



How Do We Approach the Law?

Parshat Mishpatim begs the question of how we approach the law. To what extent do we follow rules unconditionally, and to what degree do we let our understanding of the law guide the way we act and behave? As (religious) Jews, to what extent do we accept Halachah as is, or consider that there is no practical application of the halachic directive without a thorough examination of the time and circumstances in which the commandment is operative?

Do we adhere to the laws (Mishpatim) because, essentially, that is what Hashem wants or demands of us? Do we keep the mitzvot because they represent the will of God, or we follow His laws because of the rewards He bestows upon us or from fear of punishment? When we follow Hashem's commands, do we feel that such actions bring us closer to Hashem and Hashem closer to us?

It appears, just by the nature of these questions and the kinds of responses we might receive, that the observance of Torah and adherence to Hashem's rulings

is a complex process. Indeed, our approach to the law requires us to work on both the cognitive and emotive levels, if not also on a level of consciousness that is "above nature," what Harav J. B. Soloveitchik labeled the *Ratzon Elyon*.

Consider now that if a person receives a present from a friend, wrapped up in a fancy box with a bright red ribbon, the individual's first impression of the gift might well be, "What's inside?" If someone offered me a box, telling me that its contents will change my life for the better, would I not want to check it out first before agreeing to accept it and run my life according to the enclosed guidebook? Did anyone ever take on a diet without checking out the food content first?

So, like our sages, we marvel at Bnei Yisrael. They responded to Moshe when he "took the Book of the Covenant and read [it] in earshot of the people, saying, 'everything that Hashem has said, we will *do* (נעשה) and (then) we will hearken (ונשמע).'" This proclamation appears in our Parsha after the receiving of the Torah at Sinai (Shemot 24:7). However, several commentators allude to the strong possibility that the people so affirmed their consent to follow in the ways of the Torah *before* that pivotal event.

One such instance is the well-known

citation of R. Sim'ai in the Gemara (Shabbat 88a). He stated that “when Yisrael uttered ‘Na’aseh’ before ‘Nishma,’ 600,000 ministering angels descended and placed crowns on their heads, one for ‘Na’aseh’ and one for ‘Nishma.’ Therefore, *even before they received the Torah*, they rushed ahead and declared נעשה ושמע.”

The laws should be placed before the people, like a table set with food

This ready compliance with a law not yet received was so unlike human behavior that R. Eleazar asserted that a *Bat Kol* (heavenly voice) rang out and inquired: “Who revealed the secret to My children that only the ministering angels employ... that first they do and then they listen?” (ibid).

In contradistinction to this approach, there is the famous statement of the sage, R. Abdimi (ibid 88a). He related that God held the mountain over the people’s heads and indicated that they would live if they accepted the Torah, but if not, Sinai would be their burial place. So... Were Bnei Yisrael *forced* to take the Torah?

The Ba’alei Hatosefot explain that although the people accepted the Torah unconditionally, there was still a need to enforce this agreement in case of a change of heart. Perhaps a better explanation was that while the people accepted the Written Torah, they needed urging to accede to the Oral tradition (Sefas Emes;

Midrash Tanchumah).

No wonder then that Rashi interprets the opening words of our Parsha that speak of the judgments “that you shall place before them [Bnei Yisrael]” to mean that Moshe should not teach the people by rote to memorize the laws. On the contrary, the laws should be placed before the people, like a table set with food. The Mechilta explains: The law should not be given in a raw form; the people should understand it to the point that they can “eat” from it and apply and implement it.

Notably, in Moshe’s soliloquy recounted in Sefer Devarim, he indicates that the people said: “You [Moshe] should speak to us whatever Hashem, our God, will speak to you – then we shall *hear* (ושמענו) and [then] we shall *do* (ונעשיו).” The previous terms for doing and listening are now reversed! This reversal seems to imply that the decision to accept the Torah unconditionally was initially made when the people were waxing high spiritually – a condition they could not sustain for long.

We are, indeed, human and blessed with the ability to use our intellectual facets. Indeed, we entreat Hashem every day to favor us with knowledge, understanding, and discernment. Be’ezerat Hashem, we should have both the underlying faith to accept Hashem’s will unreservedly *and* the wisdom to comprehend the meaning of the laws that He “laid on the table” for us. ■

Shabbat Shalom!

Menachem Pessell