torah states that an indentured Hebrew servant who refuses his freedom at the end of six years of service shall have his ear pierced and serves LE'OLAM. Our inclination, of course, would be to take the word literally, and to consign him to an oblivion of servitude. RASHI, however, finds that understanding contradicted by a later Torah verse. QUESTION: How does Vayikra 25:10 contradict the literal sense of our verse? ANSWER: By stipulating that every servant goes free in the Jubilee (YOVEL) year. QUESTION: How does RASHI resolve the contradiction? ANSWER: By asserting that the 50 year period of a YOVEL constitutes "forever" (LE'OLAM). Indeed, RASHI — in line with the Midrash (MEKHILTA) and Gemara (KIDDUSHIN) — stipulates that the balance of any YOVEL cycle comprises "forever" and the servant goes free at the YOVEL year even if far fewer than 50 years are actually served. RASHBAM, however, offers a very different interpretation. He apparently takes it literally, saying: "According to the PESHAT — all the days of his life, as it says of Shmuel: 'and he will remain there forever' (1 Samuel 1:22)." QUESTION: How does RASHBAM disregard the verse in Vayikra? How can he blithely ignore the Midrash and Gemara?

Part Two: A look at the record Before we answer this specific question, let us look at another couple of places where the commentary of RASHBAM appears to contradict the Halakhic norm. 1. Shemot 13:9: "It shall be like a sign for you on your arm, and like a souvenir for you between your eyes..." RASHI understands the verse as designating the mitzvah of TEFILLIN and comments: "Write these portions [of the Torah] and tie them to your head and arm." RASHBAM, however, comments as follows: "According to the depths of the PESHAT, it shall be like a perpetual souvenir for you as though it were inscribed on your arm, as in the verse: 'Place me as a signet upon your heart' (Shir HaShirim 8:6)...Like jewelry, such as a golden necklace, placed upon the forehead for ornamentation." QUESTION: How does RASHBAM blithely ignore the Halakhic consequences of his metaphorical interpretation? Did he not wear Tefillin? 2. Bereishit 1:5: "God called the light day, and He called the darkness night; it was nightfall and it was daybreak: one day." CHAZAL adduce this verse as proof that a Halakhic day commences with nightfall; RASHBAM, however, says: "Daylight always precedes darkness. The verse does not say 'It was nighttime and it was daytime,' rather it says 'It was nightfall and it was daybreak,' namely: the first day ended with the setting of its sun and then the night broke with the rising of the dawn. This completed one day of the six days of which God spoke in the Ten Commandments and [thereafter] the second day began and God said 'Let there be a firmament...'" The verse does not intend to stipulate that a setting [sun] and a rising [sun] constitute a day because our only need, here, is to describe how there were six day wherein the breaking dawn ended the nighttime marking the passage between one day and the next. QUESTION: How can RASHBAM, again!, ignore the entire history of Rabbinic interpretation and produce an interpretation at such great odds with received tradition?

Part Three: Derech Eretz Precedes Torah Before we examine it, though, let us first take a look at an introductory note which he prefaces to this Parsha: "Rationalists will understand that I have not come here to interpret the Halakhot, even though they are paramount — as I indicated in Bereishit [see Vayetze] — because they are derived from extraneous words... and can be found in the commentary of my maternal grandfather, RASHI. I have come to interpret the text straightforwardly [PESHAT] and will interpret [even] laws and Halakhot according to prevalent norms [DEREKH ERETZ]." RASHBAM is interpreting the Parsha of Mishpatim [and, by extension, other Halakhic portions of the Torah — such as the two we cited] in a dimension which is not necessarily Halakhic, by means of method of

inquiry called PESHAT, which is supported by a contingency called DEREKH ERETZ. In VAYETZE, we translated DEREKH ERETZ -- as it affects narrative — as “common usage;” we shall now offer a refinement of that understanding as applied to Halakhah. In his commentary on Leviticus 13:2, "Should a man develop a swelling, rash, or discoloration on the skin of his body....," RASHBAM notes: “In all of the chapters of afflictions to humans, animals, or buildings; their appearances, the calculation of their quarantines; and the matter of white, black, or yellow hairs; we have no recourse to the literal sense of Scripture (PESHUTO SHEL MIQRA') at all, neither to human expertise (BEQI'UT ...SHEL BENEI 'ADAM) based upon prevailing norms (DEREKH 'ERETZ).” In other words, whenever the definitive Halakhic position or decision rests on the appreciation of a true-to-life reality which can no longer be empirically observed, RASHBAM — without denying the normative force of the Halakhah! -- rests his interpretation of the Halakhah entirely upon the visible, textual evidence. The result may appear to contradict the Halakhah -- as in the three cases we cited — but actually serves as its underlying explanation.

Part Five: The Answers, Please (1) Working backwards from the case of Bereishit 1:5, we cannot argue with RASHBAM's PESHAT of the verse. He correctly notes the difference between the terms for day (YOM) and daylight (OR), nighttime (LAYLAH) and darkness (HOSHEKH), and correctly observes that the verse states that “one day” was complete after BOKER, which is to say, after the break of dawn — and not, as the Halakhah would have it, after dusk. He hastens to point out, however, that this pertains only to the six days of Creation (i.e., the days about which God spoke in the Ten Commandments), which is to say, the only six days for which there is no recovering their true-to-life reality since they were not (yet) under human observation. Reconstructing the entire verse, under RASHBAM's exegetical guidance, we obtain the following: After creating light God separated the newly created light from darkness. Which darkness? Not that which preexisted (verse 2), but that which followed the setting of the first day's light. God then proceeded to name the period of light — day, and the subsequent period of darkness (EREV) — night. With the breaking of new dawn (BOKER) one full day had been completed. (2) When Rashbam offers an entirely metaphorical explanation of OT and TOTAFOT, he is, similarly, trying to reconstruct the rationale support in the Mitzvah of TEFILLIN from the textual evidence alone. By citing the examples of the signet and the necklace he is attempting to establish a true-to-life reality which would account for the choice of these specific locations: They are the places on which people customarily displayed jewelry and other items of value. By citing the clearly metaphorical verse in Shir HaShirim placing the signet upon the heart he signals his appreciation that it is not the signet, per se, which is of value, but what it represents — the affection of the lover. Similarly, it is not the box-like Tefillin which is of value, but what is represented by the PARASHIYOT it houses: the miracle of the exodus. The reason we place Tefillin upon our hearts and foreheads is to proudly display the textual recognition of our gratitude to God for redeeming us from bondage.

Part Six: If it Takes Forever... (3) Finally, we return to the verse with which we began. It should be clear that if RASHBAM had been approached by a master and his indentured servant, and had been asked to rule on the length of his servitude, Rashbam would have undoubtedly followed Talmudic precedent, and committed him to serve only until the Jubilee year, just as there is no doubt that RASHBAM wore Tefillin (although I could not tell you if he wore those of RASHI or his brother, RABBEINU TAM), and observed Shabbat and festivals beginning with sundown. The exegetical question he is addressing here is rhetorical: If the Torah only intended him to serve until the YOVEL, why not just say so? The verse could easily have said: “He shall serve him until YOVEL;” Why complicate matters unnecessarily by using the word LE'OLAM? Answers RASHBAM: Because the Torah really thinks he should serve out the rest of his natural life, it is just too compassionate to oblige him to do so, so in a subsequent clarification of the laws of servitude (i.e., Vayikra) it makes the limited term

of service explicit. Is this explanation credible? Surely; after all, RASHI himself, in his commentary on the previous verse (explaining why his ear is to be pierced) cites the Talmudic explanation that voluntary servitude is a violation of the spirit — if not the letter — of the first of the Ten Commandments which acknowledges God primarily in His role of liberator from slavery. Someone who goes and “acquires his own master” is denying the mastery of God and ought to forfeit his personal freedom forever.

Part Seven: How Does this Affect Eyes and Teeth? A comparable explanation recommends itself for the resolution of another long-standing question: If one who blinds another only has to pay compensation, why does the Torah appear to suggest that he is, himself, to be blinded (AYIN TAHAT AYIN; Exodus 21:24)? Utilizing RASHBAM's rhetorical analysis we offer the following interpretation: The Torah regards the resort to violence as completely unacceptable. The image of two Jews locked in struggle with one another conjures up that of the two Hebrew slaves whose struggle precipitated Moshe's flight from Egypt. Free men must learn to solve their differences peacefully. To motivate the peaceful resolution of conflict the Torah stipulates the penalty which the attacker deserves: Exactly what he meted out to his fellow. Out of its great compassion, however, it allowed it to be mitigated in practice to the payment of compensation. Moshe Sokolow ...

YESHIVAT HAR ETZION ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM) PARASHAT MISHPATIM SICHA OF HARAV AHARON LICHTENSTEIN SHLIT"A "Truth, Justice and Peace Shall You Judge..." Summarized by Dov Karoll

The Midrash Rabba (on Shemot 30:3) explains the relationship between Mishpatim and the previous parshiot. It notes that the giving of the Torah (in Yitro) is surrounded by lists of dinim, civil laws. It is preceded by the command of dinim at Mara, "Sham sam lo chok u-mishpat" ("There He established for them there law and justice" - Shemot 15:25; see Rashi there), and succeeded by the lengthy code appearing in Mishpatim. This is due to the principle that the Torah is to be found "be-tokh netivot mishpat" (Mishlei 8:20), within the paths of justice. In the course of Mishpatim, this justice is given a highly structured form, with specific laws dictating the way justice is to be implemented. Rabbi Shmuel bar Nachmani states (Sandhedrin 7a) that a judge who rules in a strictly truthful manner causes hashra'at Shekhina, God's presence to be more closely felt. He bases this upon the verse (Tehillim 82:1): "Elokim nitzav ba-adat Kel, be-kerev elohim yishpot," "God is found in a community of Godliness, amongst judges He will judge." He adds that one who does not judge truthfully causes a decrease in hashra'at Shekhina, based upon the verse (Tehillim 12:6), "Mi-shod aniyim me-ankat evyonim ata akum yomar Hashem..." - "From the crime against the poor and the crying out of the paupers I will now leave, says God." Based on this gemara, it appears that a judge must be certain to adhere to the strict letter of the law, not leaving any room for compassion or compromise. It appears that this hard-line approach to justice is not universally accepted. The gemara (Sandhedrin 6b) records a dispute regarding the desirability of a judge performing peshara (compromise in monetary cases). Rabbi Eliezer ben Rabbi Yossi Ha-gelili says that it is forbidden to compromise, and whoever does so is a sinner. This opinion is in line with the view presented before, that any straying from the strict letter of the law has highly negative ramifications. Rabbi Yehoshua ben Korcha, however, disagrees. He says that it is a mitzva to perform peshara, based on the verse (Zekharia 8:15), "Emet u-mishpat shalom shiftu be-sha'areikhem" - "Truth, justice and peace shall you judge in your gates." Rabbi Yehoshua asks: how can all of these elements exist together? When there is justice there is no peace, and when there is peace there is no justice! He answers that the means to attain this balance is by reaching a fair compromise. According to Rabbi Yehoshua, the way for the ideals of justice and peace to coexist is by straying from the strict letter of the law. The existence of other factors, such as peace, will cause, and should cause, the court's decisions to be different from that which the law literally dictates. The apparent contradiction between justice and peace may be true inside the court, but regarding the setting up of society, the opposite is true. The more laws there are to govern activity, the more problems can be avoided. For example, when people are allowed to travel freely, without any traffic lights, there are going to be many more accidents. The existence of a framework of traffic laws limits the chaos on the road and allows for safe travel. Analogously, in the financial realm, the existence of laws governing trade can help prevent problems from arising in the first place. The Ramban (21:1) expounds a related idea. He states that Parashat Mishpatim comes to clarify the last of the ten commandments - "Lo tachmod," "Thou shalt not covet." If one does not know who rightfully owns a house or field, he will covet it and take it for himself. Therefore, Parashat Mishpatim, with its civil laws, explains who has rightful ownership over various items, avoiding that problem. Similarly, if one knows the halakhot which govern monetary matters, he will know whether or not his claim is a good one and worth pursuing. The more he is acquainted with the law, the more he will be able to maintain peace through the decision in court. However, compromise can lead to problems on both the personal and communal levels. On the personal level, one may feel that he deserves all of the money in question, and there is no reason for him to give up any part of it. He will claim that he simply demands that the strict truth be applied. He feels a need to stand up for his "principles" and personal rights. However, deep down, often such a person is really interested either in the money, or in having something to argue about. On top of that, lawyers who can make more money from a court case than from an out-of-court settlement encourage the person to pursue his claim, further compounding the problem, and making it harder to achieve peace. This route has to be weighed carefully, and should not be taken in every situation. Similarly, on a communal level, there are many issues on which the religious community takes a stand against the general community (the same could be said of other groups

or parties). Some of them are critical issues, upon which we should not bend, and should not compromise our ideals. However, there are certain issues which are not entirely central in and of themselves, on which the leaders decide to take a strong, stubborn stand against the rest of the community. The problem with this is that the element of unity is ignored. Our general attitude has to be one of unity and acting together as a complete Jewish community. While there are certain principles upon which we should not compromise, there are other issues where we should strive toward peace and unity, rather than stubbornly insisting upon strict application of our view. Our attitude should not be that if we "give in" on less important issues, we will be forced to do the same regarding central ones. Rather, we should try to work together with the general community, dissenting only on issues which are of significance. (Originally delivered Seuda Shelishit, Shabbat Parashat Mishpatim 5757.) Copyright (c) 1998 Yeshivat Har Etzion.