

## HUMAN RIGHTS FOR ALL!

A commentary on *Parashat Mishpatim*  
By Michael Goldin

Containing 53 *mitzvot*, *Parashat Mishpatim* is one of the most legal *Parashot* in the Torah. These commandments span the entire gamut of Jewish life from the requirement to observe the festivals through to the laws of tort and debt.

However, there is one commandment which the *Parasha* makes a point of repeating twice - the requirement not to oppress the stranger: “*And you shall not mistreat a stranger, nor shall you oppress him, for you were strangers in the land of Egypt. You shall not oppress any widow or orphan*” (Exodus 22:20-21) and “*And you shall not oppress a stranger, for you know the feelings of the stranger, since you were strangers in the land of Egypt*” (Exodus 23:9).

This law is not only emphasised in *Parashat Mishpatim*, in

fact, a variation of this command is repeated a total of 36 times in the Torah.

To my mind, the fact that the requirement not to oppress is such a constant theme in the

Torah, coupled with the fact

that it is mentioned in a wide range of contexts, allows us to understand it as a ‘principle’ rather than a ‘rule.’

The distinction between these two concepts was explained by the legal philosopher Ronald Dworkin. He understood that rules tell us how to behave but principles tell us how to apply the rules, particularly in circumstances where it is unclear. For example, the Torah simply commands “*thou shalt not kill*”. It is unclear whether this is an absolute prohibition or

whether there might be exceptions to the rule as one might expect.

The fact that we also have the principle of anti-oppression helps us to understand that killing may be permissible in certain circumstances where we are fighting oppression; for example, in self-defence or during a just war. Thus, the prohibition against oppression is a meta-rule which enables us to better understand how to put our body of laws into practice.

A close textual analysis of the verses quoted above leads the *Mekhilta*, a commentary on the Torah, to explain how this principle ought to apply in an everyday context. The *Mekhilta* says that when you encounter another person you should not refuse to engage with them simply because they are of another faith or do not keep the Torah’s laws as you do. The Talmud (Bava Matzia; 58b) applies this principle as well and says that “*should a proselyte come to study Torah, do not say to him: the mouth that has consumed forbidden meats... has the audacity to study the Torah given from the mouth of G-d.*”

The point being made here is clear. The duty we owe to respect others is not conditional on how ‘good’ or how ‘deserving’ they are. They are to be afforded dignity because of their inherent worth as human beings.

This is very pertinent to our modern discourse of human rights. There are those who would have us believe that human rights are only owed to those who ‘deserve’ them, that we should only respect the fundamental human dignity of those of whom we approve and that once someone has committed a crime they are no longer worthy of our society’s respect. The Torah, and *Parashat Mishpatim* in particular, tells us otherwise. It tells us that a core principle of our creed is to stand firm against oppression and that we must do so not only when we approve of the behaviour of the person being oppressed but simply because it is the right thing to do.

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