

A Taste of Text: Source based learning for Shabbat

*This weekly sheet is brought to you by **Rabbi Dr. Moshe Freedman** of the **New West End United Synagogue** in conjunction with **Shapell's/Darché Noam***

PARSHAT MISHPATIM

DVAR TORAH: EYE AND TOOTH

The Torah says that if a master knocks out the tooth or eye of his Canaanite servant, the servant goes free: “If a man will strike the eye of his servant or the eye of his maidservant and destroys it; he shall send him free because of his eye. And if he will cause the tooth of his servant or the tooth of his maidservant to fall out; he shall send him free because of his tooth” (Shemot 21:26-27).

The Oral Torah teaches us that if a master strikes a servant and permanently harms him in any one of the twenty-four major limbs, the master must also free his servant or maidservant. If this is the halachah, why does the Torah specifically mention the eye and tooth?

The Midrash (Bereishit Rabbah 36:5) answers: It was the eye and tooth that caused slavery to come into being. We first meet slavery in the Torah when Noach cursed his grandson Canaan: “Cursed is Canaan; he will be a slave of slaves to his brothers. Blessed be Hashem the G-d of Shem; and Canaan will be a slave to him. G d will beautify Yefet and he will dwell in the tents of Shem; and Canaan will be a slave to him” (Bereishit 9:25-27). Two acts brought about that curse. “Cham saw the nakedness of his father” after Noach drank of the wine of his vineyard, became drunk, and was exposed in his tent. But instead of covering him up, “He told his brothers who were outside” (Bereishit 9:22 – and see Rashi’s comments on that verse).

Cham’s eye – “Cham saw” – and mouth – “He told his brothers” – caused his slavery; and their removal by the master brings about their freedom. As the author of the Yefeh To’ar commentary (the Rav of what was then called Constantinople, Harav Shmuel Yafeh Ashkenazi, 1525-1595 זצ"ל) explains: Slavery was the punishment given to Cham’s son Canaan because of misusing his eyes and mouth; so their removal gives him his necessary atonement and he can go free.

The Midrash still leaves us with questions: Why are the teeth singled out for the sin of the mouth? And why was slavery the chosen curse for Cham’s improper seeing and speaking?

Here is one possible direction: Among the limbs of the human body, the eyes and the mouth share the ability to be closed and opened. Lips can close the mouth and eyelids can close the eyes. The impressions that can reach the unguarded eye can be kept out by closing it; and the expressions that can come out of the unguarded mouth can be prevented by closing it. An open mouth exposes the teeth within.

The slave is not in control of himself; he is owned and dominated by his master. Cham’s lack of control over himself, especially those two crucial limbs, the mouth and the eye, that have built-in controls, the lips and eyelids, resulted in slavery.

Perhaps the law of שן ועין – the Canaanite slave going free when his eye or tooth are knocked out – has a universal message: Control over our impressions and expressions, what we expose ourselves to and what we communicate to others, makes us free. That freedom is only possible for עבדי ה' – servants of Hashem.

SOURCE GUIDE: DO NOT TAKE A BRIBE, A BRIBE DO NOT TAKE

The prohibition against taking bribes appears both in Parshat Mishpatim and in Parshat Shoftim – but the two verses are formulated differently. For instance, in Mishpatim the Torah says, “A bribe do not take,” whereas in Shoftim it says, “Do not take a bribe.” This source guide presents explanations of some of the differences between the two verses, and the insights into bribery that emerge.

A. Bribery: Mishpatim and Shoftim

Here is the verse about bribery in Parshat Mishpatim, along with the previous two verses leading up to it:

<p>1. Shemot 23:6-8 (6) Do not pervert the judgement of your poor in his lawsuit. (7) Distance yourself from falsehood and do not kill one who is innocent and righteous; for I will not deem an evil one righteous. (8) A bribe do not take; for a bribe blinds the eye of intelligent people and pervert words that are right.</p>	<p>שמות כג:ו-ח (ו) לא תטֹה משפֹט אֶבְיֹנָךְ בְּרִיבֹו. (ז) מִדְּבַר שֶׁקֶר תִּרְחֹק וְנָקִי וְצַדִּיק אַל תִּהְיֶה כִּי לֹא אֶצְדִּיק רָשָׁע. (ח) וְשֹׁחַד לֹא תִקַּח כִּי הַשֹּׁחַד יְעוֹר פְּקָחִים וְיִסְלַף דְּבָרֵי צַדִּיקִים.</p>
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Here is the very similar verse, in Parshat Shoftim, with two accompanying verses:

<p>2. Devarim 16:18-20 (18) Judges and enforcers you should appoint for yourselves in all of the gates that Hashem your G-d gives you for your tribes, and they should judge the nation a just judgement. (19) Do not incline justice; do not show favoritism; and do not take a bribe. For a bribe blinds the eyes of the wise and pervert words that are right. (20) Righteousness, righteousness you should pursue; in order that you should live and inherit the Land which Hashem your G-d gives to you.</p>	<p>דברים טז:יח-כ (יח) שֹׁפְטִים וְשֹׁטְרִים תִּתֵּן לָךְ בְּכֹל שַׁעֲרֶיךָ אֲשֶׁר ה' אֱלֹהֶיךָ נָתַן לָךְ לְשִׁבְטֶיךָ וְשִׁפְטוּ אֶת הָעָם מִשִּׁפְט צְדָק. (יט) לֹא תֹטֶה מִשִּׁפְט לֹא תִכִּיר פָּנִים וְלֹא תִקַּח שֹׁחַד כִּי הַשֹּׁחַד יְעוֹר עֵינֵי חֲכָמִים וְיִסְלַף דְּבָרֵי צַדִּיקִים. (כ) צְדָק צְדָק תִּרְדֹּף לְמַעַן תִּחְיֶה וְיִרְשַׁתְּ אֶת הָאָרֶץ אֲשֶׁר ה' אֱלֹהֶיךָ נָתַן לָךְ.</p>
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Why is the prohibition against bribery repeated and why is it formulated differently in the two Parshiot? Here are several approaches to explaining some of the differences.

B. “Do Not Take a Bribe,” “A Bribe Do Not Take”

Why is the order of the words of the prohibition in Mishpatim “וְשֹׁחַד לֹא תִקַּח,” and in Shoftim “וְלֹא תִקַּח שֹׁחַד”? In his essays on Parshat Shavua, Mei Zahav, Harav Yitzchak Goldwasser, שליט”א, builds on the Chazon Ish’s essay on bribery and ulterior motives. Harav Avraham Yishayahu Karelitz, זצ”ל (1878-1953, known as the Chazon Ish after the title of his classic work on Gemara, the Shulchan Aruch, and the Rambam), explains how true talmidei chachamim, true wise men, are extremely unswayed by ulterior motives and prejudice. Falsehood is despicable in their eyes and pains them. In that light, he contrasts between two types of bribery:

<p>3. Emunah Uvitachon 3:30 Indeed, bribery is a special matter. Taking a bribe is one of the totally shameful acts that the Torah abhorred. As a result, one of the secrets of the powers of the soul is that it blinds the eyes of the wise and perverts justice. Since the Holy One, blessed be He, looked into the Torah and created His world, the Torah demands that bribery has the power to blind and pervert, and it commanded to run away from it. Besides the power of ulterior motives and predisposition, which is part of human nature; the impure power of bribery has been added to dull the heart, cause</p>	<p>אמונה ובטחון ג:ל ואמנם השוחד ענין מיוחד, והוא כי מקח שוחד הוא מן הגנויות במוחלט, שהתורה תיעבתו, ובעקבו בסוד כחות הנפשיות לעור עיני חכמים ולסלף משפט, ובהיות שאמרו שהסתכל הקב”ה בתורה וברא עולמו, חייבה התורה כח בשוחד לעור ולסלף, ולהזהיר לברוח ממנה, והנה נוסף על כח נגיעה שהוא ממנהג העולם כפי טבעת בני אדם, הוזמן כח טומאה בשוחד לטמטם הלב ולרדם את הבינה, להנעים בכפי הדיין לזכות את משחדו, ואחרי שהתורה פסלתו לדיין זה לדון בין משחדו לרעהו, הוסר</p>
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<p>understanding to sleep, and to make the case of the one who bribed him pleasant in the mouth of the judge. Since the Torah invalidates this judge to judge the case of the one who gave the bribe and the litigant against him, his shelter of wisdom – that was always promised to him to avoid stumbling in sin and guilt - has also been removed if he transgressed what the Torah warned against, when he judged a case against the Torah's command. Behold – the command against bribery is not included in the "mishpatim" (understandable laws), but the "chukim" (laws beyond our comprehension); for the Torah did not prohibit a person from ruling regarding halachot for himself. A person (a talmid chacham who knows the halachot) can evaluate for himself whether an animal is a "treifah" (halachically prohibited because of certain internal flaws) even if he is poor and all of his life is dependent on it.</p>	<p>ממנו גם מחסה החכמה – אשר הובטח בה תמיד לבלי להכשל בחטא ואשמה – אם יעבור על מה שהזהירה התורה וישב על כסא המשפט בניגוד למצות התורה. והנה אין הזהרת השוחד מכלל המשפטים אלא מכלל החקים, שהרי לא אסרה תורה הוראה לעצמו ואדם רואה טריפה לעצמו, אף אם הוא דל וכל חייו תלויים בו.</p>
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According to the Chazon Ish there are two aspects to bribery. **One** is the natural predisposition to one who gave you a gift. It is part of human nature to be connected to him and view him favorably. But there is a **second** aspect of bribery. Because the Torah forbids bribery, a bribe introduces an almost mystical spirit of impurity that removes wisdom even from those above petty concerns; it takes away objectivity even from the truly wise. This is a limited power that derives exclusively from the prohibition to receive a bribe.

Whereas in Mishpatim the Torah speaks of the first aspect of bribery, the natural inclination of a person to be predisposed to one who gave him a gift; in Shoftim the Torah speaks of the mystical power of a bribe to affect even a Torah scholar who normally excels in his objectivity. This explains two differences between the Torah's formulations. In Mishpatim it says, "A bribe do not take" and "blind the eyes of the **intelligent.**" The gift causes a normal person to be swayed towards the side of one of the two litigants. But in Shoftim it says, "Do not take a bribe" and refers to **חכמים**, the truly wise and not merely the **פקחים**, those who are only intelligent. For the truly wise it is only transgressing the Torah's prohibition – "Do not take" – that causes the mystical power of the bribe to affect the judge.

C. 2 Other Directions: Capital Punishment vs. Monetary Cases; Falsehood vs. Corruption

In his **Meshech Chochmah**, Harav Meir Simchah of Dvinsk, זצ"ל (1843–1926), suggests, based on context, that the verse about bribery in Parshat Mishpatim involves a bribe in a case of capital punishment; whereas in Shoftim it speaks of monetary cases. The verses in Mishpatim flow as follows: Do not put an innocent person or a righteous one to death. And once the accused was ruled "not guilty," do not reverse the ruling even if afterwards one of the judges comes up with a reason he should be guilty. But do not worry about a guilty person not getting his just punishment, "For I will not exonerate an evil person." If he was let free, that is G-d's Will, as revealed in His court. However, this is all providing that the ruling was not the result of a bribe. If the judge was bribed, the case must be retried and the court re-evaluates whether he is guilty or not.

Another possibility: There are two aspects to bribery, falsehood and corruption. Bribery causes the wise to forget their wisdom and simply rule incorrectly; it causes falsehood. But bribery is even prohibited when ruling correctly (see Ketubot 105a) and even prohibited after the ruling (see the Rema's second to last comment on Shulchan Aruch Choshen Mishpat 34:18). This is because bribery has a second aspect – it is corrupt and unrighteous. It introduces personal interest into the courts. The context of the passage about bribery in Mishpatim is "Distance yourself from falsehood," whereas the context in Shoftim is "Righteousness, righteousness you should pursue." Mishpatim focuses on bribery's falsehood and Shoftim on its corruption.

EXCLUSIVITY BY RABBI AVRAHAM FISCHER

Harav Shimshon Raphael Hirsch, זצ"ל (1808-1888), defines the term משפטים as: “the legal laws by which the building up of a Jewish society on the basis of justice and humaneness is first of all ordered.” This would seem to restrict משפטים to laws “between man-and-man.” Yet, some of the commandments in this Parshah govern our relations with Hashem. Here is but one example: “זָבַח לְאֱלֹהִים יִהְרָם בְּלִתִּי לֵה' לְבַדּוֹ – He who sacrifices to the gods shall be destroyed, except to Hashem alone” (Shemot 22:19). Why is this command included among the משפטים? We can answer by better understanding the meaning of two words in this verse, זָבַח (sacrifice) and לְבַדּוֹ (alone). זָבַח – Why, of all types of worship, is sacrifice singled out for mention in this verse?

Rashi (based on Mechilta and Sanhedrin 60b) explains: Just as slaughtering is a type of worship performed inside [the Beit Hamikdash] to Heaven [i.e., for Hashem], I also include one who burns [incense or parts of an animal] or performs libations, which are types of worship performed inside [the Temple]. [People] are liable for performing them for idolatry whether or not it is customary to worship that particular deity in that manner. However, [for] other types of worship – for example, if one sweeps, sprinkles water on the sand floor before it [the idol], embraces it or kisses it – he is not liable to death, but he is warned against it [he is liable to receive lashes for his transgression].

Recognizing a power other than Hashem as deserving of worship is a sin, and must be punished. But utilizing an action reserved to serve Hashem in order to worship some other power shows contempt for Hashem, and must be punished even more severely. לְבַדּוֹ – Only Hashem is to be worshipped, as our verse says, “בְּלִתִּי לֵה' לְבַדּוֹ” – simply translated as “except to Hashem alone.” But, when viewed this way, the word לְבַדּוֹ appears redundant. The word בְּלִתִּי already conveys that meaning, and the Torah could have communicated that message by saying, “זָבַח לְאֱלֹהִים יִהְרָם בְּלִתִּי לֵה'.”

Chizkuni (Harav Chizkiyah ben Manoach, 13th Century) explains: “This teaches that if one sacrifices to the Holy One, Blessed be He and to other gods along with Him, as the Cutheans did – of whom it is written, ‘They feared G d, yet they worshipped their own gods’ (II Melachim 17:33) – then, since he serves [Hashem] ‘in partnership,’ יִהְרָם – he shall be destroyed. This is why it is said לְבַדּוֹ. לְבַדּוֹ means “exclusively, purely.”

The form of worship adopted by the Cutheans is called by our Sages שיתוף – partnership. In the Mechilta on our verse, R. Shimon bar-Yochai says that שיתוף is idolatry, even though the worshipper has not entirely rejected Hashem; Chizkuni seems to have adopted this view. To place other value systems in complete parity with loyalty to Hashem is tantamount to removing Hashem from His place as the sole Arbiter of right and wrong. As a result, there is no one standard for morality, and it is for this reason that this verse is included among the משפטים. Plurality of gods leads to plurality of ethics, which is the same as no ethics at all.

שבת שלום ומבורך

*This publication is compiled by the staff and Rabbonim at **Shapells/Yeshivat Darché Noam** for men and **Midreshet Rachel v'Chaya Seminary** for women in Jerusalem. Find out more about the **married couples' programme** and the **Pathways Israel** and **Pathways Plus** programmes offered at www.darchenoam.org +972-2-651-1178, 5 Beit Hakerem Street, Jerusalem.*

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