It is written, “And these are the ordinances that you shall place before them” (Exodus 21:1). Rashi explains that everywhere we find the term “these,” it is used to separate from what has previously been stated, whereas the expression “and these” is used to add to what has previously been stated. Just as the mitzvot that the Torah mentioned earlier were given on Sinai, likewise the ones mentioned here were given on Sinai. This is surprising, for could anyone possibly think of not performing certain mitzvot, even if they were not given on Sinai? We also need to understand what Rabbi Nehemiah said on the verse, “The advantage of land is supreme” (Ecclesiastes 5:8), namely, “Every time that appears to you as additions to the actual revelation — for example, the laws of tztit, tefillin, and the mezuzah — are also included in the revelation, as may be inferred from the fact that it says, ‘The L-RD gave me the two stone tablets, written with the finger of G-d, and written on them were all the words’” (Deuteronomy 9:10). Rabbi Yehoshua ben Levi explained... that Scripture, Mishnah, Halachot, Talmud, Tosaphot, Aggadot, and even what a faithful disciple would say in the future before his master were all communicated to Moses on Sinai” (Vayikra Rabbah 22:1). It follows directly from the words of our Sages that every Halachic discussion that would ever be held by Torah scholars in future generations was given to Moses on Sinai. Therefore why did Rashi specifically inform us that these ordinances were also given on Sinai? It was already stated that every Halachic discussion that will ever be held in the future was given to Moses, and therefore how much more were these ordinances given on Sinai!

It would seem that Rashi wanted to teach us what man’s duty is in this world. Sometimes the evil inclination tries to seduce a person in order to distance him from Hashem’s mitzvot. It tells him that he only has to fulfill what was explicitly mentioned to Moses on Sinai, and with regards to what was not explicitly mentioned to Moses on Sinai, he does not have to take it into consideration at all. What must we still observe, despite not being explicitly mentioned on Sinai? These are the fences that the Sages in each generation have established in order to distance us from sin. Commenting on the teaching, “Make a fence for the Torah” (Pirkei Avoth 1:1), Rabbeinu Yona noted that it is written, “You shall safeguard My safeguards” (Leviticus 18:30), meaning to make a fence to protect the fences that Hashem established (Yebamot 21b). It is an excellent thing to make fences around the mitzvot, lest they be transgressed. Therefore a person who observes the fences established by the Sages around the mitzvot, and one who fears G-d, loves them even more than the mitzvot themselves. In fact observing a mitzvah does not prove that a person fears G-d. However one who observes the fences pays attention from the very start to not transgressing them. As for one who observes a mitzvah but not its fence, he thereby demonstrates that although he may accept the mitzvah, transgressing it matters little to him, for the fear of G-d will not stop him. The serpent will bite one who breaches these fences. The words of the Sages are solid principles that support the fear of G-d, which is the foundation of the world. With regards to them, all the mitzvot are but details. This is what Rashi was alluding to by saying that the expression “and these” is adding to what was previously stated. Just as the previous mitzvot were given on Sinai, these were also given on Sinai. This means that a person should not say, “I’ll perform the big mitzvot that were given by G-d, but I’ll disregard the fences that were added by the Sages,” for just as one must fulfill the mitzvot that were given in the Torah, likewise he must fulfill the decrees of the Sages that were also given to Moses on Sinai. If a person fulfills the mitzvot as they are, he will eventually do them out of habit. However if he adds to the Torah’s mitzvot things that are even stricter than what is written, then he will never fall into the trap of doing things out of habit, for he will have a new mitzvah before him every day. Whoever does not respect the decrees of the Sages, it is as if he has done nothing, and he will eventually transgress the very core of the Torah’s mitzvot.

Rashi continues his explanation by saying how a person can avoid doing mitzvot out of habit. The term “these” disqualifies what came before it, while the expression “and these” adds to what came before. Each day a person must rise to a higher level than the previous day, the service of which should appear to him as being obsolete. How can he render it obsolete? By adding to what came before. If we were to ask why a person must disqualify his prior service and add to it, we must respond: Because it is in this way that Hashem proceeds.

As the Arizal teaches in Sha’ar HaKanaot, the Holy One, blessed be He, restores man’s powers each morning, as it is written, “They are new every morning; great is Your faithfulness” (Lamentations 3:23). When a person adds to the restrictions of a mitzvah itself, he becomes grateful to G-d and cleaves to His ways. What is his reward? The Holy One, blessed be He, allows him to ascend to a new level each day, enabling a person to serve Hashem with greater understanding than on the day before, as it is written: “He who increases will have his life prolonged” (Taanith 31a). Conversely, one who serves Hashem out of habit will have no reward.

The passage on the ordinances is next to the passage that speaks of the altar, thereby telling us that just as the Torah has prohibited a sword, which is made of metal, from coming upon the stones of the altar, and just as the altar must be made of earth, so too, man who is like the altar, not want to boast over the crown of the Torah. He must instead conduct himself with humility, just as the earth is lowly. It is written in Otiyot D’Rabbi Akiva, “Whoever has a contrite heart each day, whoever has a humble spirit and speaks little, the Shechinah is with him each day. Scripture considers him to have built an altar in his heart and brought offerings upon it before Hashem, as it is written: ‘The sacrifices of G-d are a broken spirit, a broken and contrite heart’ (Psalms 51:19).”

It is forbidden for a person to study in order to derive honor from it, as it is written, “Do not make it a crown for self-aggrandizement, nor an axe with which to cut” (Pirkei Avoth 4:5). Pride is a destructive force, and whoever studies Torah and grows proud of it, brings destruction, as Rashi said: “The altar makes peace between Israel and their Father in Heaven. Hence the cutter and destroyer shall not come upon it” (Rashi on Exodus 20:22). Just as the previous laws came from Sinai, likewise these also came from Sinai. In other words they resemble Sinai, which humbled itself, for Mount Sinai merited the honor of the Torah only because it made itself small before Hashem (Megillah 29a).

If a person grows proud of the Torah and congratulates himself on it, his pride will never allow him to disqualify his service of the previous day. However when he studies Torah and performs mitzvot, as well as the decrees established by the Sages of each generation, and if he conducts himself with humility by adding fences to the mitzvot, this is a great proof of his fear of Heaven. His deeds demonstrate that he recognizes the entire Torah that was given at Sinai, including the commentaries, which are also part of the Torah.
Sold to Atone for What He Stole

One of the two ways in which a Jew can be sold as a slave is when he cannot repay what he has stolen. Theft is the only case in which the Torah takes away a person’s freedom because of a sin he committed, the goal of which is restitution, which he is responsible for making. The duty to make restitution is not a punishment per se, but an end to the sin. In fact there is no atonement for a person who damaged the possessions of others as long as he does not repay the value of these damages. When a person damages the possessions of others, his money is immediately devoted to returning the value of what he stole. If he does not have enough money, this obligation is imposed upon his body through the power of work, which is the source of man’s wealth.

Why does this law not apply to everyone who damages the possessions of others and cannot make restitution for these damages? The reason is that by his actions, a thief has scorned the concept of private property. This concept is the foundation of man’s stability in the world, and the fact of observing it expresses the character of a person as a man. It is why the Torah enslaves the entire body of the thief so he can make restitution (Rabbi Samson Raphael Hirsch).

This is why, parallel to the duty to sell the thief (meant to fund the repayment of his theft), the Torah eliminates every possibility for the thief to benefit from such a situation. The judgments of Hashem are righteous and true, filled with mercy. Once someone has dared to steal and he has been sold as a result, he is liable to become a worthless individual who will steal expressly to be sold as a slave. In this way he will be exempt from having to exhaust himself in earning a living, especially if he has a wife and children. He could then say to himself, “My buyer will support me, my wife, and my children, so what does it matter if I’m sold?” However since the Holy One, blessed be He, ordered that in the seventh year a thief must be freed and take his wife and children with him, this trick will not work. Furthermore, he will be lowered in the eyes of everyone, and for the rest of his life the stain of being known a thief and a prisoner will remain. If his intention is not to earn a living for himself and his family, he must realize that all he will have left is his shame.

– Akedat Yitzchak, Sha’ar 46; Me’am Loez

A Pearl From the Rav:

As Long as a Person is Alive, He is Not Free

It is written, “When you buy a Hebrew slave, he shall work for six years and in the seventh he shall go free, for nothing” (Exodus 21:2).

Although Rashi states that the term lachofshi means lecherut (both terms designating freedom), it is difficult to see what he is trying to teach us by this. We also need to understand why the Torah uses the expression “a Hebrew slave” rather than “a slave from Israel.” King David said, “Among the dead chofshi [who are free]” (Psalms 88:6), and our Sages explained: “Once a man is dead, he is free from religious duties” (Shabbat 151b). They have also said, “There is no ben chorin [free man] except one who occupies himself with the study of Torah” (Pirkei Avot 6:2). How is this possible? The answer is that chofshi is not the same as ben chorin. When a person dies, he becomes free (chofshi) of the obligation to perform mitzvot, while before his death he becomes free (ben chorin) of the evil inclination through the study of Torah.

When a person decides to steal, he knows that the Torah states, “You shall not steal” (Exodus 20:13), and that he will also be sold to another master, despite the Torah stating: “For the Children of Israel are My servants” (Leviticus 25:55). Nevertheless he decides to procure another master for himself by stealing, and Scripture considers him to be outside the community of Israel, having entered the community of sinners. In fact he knows his Master and has deliberately rebelled against Him, which is why the Torah calls him an Ivri (Hebrew), to be understood as an avaryan (“transgressor”).

When six years have passed and his punishment is complete, he will leave the authority of his master and want to return under the authority of Hashem. What can he do to leave his status as a transgressor? He can study Torah, which is why Rashi says that he gains his cherut (freedom). A person must not say, “Since I served my time and I am no longer under the authority of my master, I do not have to do anything for my sin to be forgiven.” To this the Torah states that he will leave lachofshi (i.e., lecherut), teaching us that he does not return under the authority of Hashem unless he studies Torah, for there is no free man (ben chorin) other than one who studies Torah. Furthermore, in order for us not to think that chofshi means “free of mitzvot,” Rashi wrote that it signifies lecherut, meaning that he must study Torah in order to return under the authority of Hashem and no longer be considered a transgressor.

Concentration in Prayer

It is written, “If he lives for a day or two, lo yukam [he shall not be avenged], for he is his property” (Exodus 21:21).

Rabbi Bunim of Peshischa said, “During the entire year, a person usually hurries through his prayers. It is only on one day of the year, Yom Kippur, or on two days, Rosh Hashanah, that he takes the time to recite his prayers properly. Yet even then, “he does not arise” (lo yukam) – he does not get up to recite his prayers perfectly, ‘for he is his property.’ Even in his prayers of those days, he asks for abundance in life and other such things, but fails to focus on praying to better himself.”

Allusions

It is written, “When a man shall give money or vessels to his fellow to keep, and it is stolen from the man’s house, if the thief is found he shall pay double. If the thief is not found, then the householder shall be brought to the judges” (Exodus 22:6-7).

“When a man” – when Hashem, Who is called a man (ish) (“The L-RD is a man [ish] of war”); “shall give money or vessels” – material possessions and a physical body; “to his fellow” – to a Jew; “to keep” – to conduct himself with holiness and purity in regards to them; “and it is stolen from the man’s house” – the person fails to conduct himself with sufficient holiness and purity in regards to his possessions or his body, given to him by Hashem; “if the thief is found” – if a person’s deeds are judged and it is determined that he has still not repented; “he will pay double” – he will be punished two times for his sins, as it is written: “Double for all her sins” (Isaiah 40:2). However “if the thief is not found” – if it turns out that a person has already regretted his misdeeds and completely repented; “the householder shall be brought to the judges” – the penitent will come closer than ever to Hashem, as it is written: “In the place where penitents stand, even the wholly righteous cannot stand” (Berachot 34b).

– The Chatam Sofer, citing Rabbi Nathan Adler

In the Shadow of Your Wings

It is written, “If a man shall borrow from his fellow.... If its owner is with him, he shall not make restitution” (Exodus 22:13-14).

The soul within the body is borrowed from Hashem, and it is only given to a person in order for him to do what is good and upright. According to the strict measure of justice, one who borrows something is responsible for it even in circumstances beyond his control. How can a person discharge himself of the sins that he committed by accident or in circumstances beyond his control? Solely if “its owner is with him”...
King David said, “One thing have I asked of the L-RD, which I shall seek: That I may dwell in the House of the L-RD all the days of my life” (Psalms 27:4). “One thing” – I borrowed my unique soul from Hashem, so how can I discharge myself of the sins I committed by accident or in circumstances beyond my control? It is by “which I shall seek: That I may dwell in the House of the L-RD all the days of my life” – I will always yearn to remain in His shadow. Hence the soul is on loan and is under the authority of its owner.

The Ear that Heard

*It is written, “His master shall bore his ear with an awl” (Exodus 21:6). Here Rashi states, “The ear that heard on Mount Sinai, ‘You shall not steal,’ and then went and stole – it shall be bored.”*

How can the ear actually be guilty if a person does not obey what it heard? The Chiddushei HaRim said, “It would seem that if we do not obey what we heard, it would have been better not to have heard…. For having heard without obeying, the ear is to be pierced.”

If the ear heard the Torah’s words, but a person still fails to take these words to heart, it must be that his ear absorbed a great deal of scorn and obscenities. Since “a single scornful remark pushes away a hundred reprorimands,” the earlobe is to be pierced, for it was specifically created to protect a person from scornful remarks and obscenities (by blocking the ear). Since the ear did not use its lobe to do this, it must be pierced.

– Rabbi Bunim of Peshischa

The Kidnapper is Guilty

*It is written, “One who kidnaps a man and sells him…. One who curses his father and mother shall surely be put to death” (Exodus 21:16-17).*

Generally speaking, it is impossible for a person to curse his mother and father, unless he was separated from his parents by being kidnapped when young and growing up in a strange place, unaware of who his real parents are. In that case he may come to curse them. Therefore a person who was kidnapped is in general the one who “curses his father and mother,” which is why the kidnapper is liable to death, for he caused a person to curse his father and mother.

– Rabbi Avraham Ibn Ezra, citing Rav Saadia Gaon

Overview of the Parsha

Parsha Mishpatim lays the foundations for the social life of G-d’s people, who have just received the Torah. The laws of Israel begin with the regulations governing slavery, which protect the liberty of a Jew’s life. It continues with the laws related to corporal punishment, which protect the liberty of a Jew’s body, the laws related to property, which protect a Jew’s possessions, and the laws related to honesty, which protect the general rights of individuals in society. Next come the laws concerning the community, which pertain to the collective conduct of people in regards to such things as Shabbat, the Sabbatical year, and work on the three festivals. Hashem then announces that a protecting angel will accompany the Children of Israel to their land, and He mentions the blessing of prosperity that comes from serving Him. The parsha ends by describing Moses’ ascension of Mount Sinai and the covenant that Hashem concludes with His people, who are sprinkled with the blood of the offerings.

REASONS FOR THE MITZVOT

Ingratitude

*It is written, “One who strikes his father or mother shall surely be put to death” (Exodus 21:15).*

Striking one’s parents is an outrageous act that points to ingratitude, the worst of all faults. Who could imagine that a person would assault his own father and mother, those who brought him into the world, raised him, and deprived themselves of food in order to feed and take care of him! Hence the punishment for striking one’s parents is very severe, for it punishes the disgraceful person who raised his hand against those who brought him into the world by the will of Hashem and did so many things for them. The King makes His justice reign on earth.

As a human being, every person feels gratitude to someone who does good for him. Also, simple courtesy implies that we do not throw rocks into a well from which we drank, meaning that we do not treat someone with contempt, nor do we harm him after he has helped us. (See Ri Migash, Shita Mekubetzet, Bava Kama 92.)

How much more should a person acknowledge the good done to him and help his benefactor in return! He must not act like an ungrateful scoundrel, for ingratitude is absolutely revolting to G-d and man. Let a person reflect upon the fact that his father and mother are the reason why he is in the world. Let him consider how he should respect and help them as much as he can, for they brought him into the world and put a tremendous effort into raising him from birth.

– Maharam Chaguiz and Sefer HaChinuch

The Daughter of Rabban Gamliel

Rabban Gamliel gave his daughter away in marriage. “Father,” she requested, “pray for me.” He said to her, “May you never return here.” When she gave birth to a son, she again begged him: “Father, give me your blessing.” He replied, “May ‘alas’ never leave your mouth.” She exclaimed, “Father, on both occasions of my rejoicing you have cursed me!” He replied, “Both were blessings. You will not return here because you will be living at peace in your home, and as long as your son lives, ‘alas’ will never leave your mouth: ‘Alas, my son has not eaten,’ ‘Alas, he has not drunk,’ ‘Alas, he has not gone to school.’ ”

– Bereshith Rabba 26:4

ESHET HAYIL

The Daughter of Rabban Gamliel
Rabbi Eliyahu Baruch Kamai

The gaon Rabbi Eliyahu Baruch Kamai Zatzal was among the leading Torah figures and Rashai Yeshivah of the previous generation. He was born to Rabbi Avraham, the grandson of Rabbi Avraham the brother of the Vilna Gaon. He lost his father at the age of two, and his mother remarried, becoming the wife of the gaon Rabbi Chaim Ze'ev Yaffe Zatzal, the Rav of Rassin and grandson of Rabbi Mardechai Yaffe (the author of Haluvushim). Rabbi Chaim Ze’ev raised the young Eliyahu Baruch like his own son. When he reached the age of ten, Rav Izvi died in the town of Shkod, and the town appointed his son Rabbi Chaim Ze'ev as the Av Beit Din. Thus the young Eliyahu Baruch joined his stepfather in Shkod. At the age of 17, Rabbi Eliyahu Baruch married the daughter of his stepfather and settled in Shkod, where he diligently studied Torah and became famous in all the neighboring towns. In the year 5628 his stepfather Rabbi Chaim Ze'ev died, and Rabbi Eliyahu Baruch succeeded him as the Av Be’it Din. His renown continued to increase, and in 5638 he traveled to Brisk, Lithuania in order to meet the gaon Rabbi Yosef Dov Halevi Zatzal, who publicly announced that he was one of the great figures of Israel.

At the time, the residents of Karelitz approached Rabbi Yosef Dov and asked him to suggest a great Rav for them. He said, “Rabbi Eliyahu Baruch is a great figure.” Thus he was appointed as the rav of Karelitz, where he stayed for seven years. From there he moved to the town of Wakshena and served as the Av Be’it Din for three years. He then moved to Tchernowitz and stayed there until the year 5659. He later became the Rav of Mir, where he stayed for two years. With him there was the gaon Rabbi Eliyahu David Rabinowitz-Teomim Zatzal (known as the Aderet), who served as the Av Be’it Din. In 5661 the Aderet moved to the Holy Land, and the residents of Mir appointed Rabbi Eliyahu Baruch as the Av Be’it Din and Rav, positions that he held until 5676. He died on Tammuz 12, 5677 in Minsk, where he had gone to recuperate, and where he was laid to rest.

IN THE LIGHT OF THE Haftorah

Releasing Slaves

It is written, “The word that came to Jeremiah” (Jeremiah 34:8).

A special covenant was concluded during the exodus from Egypt regarding the mitzvah of releasing a Hebrew slave. We need to understand why this mitzvah was given at that precise time. Since the mitzvah regarding a Hebrew slave only comes into effect during the Jubilee year, why was it given precisely before the giving of the Torah? It is also said in the Jerusalem Talmud that the mitzvah of releasing a Hebrew slave was given on the day we left Egypt, and we were punished on account of it more than on account of any other Torah mitzvah. What is so special about this mitzvah?

The Sages explain that it is very difficult for a person to release his slaves, for they represent his money and his labor. Although the soul of a slave yearns for freedom and the yoke of servitude weighs heavily upon him, his master is completely unaware of this.

Hence this mitzvah was given to the Children of Israel when they themselves were leaving “the house of bondage.” It was given to them precisely when they experienced the tremendous joy of freedom, when they left slavery for liberty and went from servitude to liberation, from deep darkness to a great light. It was a fitting time for them to understand the Divine commandment: “At the end of every seven years you shall grant a release” (Deuteronomy 15:1), as it is written: “You know the heart of a stranger, since you were strangers in the land of Egypt” (Exodus 23:9). As such they would fully appreciate the meaning of the mitzvah to release slaves, for that was when they themselves left slavery towards freedom. Yet after that great time of joy and sensation of liberty, their feelings became dull, until finally at the giving of the Torah this mitzvah was difficult for them to comprehend. It was only when they left Egypt, when they felt the powerful feeling of freedom beating within their hearts, that they became aware of the great mitzvah of releasing slaves and wholeheartedly accepted it. This acceptance never left them, even when their feelings of joy dulled to the point of completely disappearing.

~ Sichot Mussar

THE DEEDS OF THE GREAT

Why Did His Sons Die?

There was once a town called Kushita, and those who lived there never told lies. Hashem blessed them, and as a reward for their conduct nobody died before his time. Rabbi Tavyomi settled in Kushita after marrying a woman from there, and after a certain time she gave birth to two sons. One day his wife was at home washing her hair when a neighbor came by and knocked at the door. Thinking to himself that it would be improper to tell the neighbor that his wife was washing herself, and yet it was improper to tell the neighbor that now was not the time to visit, Rabbi Tavyomi said that his wife was not home.

Rabbi Tavyomi’s two sons died a short time later, and he realized that this calamity had come upon him as a punishment for having lied. The residents of Kushita did not know why this had happened, and therefore they came to him and said, “Nothing like this has happened in our town! Why did your two sons die in your youth?” When he explained the situation to them, they said: “We beg of you, leave this town and do not incite death against us.”

~ Adapted from Sanhedrin 97a

He Refused to Take a Bribe

Rabbi Yishmael had an orchard that he leased to a sharecropper. On Fridays the sharecropper would visit Rabbi Yishmael and bring him a basket of fruit from his orchard. One week he came earlier than usual, arriving with a basket of fruit on Thursday. Rabbi Yishmael was surprised by this, and he asked him why he had come earlier. The sharecropper replied, “I have a din Torah today in town, and so I decided to bring these fruits today instead of having to come into town tomorrow just to bring them.”

Rabbi Yishmael got up and said, “I cannot act as a judge in your case. You have been bringing me fruit, and there is already a doubt as to whether they may be acting as a bribe.” He therefore asked the other judges to take his place, and he even left the Beit Din’s chambers and stood outside. During the court session, the voices of the litigants reached the ears of Rabbi Yishmael as he was standing outside. Each time that he heard the arguments of his sharecropper, he tended to justify them in his mind, thinking: “Since he said this, he will win his case.”

Rabbi Yishmael later told his disciples what had happened, saying, “Woe to those who accept bribes! On that Thursday, I only received fruits from my sharecropper, fruits that even belonged to me. Imagine how much more incapable I would have been of rendering a proper judgment had I received a real bribe!”

~ Ma’asechem Shel Tzaddikim

A TRUE STORY

It is written, “Do not accept a false report” (Exodus 23:1).

Rabbi Zusha of Anipoli would wander from town to town, though nobody was aware of his greatness. One day towards evening, as he was sitting in a Beit Midrash located in one of the towns of his self-imposed exile, a woman entered and asked, “Has anyone seen my husband?” It turned out that her husband had left her and journeyed to parts unknown, leaving her an agunah. Now that she wanted to free herself, she had decided to look for him in the towns and villages of the land. Everywhere she went, she gave people a description of her husband and asked if they had seen him.

When Rabbi Zusha heard the woman’s question, he arose and said to her: “Go to the guests’ synagogue. There you will find your husband.” The women rushed to the synagogue, where she in fact found her missing husband!

This greatly surprised all the Jews in town, for how did Rabbi Zusha know that the woman’s husband was hiding there, since he never even ventured into that synagogue?

“It’s surely a miracle!” the townspeople said. “No, there is nothing miraculous about this,” Rabbi Zusha quickly explained. “This morning I heard two people chatting, and one of them said that someone new had come to the guests’ synagogue. I was surprised that I heard this, and I asked myself why this rumor had reached me. Why had my ears captured something that I had absolutely no reason to hear? I was still thinking about it when this woman entered the Beit Midrash and asked if anyone had seen her husband. I then realized that her husband was certainly the new guest whom the two people had been talking about.” At that point everyone realized that it had not been a “miracle” at all, but rather a sign of Rabbi Zusha’s tremendous righteousness, a man who was standing right before them. Since he had always been extremely careful not to “accept a false report,” and since he had always distanced himself from frivolous conversations and was careful not to hear useless remarks, Heaven only let him hear things that were of practical use.

~ Ma’asechem Shel Tzaddikim