

פרשת משפטים

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”ואלה המשפטים אשר תשים לפניהם”

Right after מתן תורה we have a parsha that deals with משפטים, which are the חיובים משל: בין אדם להבירו. The מדרש explains why they follow מתן תורה with the following משל: There was a queen that went on a parade before her subjects, with soldiers walking in front of her in the procession as well as following behind her. Similarly, משפטים came before מתן תורה and משפטים came after מתן תורה. Where did משפטים come beforehand? When בני ישראל were in מרה, as the פסוק says “שם שם לו חק ומשפט ושם” And our parsha has the משפטים that follow מתן תורה.

What is the idea of having משפטים precede and follow מתן תורה? And what is the meaning of the משל with the Queen’s soldiers marching before her and after she leaves? I believe the idea is as follows: As we said before, משפטים represent בין אדם להבירו. And they were given before מתן תורה, because without משפטים one cannot be a receptacle to receive the Torah. Without good middos, one is not ready to listen to Dvar Hashem. Good middos mean that one is not selfish, and משפטים are a way of enhancing that one shouldn’t be selfish. One doesn’t have rights over someone else to steal from them, cheat them, or shrug monetary responsibility of their property, etc. The laws of damages, murder, and others are all דנים that a person cannot be selfish. One has to worry about the rights, the property, and the wellbeing of others. This is why משפטים preceded מתן תורה- so that Klal Yisroel could be a receptacle to receive the Torah. They first needed to be taught how not to be selfish.

We find the same idea before מתן תורה: the pasuk says “ויהן ישראל נגד ההר” in the singular, and Chazal explain that בני ישראל camped by Har Sinai אחד בלב אחד, with one heart- no selfishness, no one feeling more important than their friend. This was a prerequisite for receiving the Torah. And the Vilna Gaon says that in the list of דברים שהתורה נקנית בהם (at the end of Pirkei Avos), about one third of them deal with the midah of ענוה, humility, because if one doesn’t have this midah but instead lords over or thinks himself more important than others- he cannot possibly be a receptacle for acquisition of Torah.

This is why משפטים precede מתן תורה in the parade procession: They set the tone in which the Torah is to be received. The onlookers see the soldiers coming and prepare themselves emotionally for the true glory and the value of the Queen. Similarly, the משפטים make it possible for us to recognize the value of the Torah and

teaches us how to serve Hashem. If we serve ourselves, then we wouldn't want to listen to the mitzvos with which we must serve Hashem.

But what is the value of the soldiers who follow after the Queen has already passed? They show that even if the Queen is not here, her wishes will still be carried out. The soldiers deter rebelling against her because even though she may not be present, her power is present after she leaves. So too by the משפטים following מתן תורה: Just as מתן תורה makes man recognize that there is a Borei Olam as we say in Aleinu- לשון כל תשבע כל ברך תכרע כל כי לך תכרע כל ברך תשבע כל לשון- the משפטים follow it to show that His power and wishes are still present afterwards. They are an expression of Hashem's will in the world and demonstrate for all of mankind what type of society we should build to serve Hashem. They show how to make sure there is justice and that we treat each other correctly. And a society which lives in this way expresses Hashem's will into the world.

There is a fundamental difference between the משפטים of the Torah and משפטים of the גוים. The פסוק says "ומשפטים בל ידעום" - that Hashem never let the גוים know Torah משפטים. They certainly have courts and justice, but their משפטים are meant just to regulate society and make sure man doesn't harm man. The משפטים that Hashem gave Klal Yisroel express His will into this world- that He is a ישר and רחום והנון and cares about people. We must reflect these middos into the world through our בין אדם להבירו. By following His משפטים, we carry out Hashem's will even though He is not visible to us.

There is an element in each of our משפטים that is not totally rational, not logical in a sense. For example, the דנים of שומר בבעלים פטור, טמון באש פטור, and קם ליה בדרבה מיניה. All of these things don't exemplify justice, rather these mitzvos are there to teach that משפטים are not simply to regulate society but to show us how to carry out Hashem's will in the world with proper בין אדם להבירו. This also explains why the parsha ends with שלש רגלים/עליה לרגל: To teach us that our תכלית is to be דבוק להקדוש which is what we accomplish by fulfilling and living by the rest of the משפטים. We show His will and strength in the world by carrying out His wishes. The רמב"ם says one who goes to ערכאות של עכו"ם denies the will of Hashem in this world because he is choosing their justice system which centers around man instead of following the justice system which revolves around Hashem being the center of the universe. We must be careful with our משפטים because they represent שם שמים in the world and may we all be זוכה to fulfill both the משפטים before מתן תורה as well as the משפטים that come after.