

Dear Chavraya,

How do we decide who is in and who is out? Similarly, how do we decide in the realm of laws and statutes and holy deeds what is in and what is out, what to do and what not to do, what of ethics or ritual? And in the realm of community and for every collective entity both big and small, who is the “we” that represents us in deciding, that insures our voice is heard or makes sure it is not? And how elastic and flexible can and shall our borders and boundaries be in defining who we are and who is in and who is out?

These are questions, of course, that pound at our consciousness these days, perhaps having always been so in one realm and way or another, but seeming more so with each passing day. Whether in regard to migrants at our southern border desperate to enter, to be welcomed in, desperate to be given safety and shelter. Whether in regard to all the ways that keep the “American dream” just beyond arm’s reach for those who are presumably in, but are constantly reminded that in reality they are not, matters of race, of gender and sexual orientation, of religion, barriers that become for so many as the southern border in the free living of their lives. Whether in regard to the very people who were here before anyone else, those who should most be in and yet are regarded as the ones most out. Whether in regard to our own Jewish community and people, the question of who is in and who is out, which ideas and which beliefs, not so much of religion but of politics, of Israel and Palestine, who shall have a place at the table and who shall not, who is in the tent and who is out?

I found all of these questions framed through Torah this week, so simply and so beautifully. Quite remarkably, though with such apparent intention, this week’s Torah portion, *Parashat Mishpatim* (Ex. 21:1-24:18) is the locus for the Oral Torah, the *Torah she’b’al peh*. The Five Books of Moses, *the Chumash*, form the Written Torah, the *Torah she’bichtav*. *Mishpatim* marks what I call a watershed parsha because it marks a transition in the flow of Torah. It is the first parsha since the very beginning that leaves the continuous unfolding of narrative and presents a long series of laws. That is what makes it remarkable, that the underpinnings of Oral Torah are rooted in this parsha of laws. The Oral Torah is all commentary, all discussions, all wrestlings and writings that engage with the Written Torah in an effort to understand and explicate, to draw meaning, to uplift and excite, to guide and instruct in the real world of human experience. As the specific word for law in this parsha, *Mishpatim* describes the nature of laws that fill the portion, making it less surprising, perhaps, that Oral Torah is rooted in this portion. *Mishpatim* are not simply laws, but laws pertaining primarily to interpersonal relations, to the realm of civil society. Rabbi Samson Raphael Hirsch translates *mishpatim* as “social ordinances.”

As social ordinances, *mishpatim* are about people in relation to each other. Just as the laws are about human relations, mediating the needs of the individual and of society, so their details will need to be determined and delineated, illumined and iterated for all to be understood by the people. The Written Torah, as traditionally understood, was given by God at Mount Sinai, its acceptance by the people also affirmed in this Torah portion. From the moment of its giving in the form of Torah, God’s word needs to be understood through human eyes and

experience. That is the role of the Oral Torah, to explicate and explain. In a bold and radical way, the rabbis rooted the Oral Torah at Sinai, its flow down the mountain contiguous with the giving of the Written Torah. As an ever-unfolding work in progress of human hand and heart and mind, the Oral Torah is given equal place of origin with the Written Torah as God's own work. The relationship of Written and Oral Torah represent a God-Human partnership.

As a thread that plays out through *Parashat Mishpatim*, the nature of Oral Torah begins its unwinding from the very first words of the *parsha*, awaiting then for us to weave it into the human fabric of social ordinances. Startling teaching emerges from the first verse, dry at first glance, as arid ground awaiting gentle rain, the dew of night to awaken morning's glory. As though forming a connection with all that came before, continuity in the way of interpreting, so the portion begins, *and these are the social ordinances that you shall place before them/v'eleh ha'mishpatim asher tasim lifneihem* (Ex. 21:1). First, noting that the verse begins with a conjunction of continuity, joining us all in time, we then note the unusual language. Moses is not told to command or to say, to tell the people what they are to do, even in regard to law, perhaps especially in regard to law. Rather, he is told simply to place the laws before them, before the people.

The verse is indeed understood to be about the people more than about Moses, about the necessity of human interpretation and engagement with the law and with each other in determining its observance and its meaning. Reflecting that very human process before it has even begun, the Oral Torah is identified here at the very beginning of the portion by whose end Moses shall go up the mountain to receive the Written Torah. On that first verse, Rashi draws from earlier teaching and offers deep insight into the unusual language. Emphasizing the role of the people, the need for them to understand, so God is imagined to say to Moses, *don't you even think to say that I will teach them this chapter or this law two or three times..., nor will I trouble myself to bring the reasons for the matter and its interpretation, therefore it says, "that you shall place before them," that it shall be as a table from which to eat, set and prepared before a person....*

Set and prepared as a table before each one, all are called to come and eat, to behold all the possibilities that are before us. As all is placed upon the table, so all are called to come and eat, to partake in the collective gathering and discerning, law and its interpretation as a collective process. That Rashi identifies the person before whom the table is set in the singular, *lifnei ha'adam*, teaches that each one is needed and welcome. So may we come to the table that is set and prepared and awaiting our discernment, the melding of Written and Oral Torah as a weaving together of what is with what can be.

Shabbat shalom,
Rabbi Victor