

כא א וְאֵלֶּה הַמִּשְׁפָּטִים אֲשֶׁר תָּשִׂים בְּלִפְנֵיהֶם: כִּי תִקְנֶה עֶבֶד עִבְרִי

21 ¹ And these are the judgments that you shall place before them:

² When you will buy a Hebrew servant,

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א וְאֵלֶּין דִּינָא דִּי תִסְדֵּר קְדָמֵיהוֹן: ב אַרִי תִנְבֵּן עֲבָדָא בֵּר יִשְׂרָאֵל

רש"י

(א) ואלה המשפטים. כל מקום שנאמר אלה, פסל את הראשונים, ואלה, מוסיף על הראשונים (תנחומא ג; ש"ר לג) מה הראשונים מסיני אף אלו מסיני (מכילתא). ולמה נסמכה פרשת דינין לפרשת מוצת, לומר לך שתישם סנהדרין אל המקדש [ס"א המוצת] (סס): אשר תשים לפניהם. אמר לו הקב"ה למשה, לא תעלה על דעתך לומר אשנה להם הפרק וההלכה ב' או ג' פעמים עד שתהא סדורה בפניהם כמשנתה, ואיני מטריח עליהם להזכיר טעמי הדבר ופירושו, לכך נאמר אשר תשים לפניהם, כשלתן הערוך ומוכן לאכול לפני האדם (מכילתא; עירובין נד:). לפנייהם. ולא לפני גויים (גיטין פח:). ואפי' ידעת דין אחד שהם דנין אותו כדיני ישראל אל תביאנו בערכאות שלהם, שהמביא דיני ישראל לפני גויים

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21.

1. AND THESE ARE THE JUDGMENTS. "וְאֵלֶּה" - Wherever it says "these" in the Torah, it rejected that which has been stated previously. "וְאֵלֶּה" - Wherever it says "and these," as it does here, it adds on to that which has been stated previously.¹ Thus, "and these" of this verse implies, just as those which have been stated previously, the Ten Commandments, are from Sinai, אף אלו מסיני² - just as those which have been stated previously, the Ten Commandments, are from Sinai.² וְלָמָּה נִסְמְכָה פֶּרֶשֶׁת - And why was *Mishpatim*, the section that deals with judicial cases, juxtaposed with the preceding passage that deals with the Altar? - To tell you that you should place the *Sanhedrin* adjacent to the *Beis HaMikdash*.³ אָמַר לוֹ הַקְדוּשׁ בְּרוּךְ הוּא לְמֹשֶׁה - THAT YOU SHALL PLACE BEFORE THEM. אֲשֶׁר תָּשִׂים לִפְנֵיהֶם - The Holy One, Blessed is He, said to Moses, "It should not occur to you to say, 'I shall teach them the chapter and the law two or three times' - until it is set in order in their mouths according to its format, i.e., until they have memorized it, but I shall not trouble myself to make them understand the reasons of the matter and its explanation."⁴ לָכֵן נֶאֱמַר, "אֲשֶׁר תָּשִׂים לִפְנֵיהֶם" - Therefore it says, "that you shall place before them,"⁵ - like a table that is set and prepared to be eaten from is placed before a person.⁶ וְנֶאֱפִילוּ יִדְעֵת בְּדִין אֲחֵר - Even if you know about a certain matter of law - but not before non-Jews.⁷ לִפְנֵיהֶם - BEFORE THEM - that [non-Jews] judge it according to the same legal principle as the law of Israel, do not bring it to their courts, - for one who brings legal matters of Israel before

1. *Shemos Rabbah* 30:3; *Tanchuma* 3.

2. *Mechilta*.

3. *Mechilta*. Some editions (including the first printed edition) of Rashi read המקדש; others read המנובך. Since Rashi's question involved the juxtaposition of the passages regarding the Altar and judicial cases, it is logical that his answer should speak of the Altar. Indeed, according to *Tzeidah LaDerech*, the word המקדש is a copyist's error; המנובך is the correct version. However, *Be'er Mayim Chaim* states that Rashi could not have written המקדש, for that would have pinpointed the location of the *Sanhedrin* in an area of the Courtyard where non-Kohanim are not permitted entry. By writing המקדש, Rashi means "in the Temple environs," an area that includes the entire Courtyard, even those areas that non-Kohanim are permitted to enter.

4. "Chapter" refers to the text of the Written Torah and "law" refers to the additional points in the Oral Torah. See Rashi to *Eruvin* 54b.

5. The verse could have said, "that you shall teach them" (Rashi to *Eruvin* 54b).

6. *Mechilta*; *Eruvin* 54b. The law should not be given to them in "raw" form. It should be understood by them to the point that they can "eat" from it, that it can be applied and used.

7. *Gittin* 88b. The verse could have used the more succinct להם, "to them," a form that appears elsewhere in the Torah with reference to giving laws (15:25). The use of the lengthier לפנייהם, "before them," implies appearance before a court, "them" being the judges (see *Ramban*).

רש"י

מחלל את השם ומייקר שם ע"ז להחשיבה [ס"א להשכיבה],
שנאמר כי לא כלורנו נורם ואויבינו פלילים (דברים לז:א)
כשאווינו פלילים זה עדות לעלוי יראתם (תנחומא ס):
(ב) כי תקנה עבד עברי. עבד שהוא עברי. או אינו
אלא עבדו של עברי, עבד כנעני שלקחתו מישראל, ועליו הוא
אומר שש שנים יעבד, ומה אני מקיים והתחלתם אותם

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and accords — ומויקר שם עבודה זרה, desecrates the Name of God, — מחלל את השם non-Jews
שנאמר „בי לא כצורנו — by attributing importance¹ to it; — להחשיבה
as it says, “For their rock (their god) is not like our rock (our God), and yet
our enemies judge us.”² — בשאווינו פלילים — When we willingly let our enemies judge us
זהו עדות — it is seemingly testimony to the superiority of their deity.³

א — עבד שהוא עברי — WHEN YOU WILL BUY A HEBREW SERVANT. This means
a servant who is Hebrew. Or perhaps this is incorrect, and the verse
means only a slave belonging to a Hebrew,⁴ — עבד בנעני שלקחתו מישראל
— and, about him, the Canaanite slave, it says, שש שנים — “Six years he shall work.”⁵ — יעבד
— If so, to what do I apply the verse, “And you shall bequeath them”?⁶ — בלקוח מן הגוי — Perhaps I may apply it to one who was
bought from a non-Jew, — אבל בלקוח מישראל יצא ביש — but [a Canaanite slave] who was bought
from an Israelite should go free at the end of six years.⁶ — תלמוד לומר — To teach us otherwise, the
Torah says, “When your brother, the Hebrew man {or the Hebrew woman}, will be sold to you, {he shall serve you for six years,} and on
the seventh year you shall set him free.”⁷ Conclude from this verse that — לא אמרתי אלא באחי — I did
not say that a slave is freed at the end of six years except with regard to a slave who is your brother,
i.e., an Israelite who is your servant.⁸

who — שםכרוהו בגנבתו — from the hand of the court — מיד בית דין — WHEN YOU WILL BUY
— כמו שנאמר „אם אין לו ונמכר בגנבתו”⁹ — אם אין לו ונמכר בגנבתו — as it says, “If he does not have money to pay for that which he had stolen, he will be sold for his
theft.”⁹ — Or perhaps this is incorrect, and the verse speaks only
with regard to one who sells himself because of his abject poverty, — אבל מכרוהו בית דין לא יצא ביש — but if the court sold him, he should not go free at the end of six years. This argument can be

1. The text here follows the first printed edition and is the version preferred by *Sefer Zikaron*. Some editions read להשכיבה, “to praise it”; some editions pluralize one or the other of the two variant forms, either להשכיבם or להשכיבם.

2. *Deuteronomy* 32:31. Their god is not like our God, so how can our enemies judge us as if their ethics are superior to ours? (*Sefer Zikaron*).

3. *Tanchuma* 3.

4. The question arises because the noun עבד is vowelized the same in both construct and non-construct forms. For example: עבד אברהם (*Genesis* 24:34) is in the construct form and means “the servant of Abraham,” but עבד משכיל (*Proverbs* 17:2) is not in the construct form and means “a servant who is wise.” If the phrase עבד עברי is in the non-construct form, עברי is an adjective that means “Jewish,” and the phrase means “a servant who is Jewish”; but if the phrase עבד עברי is in the construct form, then עברי is a noun that means “a Jew,” and the phrase means “the servant of a Jew” (see *Sefer Zikaron*).

5. *Leviticus* 25:46. That verse speaks of Canaanite slaves who remain the possession of the family that owns them, to be handed down from generation to generation. Yet if our verse tells us that a Canaanite slave goes free at the end of six years, where would we find instances of Canaanite slaves who are bequeathed from generation to generation? To answer this question, Rashi will distinguish between two kinds of Canaanite slaves.

6. It could be argued that the verse regarding a Canaanite slave being bequeathed to one's heirs applies to a slave who was purchased from a non-Jew, while the verse regarding a Canaanite slave going free at the end of six years applies to a slave who was purchased from an Israelite.

7. *Deuteronomy* 15:12.

8. *Mechilta*. See *Be'er Mayim Chaim* for an explanation of why the term עברי, “Hebrew,” is used in this verse, rather than the more common term ישקאל, “Israelite.”

9. Below 22:2.

he shall work for six years; and in the seventh he shall go to freedom, without charge.
³ If he shall come alone, he shall go out alone; if he is the husband of a woman, his wife shall go out with him. ⁴ If his master

שש שנים יעבד ובשבעת יצא
 לחרפשי חנם: אם בגפו יבא
 בגפו יצא אם בעל אשה הוא
 ויציאה אשתו עמו: אם אדניו

אונקלוס

שת שנים יפלו ובשביעית יפוק לבר חורין מן: גאם בלחודוהי ייעול
 בלחודוהי יפוק אם בעל אשתו הוא ותפוק אשתו עמו: דאם רבונה

רש"י

כשהוא אומר וכי ימוך אחיך עמך וגמכר לך (ויקרא כה:לט) הרי מוכר עלמו מפני דחקו אמור, ומה אני מקיים כי תקנה, זנמכר בבית דין (מכילתא): לחפשי, לחירות: (ג) אם בגפו יבא. שלא היה נשוי אשה, כתרוממו, אם בלחודוהי. ולשון בגפו, בכנפו, שלא בא אלא כמות שהוא יחיד בתוך לבושו, צנכף

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refuted as follows: When it says, "When your brother you can see that one who sells himself because of his abject poverty has been discussed." ² I apply it to one who is sold by the court.³ ⁴ to freedom.⁴ TO FREEDOM. This word is a noun and is synonymous with ⁵ That is, that he was not married to a woman at the time that he was sold into servitude.⁵ This word is to be understood as it is rendered by *Targum Onkelos*, "if by himself." ⁶ that he came as he is, by himself, in his clothing, in the tail of his garment.⁶ This verse tells us that if [the his - ⁷ HE SHALL GO OUT ALONE. ⁸ An Israelite woman.⁸ ⁹ Who brought her in to the domain of her husband's master that she should have to go out? ¹⁰ Rather, the verse tells us that one who buys a Hebrew servant is obligated with the duty of supplying the food needed by [the servant's] wife and children.⁹

1. *Leviticus* 25:39.

2. The passage in *Leviticus* states explicitly that it is dealing with one who sells himself because of abject poverty. It stands to reason that if a different book of the Torah discusses the laws of a servant, it is talking about a different sort of servant. It is generally only in the book of *Deuteronomy* that the Torah returns to subjects discussed earlier.

3. *Mechilta*.

4. The word לחרפשי could have been understood as an adjective or an adverb - "He will go out free," or "He will go out freely." The י at the end of the word points in this direction as it often indicates an adjective or an adverb. The ל prefix, however, indicates that חרפשי

should be understood as a noun, "freedom" (*Mizrachi*).

5. *Kiddushin* 20a.

6. The phrase "in his coattail" means "with nothing more than his clothes," and is an idiomatic expression for "alone" (*Mizrachi*).

7. *Kiddushin* 20a.

8. *Mechilta*. That is, the phrase alludes to the one who was his wife when he entered into servitude, not to the slavewoman assigned by his master (*Mizrachi*; *Sifsei Chachamim*).

9. *Mechilta*; *Kiddushin* 22a. Thus, the wife of the slave also leaves the master's domain in the sense that she is no longer provided for by him.

will give him a woman and she bears him sons or daughters, the woman and her children will belong to her master, and he shall go out by himself. ⁵ But if the servant shall say, "I love my master, my wife, and my children — I shall not go free"; ⁶ then his master shall bring him to the judges and shall bring him to the door or to the doorpost,

יִתֵּן לוֹ אִשָּׁה וְיִלְדֶּה-לוֹ בָּנִים א֥וּ
בָּנוֹת הָאִשָּׁה וְיִלְדֶּיהָ תִּהְיֶה לְאֲדֹנֶיהָ
וְהָיָא יֵצֵא בְּגִפּוֹ: וְאִם-אָמַר יֹאמֶר
הָעֶבֶד אֶהְבֵּתִי אֶת-אֲדֹנִי אֶת-
אִשְׁתִּי וְאֶת-בָּנָי לֹא אֵצֵא חֲפְזִי:
וְהִגִּישׁוּ אֲדֹנָיו אֶל-הַאֱלֹהִים
וְהִגִּישׁוּ אֶל-הַדֹּלֶת אוֹ אֶל-הַמְּזוּזָה

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יִתֵּן לֵה אֶתְמָא וְתִלִּיד לֵה בְּנִין אוּ בָנוֹת וְהָיָא לְרַבּוֹנָהּ וְהָיָא יִפּוֹק בְּלַחְדוּרָהּ:
הָיָא מִימֵר יִימֵר עֲבָדָא רַחֲמִימָא יֵת רַבּוּנִי יֵת אֶתְמִי וְיֵת בְּנֵי לֹא אָפּוֹק לְבֵר חוּרִין:
וְיִקְרַבְנָה רַבּוֹנָה לְקַדָּם דִּינָגָא וְיִקְרַבְנָה לְנֵת דְּשָׂא אוּ לְנֵת (נ"א דִּילָנֵת) מְזוּזָא

רש"י

(ד) אם אֲדֹנָיו יִתֵּן לוֹ אִשָּׁה. מִכָּאן שֶׁהָרָשׁוֹת בִּיד רַבּוֹ לְמִסּוֹר
לוֹ שְׂפָחָה כְּנַעֲנִית לְהוֹלִיד מִמֶּנּוּ עֲבָדִים. אוֹ אִינוּ אֵלָּא יִשְׂרָאֵלִית,
ת"ל הָאִשָּׁה וְיִלְדֶּיהָ תִּהְיֶה לְאֲדֹנֶיהָ, הֵא אִינוּ מְדַבֵּר אֵלָּא בְּכַנְעֻנִית
(מְכִילֵתָא), שֶׁהִרֵּי הָעֲבָדִית אֵף הִיא יוֹלָאָה בִּשְׁשָׁה, וְאִפִּילוּ לִפְנֵי
שֶׁ אִם הִבִּיֵּא סִימָנִין יוֹלָאָה (קְדוּשִׁין יד): שְׁנֵאמַר אַחֲרֵי הָעֲבָדִי

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From here — מִכָּאן שֶׁהָרָשׁוֹת בִּיד רַבּוֹ — IF HIS MASTER WILL GIVE HIM A WOMAN. — 4. —
to assign him a — לְמִסּוֹר לוֹ שְׂפָחָה כְּנַעֲנִית — there is a source for the law that his master has the right
to assign him a Canaanite slavewoman — לְהוֹלִיד מִמֶּנּוּ עֲבָדִים — from whom to father slaves. —
To — תִּלְמוּד לִימֵר — Or perhaps this is incorrect, and the verse means only an Israelite woman? —
"The woman and her children will belong to her master." — הָאִשָּׁה וְיִלְדֶּיהָ תִּהְיֶה לְאֲדֹנֶיהָ —
This can only be speaking about a Canaanite slavewoman,² — הֵא אִינוּ מְדַבֵּר אֵלָּא בְּכַנְעֻנִית —
for the Hebrew maidservant also goes out at the end of six years, — וְאִפִּילוּ לִפְנֵי שֶׁ אִם הִבִּיֵּא סִימָנִין יוֹלָאָה,³ —
as it says, "Your brother, the Hebrew man or the Hebrew woman."⁴ — מִלְּמַד שֶׁאֵף הָעֲבָדִית יוֹלָאָה בִּשְׁשָׁה —
This teaches us that even a Hebrew maidservant goes out at the end of six years.⁵

5. MY WIFE. — הַשְּׂפָחָה — The Canaanite slavewoman.⁶

[The master] must — צָרִיךְ שִׁימֹלֵךְ בְּמוֹכְרָיו — To court.⁷ — לְבֵית דִּין — TO THE JUDGES. —
consult with his sellers — שְׂמִכְרוּהוּ לוֹ — who sold [the servant] to him.⁸ —
TO THE DOOR OR TO THE DOORPOST. — אֶל הַדֹּלֶת אוֹ אֶל הַמְּזוּזָה —
One could think on the basis of this verse that the doorpost is a valid place upon which to bore the
servant's ear. — תִּלְמוּד לִימֵר, וְנִתְּנָה בְּאָזְנוֹ וּבְדֹלֶת — To teach us otherwise, the Torah says, "And you
will put [the awl] into his ear and into the door,"⁹ — בְּדֹלֶת וְלֹא בְּמוֹזָה — "into the door," but not

1. That is, a Jewish handmaiden — and the verse would be saying that the master would have the right to give his Jewish male servant a Jewish female servant.

2. *Mechilta*.

3. *Kiddushin* 14b. See Rashi to v. 11 below, s.v., וְנִתְּנָה בְּאָזְנוֹ וּבְדֹלֶת.

4. *Deuteronomy* 15:12. The verse concludes, "And he [or she] will work for you for six years."

5. Thus the state of "the woman and children belonging to the master" described in the verse cannot arise in the case of a Hebrew handmaiden. The woman referred to in the verse can only be a Canaanite slavewoman who

remains the property of the master.

6. The master can assign the Hebrew servant a slave-woman only if he already has a wife. Rashi explains that "my wife" of this verse can only mean the slavewoman, because love of his free wife would not be grounds for his wish to remain a slave (see *Mizrachi*).

7. The word can also mean "to God." See Rashi to 20:1 above.

8. *Mechilta*. As Rashi mentioned above (v. 2), this passage discusses a servant who has been sold by the court because he could not repay what he had stolen.

9. *Deuteronomy* 15:17. That verse describes in greater detail the process alluded to here.

The Gemara continues this theme:
"אלהי כסף ואלהי זהב" – It is written: *Do not make with Me gods of silver and gods of gold.*^[24]

אל – Does this mean to say that only gods of silver and gods of gold should not be made, but gods of wood are permitted? Obviously not! Why, then, does Scripture specify gods of silver and gold? – Rav Ashi said: "אלהי זהב בשביל כסף" – The verse refers to a judge that was appointed through a bribe of silver and a judge that was appointed through a bribe of gold.^[25]

The Gemara returns to the topic of punishment that is meted out to a judge who makes an erroneous decision:
Rav, when entering the court, would say the following in reference to himself: "לְקַטְלָא נַפְשִׁי" – Of his own will, [this man] is going to his death.^[26] – The duties of a judge while he is in the court, and in fact he returns to his house empty-handed.^[27] – Were that my return to my house be the same as my leaving it!^[28]

The Gemara cites another illustration of Rav's humility:
When [Rav] would see a crowd of scholars following him, he would say the following verses to himself: "אִם יִשָּׁעַל שָׁמַיִם" etc. he shall perish forever like his waste etc.^[29]

A similar practice:
Mar Zutra Chasida, when [his students] would carry him on their shoulders during the Sabbath of the Festival discourse,^[30] would say the following verse to himself: "אִם יִשָּׁעַל שָׁמַיִם" etc. he shall perish forever like his waste etc.^[31]

Another teaching about the need for contemplation before issuing a verdict:

Bar Kappara expounded: "מֵאֵי הָאָרְצָה" – From where is it derived that which the Rabbis

said: "הוּא מְתַבֵּן בְּדִין" – Be deliberate in judgment?^[32] – It is derived from that which is written: "דּוֹרֵשׁ לֹא תַעֲלֶה בְּמַעֲלֹת" – Do not ascend on steps,^[33] and next to that it is written: "וְאֵלֶּה הַמִּשְׁפָּטִים" – And these are the judgments.^[34]

Another teaching about judges that is derived from these verses:

R' Elazar said: "מֵאֵי הָאָרְצָה" – From where is it derived that a judge should not step over the heads of the holy people?^[35] – As it is stated: "דּוֹרֵשׁ לֹא תַעֲלֶה בְּמַעֲלֹת" – Do not ascend on steps, and next to that it is written: "וְאֵלֶּה הַמִּשְׁפָּטִים" – And these are the judgments.^[36]

The Gemara expounds the continuation of the last-mentioned verse:

"וְאֵלֶּה הַמִּשְׁפָּטִים" – And these are the judgments that you shall place. – It should have been "that you shall teach"! Why does the Torah use the verb "place"? – R' Yirmiyah, and some say R' Chiya bar Abba, said: "אֵלֶּה הַמִּשְׁפָּטִים" – This word alludes to the tools of the judges.^[37] – Rav Huna, when going to adjudicate a case, would say the following: "צֵאת לִי מִכֵּל מִשְׁחָי" – Take out for me the tools of my trade: my stick, strap, horn, and sandal.^[38]

23. Torah scholars are compared to the Altar. Like the Altar, Torah scholars procure forgiveness for the people's sins and protect them from punishment (Rashi; see *Toras Chaim*).

24. Exodus 20:20.

25. The word אֱלֹהִים (God) is used for judges – see second paragraph of note 22.

26. If I err in judgment, I am liable to death (Rashi; cf. *Maharsha*).

27. I receive no remuneration (Rashi).

A judge does not receive a regular salary. He is entitled only to compensation for the time that he could have spent performing some form of remunerative work (*Maharsha*).

28. Just as I left my home without sin, so should I return without sin. Rav prayed that he would not make an erroneous judgment for which he would be punished (Rashi; cf. *Maharsha*).

29. Job 20:6,7. Rav said this to avoid thoughts of haughtiness.

30. During the thirty days preceding a Festival, teachers would expound the laws of that Festival. Since [Mar Zutra Chasida] was old and walked slowly, his attendants would carry him upon their shoulders swiftly to his place so that the assembled public would not have to remain standing for long (Rashi; see *Margolios HaYam*).

31. Proverbs 27:24.

32. See *Avos* 1:1.

33. Exodus 20:23. The Torah prohibits steps as a means to ascend the Altar.

34. Ibid. 21:1. A person ascends steps more swiftly and forcefully than a ramp. Thus, the juxtaposition of the prohibition against using steps to a verse about judgments teaches that judgments should not be reached swiftly and forcefully but with care and deliberation (Rashi; cf. *Maharsha*).

35. When students are sitting on the ground to hear a discourse, someone attempting to reach his place would look as if he were stepping over them. Here, R' Elazar prohibits a judge (and certainly students) from doing this, inasmuch as it is disrespectful to those who are seated (Rashi).

36. The juxtaposition of this verse to a verse about judgments teaches that this prohibition applies even to judges (Rashi; see *Klei Yakar* to Exodus 21:1).

37. The term תָּשִׁים, *you shall place*, is used to denote movable items, which can be "placed" (Rashi).

38. A stick was used to beat those liable to Rabbinically prescribed lashes; a strap to apply Biblically prescribed lashes; a horn to pronounce an excommunication; and a sandal was used for the ritual of *chalitzah* (for the definition of *chalitzah*, see 2a note 17) (Rashi).

א ואלה המשפטים. הנה בפרשה של מעלה היתה האזהרה שלא תחמוד כל אשר לרעך, ואלה המשפטים אשר הם ידע האדם מה הוא כל אשר לרעך. אשר תשים לפניך. שאין בהם עשה ולא תעשה כמו באזהרות הפרשה שלמעלה, אלא כשיקרה הצורך לשפוט ישפט כזה האופן:

ספרנו

רמב"ם

(א) טעם ואלה המשפטים אשר תשים לפניך, כי רצה להקדים להם המשפטים, כי כאשר היה בעשרת הדברות הדבור הראשון בדיעת ה', והשני באיסור ע"ז, חזר וצוה את משה כה תאמר אל בני ישראל אתם ראייתם כי מן השמים דברתי עמכם (לעיל כ כב), שתזהירו אתם עוד שיתנו לכם למה שראו וזיהו במצות האלו שצויתם, כי אתם ראייתם, כנגד דבור אנכי, ולא תעשוני אתי כנגד לא יהיה לך, להשלים ענין ע"ז, ואלה המשפטים כנגד לא תחמוד, כי אם לא ידע האדם משפט הבית או השדה ושאר הממון יחשוב שהוא שלו ויחמדהו ויקחהו לעצמו, לפיכך אמר תשים לפניך, משפטים ישרים ינהיגו אותם ביניהם, ולא יחמדו מה שאינו שלהם מן הרין. וכן אמרו במדרש רבה (שמות ל טו) כל התורה כלה תלויה במשפט, לכן נתן הקב"ה דינין אחר עשרת הדברות. וכן יפרש באלה המשפטים המשפט בעבורה זרה (להלן ככ יט), ובכבוד האב (שם כ טו יז), והרצחה (שם ככ יז), והניאוף (שם ככ יח), הנזכרים בעשרת הדברות:

רמב"ם

אשר תשים לפניך. טעם אומרו נלשון זה, הגם שר"ל דרשו דנשות זרין לדעת פשטן של דברים, ואולי כי להיות שיש חלקים בחורה שהם חוצה גברא לדעת את אשר יעשו, וזולת זה חייב בני גרית המורה, המשל זה אם לא ידע שאסור לאכול ערופה הרי הוא אוכל, וכן הדם וחלב, וזמנות עשה, פסק, מלה, ומרור, שמינת ימים המוקדשים, הן אלה יתחייב לדעתם. ויש נחיה אחרת, כמו שחמור דיני טוען, וטען, הלכות קידוש החודש, הלכות קרנות, וכדומה, האמת כי חוצה ידעת המורה לכל איש ישראל, אבל לא יגרע מזיק עינו (אויז לו י) אם יחסר

חיים

ידעתם, כל שיש בישראל גדולים שישפטו ויקדשו ויורו משפטים לישראל. ונתחכם ה' לומר כלן אשר תשים לפניך, לומר כי דינים אלו יתחייבו בשמיעתם כל איש ישראל, שזולת זה אין הקונה מכיר בשעת הקנין לדעת את אשר יקנה, וגם אין הנקנה יודע כי ה' שחמור אחר שש שנים למצו המוצע, וגם השופטים לא ידעו כל קונה עבד, להודיעו כי חייב לשלמו, ולזה אמר אשר תשים לפניך, כי משפט זה הוא מהמשפטים אשר זכרינן לשום לפי כולם, ולזה חמור שדיבר הכתוב בדרך נוסח, כי מקנה וגו', כי יודיע הדבר לכל קונה: עוד יראה, להסביר המלות שמתקבל לכל, ולזה אמר אשר תשים לפניך, פירוש הגם כי דבר זה יש בו מקרון הרגון, שהקונה עבדו יתאר לשלמו אחר שש שנים, תשים הדברים לפניך כי מלואו זו לזכות כל אחד מהם היא, כשיקרה עבד לא יעבד בו לעולם, וזהו יתרה דבר, כי כל אחד יעריך הדבר שהוא לזכותו לזר כי כל עבד הנמכר אינו אלא לזר דומקן, או גג ומכורו בית דין וזה יסובב העוני, ובאותו מנח כולם עשירים היו, ואין זה אלא לדבר המתגלגל וכל אחד ישים לפניו שאליו נוגע המקדש, ללמלא יתגלגל עליו הגלגל וזהו וזות הוא לו:

לומר שתשים סנהדרין אצל המזבח. וא"ת דגם זה קשה למה סנהדרין אצל המזבח ואין זה קשיא דהם שוים לגמרי דהמזבח הוא משים שלום בין ישראל לאביהם שבשמים כי עליו מקריבין הקרבנות שנקרא קרבן על שהוא מקרב את האדם לבורא יתעלה והמזבח שעליו ההקרבה הוא שמים שלום בין ישראל לאביהם שבשמים, וכן איתא במכילתא ולא תניף עליהם ברזל מה האבנים שאינם רואים ואינם שומעת בשביל שמטילים שלום בין ישראל לאביהם שבשמים אמרה תורה לא תניף עליהם ברזל המטיל שלום בין איש לאיש בין איש לאשתו בין עיר לעיר בין אומה לאומה על אחת כמה וכמה שלא תבא עליו פורענות, וכן המשפטים מטילים שלום בעולם, וכן אמרו במכילתא מה ראו דינין להקדים אותם לכל המצות שבתורה כשהדין בין אדם לחבירו תחרות ביניהם גפסק הדין שלום ביניהם נמצא כי המזבח והדין הם מתקשרים ועושים שלום בעולם כי צריך שלום בין ישראל לאביהם בשמים ואחר כך צריך שלום בין איש לחבירו נמצא הכל מקושר ובשביל זה היה המזבח ולשכת הגזית באמצע העולם כמו שדרשו שדרך אגן הסתר זה לשכת הגזית כמו שהטבור באמצע גוף האדם כך לשכת הגזית באמצע העולם כי האמצע מקשר כל החלקים לפי שהוא באמצע נמצא המזבח ולשכת הגזית מאחדים ומקשרים הכל.

א"ת 4917435

בעל הטורים

א ואלה. נטריקון וחייב אדם לחקור הדין (אבות פ"א מ"א): המשפטים. נטריקון הדין מצווה שיעשה פשרה טרם יעשה משפט (סנהדרין י:): אשר. נטריקון אם שניהם רוצים (שם): תשים. נטריקון חשמוע שניהם יחד מרכבים (שם י:): לפניך. נטריקון לא פני נדיב יהודי (עי' שמואל ב:): התנכר מהם (שם). סמך משפטים לולא תעלה במעלות לומר הו' מתונין בדין, כלומר לא יעלו אלא ילכו כמתון (סנהדרין י:). מעלות בגימטריא מחוונים. וסמך (משפטים) לאלהי כסף לומר שלא ימנה דין בשביל ממון (שם). וכתוב לעיל מנייה כי חרבך הנפת עליה שצריך הדין לראות כאילו חרב מונחת לו על ירכבו (שם). וסמך דינין לעבודה שהם מגי' שהעולם עומד עליהם (אבות פ"א מ"ב מ"ח). וסמך אותם למזבח לומר כל המעמיד דין הגון כאילו בנה מזבח, היפך ממי שמעמיד את שאינו הגון, כאילו נוטע אשרה אצל המזבח (סנהדרין י:): ואלה המשפטים אשר. ס"ת מרה. שנצטוו על הדין במרה (שם יט:): ואלה המשפטים אשר תשים. ס"ת מרמה. שאם יבא דין מרומה לפני הדין יחקור ויודוש כדי להוציא לאמיתו (שבוטח לו:): המשפטים אשר. אלו מנעל שופר רצועה (סנהדרין י:): אשר תשים לפניך. בגימטריא דקדוקי התורה ודקדוקי סופרים (מדרש הגדול. ועין מגילה יט:): (יש בפסוק ה' תיבות לומר לך כל הדין דין אמת לאמיתו כאילו קיים ה' חומשי תורה, וכאילו נעשה שותף להקב"ה במעשה בראשית (שם י:))

3

tile. It is prohibited to sell him at a public auction where slaves are sold, but rather, he must be sold in a dignified manner.¹³

Although the Torah refers to the thief as a "slave," his master is not allowed to employ the term "slave" as a term of contempt. He must regard him as his brother.¹⁴ In fact, according to Torah-law, the master must grant his Hebrew slave such excellent conditions that it may seem to the employer that he did not acquire a slave for himself, but rather a master!¹⁵ It is evident from the Torah that the "slave's" position is more than tolerable, for at the end of the six years of service, he may state (21:5), *"I love my master . . . I do not want to go free."*

Some of the Torah-laws concerning a Hebrew slave are:

- ☐ It is forbidden to give him lowly jobs to do such as washing his master's feet or putting on his master's shoes, even if these same jobs would willingly be performed by a son for his father or by a student for his teacher.¹⁶
- ☐ The master must share with his slave whatever food he has. If he eats white bread, he may not feed the slave dark bread. If he drinks wine, he may not give his slave water. If he sleeps on a good bed, he may not let his slave sleep on straw.¹⁷
- ☐ If the master had only one good loaf of bread or one cup of good wine, he must give it to his slave. If there is only one pillow, the master must give it to his slave and sleep on the ground himself.¹⁸
- ☐ If the slave had a certain profession before he entered his service, it is forbidden to ask of him to do any type of labor other than that which he is used to.¹⁹
- ☐ A Hebrew slave's service never exceeds six years from the date he was sold. After six years, he automatically goes free. If, during his period of service, the slave fell ill and his master incurred great expenses on his account, he nevertheless owes his master nothing when he leaves.²⁰

¹³ רמב"ם הל' עבדים א' ב' ¹⁴ מביילא ¹⁵ מביילא ¹⁶ קדושין כב. ¹⁷ קדושין שם ¹⁸ ירושלמי קדושין כב. רמב"ם הל' עבדים א' ט' ¹⁹ מביילא, רמב"ם שם א' י' ²⁰ רמב"ם שם ב' י'.

☐ If he enters the service while married, it is the master's duty to sustain his wife and children also.²¹

☐ If the slave is single, his master may not give him a Canaanite maid to live with in order to acquire new slaves as the result of their union.²²

☐ If he is married when entering the service, the master is allowed to give him a Canaanite maid in addition, with the object of raising the slaves for himself.

The Torah provides for a thief who is unable to make restitution in a most marvelous fashion. Rather than locking him up behind prison walls and exposing his family to a fate of shame and starvation, Hashem places the thief in the circle of a Jewish family. His master not only takes care of the slave's needs but also of those of his wife and children. To make him aware of how low he has sunk, however, the master is allowed to give him a Canaanite maid, whose children remain in the master's possession. This is a type of marriage prohibited to a free Jew. It should make the thief aware of his self-inflicted degradation and give him an incentive to elevate himself so that the seventh year should free him not only from his physical bonds, but find him a spiritually free man as well, ready to reenter society as a full-fledged Jew.²³

The Slave who Volunteers to Remain in his Master's Service

If, after six years of service, the slave states (21:5), *"I love my master, my wife, and my children, I will not go out free,"* then his master brings him to *Bais Din*. If he reiterates his refusal to leave in the presence of the Judges,²⁴ the master brings him to the door of his house (or someone else's house). The slave must stand next to the door while his master bores a hole through his right ear with an awl or some other type of instrument as a sign that he remains enslaved

²¹ קדושין כב. ²² קדושין כ. ²³ לפי רש"י כא' ה' ²⁴ רש"י כא' י'.

until the beginning of the next Yovel-year.²⁵ (Every fiftieth year is a Yovel-year.) Only then will he go free.

What is the reason for performing the ceremony by the door? Hashem says, "During the Plague of Slaying the First-born, the *Bnei Yisrael* in Egypt placed blood upon their doorposts and lintels. I spared them in the merit of that *mitzva* in order that they should live to become *My* servants. A Jew who thereafter volunteers to become a slave to a human master should be designated as such before a door-post!" Furthermore, the door that leads to the street was chosen as the site for this act so that passers-by should reprimand him, saying, "Why do you wish to be a slave if the Torah-law granted you freedom?"²⁶

It is for a similar reason that, of all his organs, it is his ear that must be pierced. Hashem says, "Let the ear be bored, for it heard at *Har Sinai*, 'You shall not steal,' and yet the owner ignored the Commandment and committed a theft!"²⁷

All the words of the Torah are true not only according to their simple meaning, but on a deeper level, too. The *p'sukim* concerning the Hebrew slave constitute a guide for the life of a Jew:

Hashem, speaking about the Jewish people whom He acquired as servants, says,

"Six years he shall serve," a man's active life is this world *aver-ages sixty years*,

"and in the seventh, he shall go free." After seventy years, he *departs from this world. He then becomes free of the obligation to fulfill the mitzvos.*

"If he came in by himself," if he spent his life without Torah and mitzvos,

"he shall go out by himself," he will leave this world without their merit.

"If he is married," if, however, he occupied himself with Torah (*which is termed a man's spouse*),

שם 27 קדושין 26 קדושין 25

"then his wife shall go out with him," the Torah will accompany him even after death. It is said that after a man dies, neither gold, nor silver, nor pearls go along with him, but only Torah and mitzvos.

"If his master has given him a wife and she bears children," if he became great and raised students (*who are considered like children*), but his motives in learning and teaching Torah were impure, and he shall go out by himself," then he will leave this world without merits.

"But if the slave shall say, 'I love my master, my wife, and my children,'" I occupy myself with Torah out of love for Hashem and raise disciples for the sake of Heaven, and,

"I will not go out free," he will then never lose the Torah which he acquired. Even after death, he will go from strength to strength in *olam haba*.

"And his master shall bring him close to Elokim," he will merit perceiving the shechina, and

"He shall bring him to the door," he will enter the gate of the tzaddikim,

"or the doorpost," even in Gan Eden he will move from the door-post of one Yeshiva to the next,

"and he shall serve Him forever," at the time of techias hamaism."²⁸

The Laws of the Hebrew Maidservant

If a man became poor and sold his possessions, his fields, and his house, but he still cannot meet his financial obligations, he may then sell into slavery a daughter who is under twelve years old.²⁹ This girl becomes a maid in a Jewish household. (A woman, however, is not sold by *Bais Din* for theft.) The master of the house or his son was given a special *mitzva* by the Torah to marry her. The Torah thus provides for both the impoverished father and the daughter. If the

28 מושב וקרים כא, א קדושין 29