

MEASURE FOR MEASURE

Parshas Yisro - Mishpotim

By Rabbi Menachem Rokeach

Parshas Yisro is loaded with basic Torah fundamentals. The very encounter at Sinai, the Torah given to Israel, including the Ten Commandments, is related in detail in this Parsha. Yet the name of the Parsha is "Yisro". One reason may be the fact that Yisro was a convert to Yehadus, inspiring all Israel, in every generation, to approach Matan Torah, receiving the Torah, as newcomers, with new aspirations, fresh ambitions in apprehension and fulfillment.

As Rashi points out on the passage "In the third month... on this day they arrived at the wilderness of Sinai". "On this day" comes to teach us that Torah must be regarded with a freshness as if it were given this very day.

Another reason may be suggested for the choice of calling the Sidrah "Yisro". It is the fact that he strengthened Israel in their faith, saying "Now I know" about the greatness of Hashem "for the very instrument which they conspired to use against the Jewish people, was now used to punish them, measure for measure. The Egyptians had tried to drown all the male babies, their final punishment came through drowning in the sea (Sotah 11a, see Rashi).

The fact that the punishment was executed with the same method as the sinner committed the sin is testimony that the punishment was not haphazard, but the Hand of Hashem. This utterance by Yisro, thus, is paramount in faith in Hashem, the underlying foundation of all Torah.

The Mishna (Sotah ibid) elaborates on this basic concept, mentioning a long list of events based on the principle of measure

for measure, regarding both punishment and reward. Following analysis of punitive items, the Mishna lists examples of rewarding measure for measure. One such example: Miriam was “waiting” watching her infant brother Moshe when he was placed in a basket at the bank of the river. This was a factor in saving his life. Decades later, when the Israelites journeyed in the midbar, Miriam was once quarantined, the people honored her by “waiting” for her return before moving to the next encampment.

This concept of measure for measure, more profoundly, centers at the very heart of faith in the compassion of Hashem. The Creator of the world is reluctant to agonize the wrongdoer. “As I live, saith Hashem ,I have no pleasure in the death of the wicked, but in the return of the wicked from his way, that he may live” (Yechezkel 33:11, quoted in Ne-ila of Yom Kippur). “Melech, the King Who wants life”. Hashem wants His creation to survive and persist. However the transgression is naturally such that it brings about penalty. The iniquity is the vehicle of pain infliction. “Your evil shall castigate you, you waywardness shall chasten you” (Jeremiah 2:19).

This prophet, Jeremiah, repeats this basic principle of faith in his heartbreaking lamentations (Aicho 3:38): “It is not from the mouth of the most High that evil and good emanate”. Rashi renders this statement as a question “Is it not...?” Following the preceding passage which ends with a question mark. However, Reb Yaakov of Lisa in Palgai Mayim understands the phrase as a statement, explaining that although everything emanates from Hashem, it is the nature of Hashem's creation that wickedness will result in suffering, and virtuousness will invoke blessing.

This essential principle, measure for measure, is found in Parshas Mishpotim as well.

[The two portions, Yisro and Mishpotim share in relating the historic background during the several days before the Torah was given. In Yisro, the Torah speaks mainly about the laws between man and Hashem, preceding with the historic background, whereas Parshas Mishpotim deals with the laws between man and man, and then follows with additional teachings regarding the days before giving the Torah. Commentators have regarded this unique order as indicative of the importance of the laws between man and man as equal to the laws between man and Hashem. And so after the completion of the laws of Mishpotim, the Torah shifts back to the historic days prior to coming to Sinai, which was dealt with in Parshas Yisro. It is thus of special interest to find the principle of measure for measure in Parshas Mishpotim as well].

One such example of measure for measure in Parshas Mishpotim is most profound. When two people battled one another and one blinded the other's eye, intentionally, the Torah decrees: "Ayin tachas ayin", "an eye for an eye". The Talmud (Bava Kama 830b) makes it clear that it does not mean that the guilty party should be punished by losing an eye. It means that the responsible person must pay monetary value for an eye in compensation for the eye that he has blinded. But, then, why does the Torah express this monetary restitution in terms that can be mistakenly interpreted as a punishment of mutilating the guilty person? Explains the Rambam (and other commentators) that it comes to emphasize the principle of "measure for measure". While the Beth Din is not authorized to impose more than monetary payment, in the Heavenly court the assailant should lose his own eye. It is on that level that he is to beg for atonement from Above and forgiveness from the victim.

The Vilna Gaon finds an indication of this rule in the very statement "Ayin Tachas Ayin". The word "Tachas" can mean "following". The Hebrew letter following the letter "Ayin" is the letter "Fay"; following the letter "Yud", a "Kof"; following the letter "Nun", a "Samech"; together it spells "Kesef", money.

This rabbinic interpretation (that the Torah refers to monetary restitution), says the Rambam, is "Halocho L'Moshe Misinei", and one who denies it is an "Apikoros" (heretic).

Rav Joseph Ber Soloveichik z.l. added why the Torah expressed the punishment in such harsh terms. If the Torah would have said "money for an eye", it would have degraded the value of an eye (or any organ of the human body). There is not enough money in the whole world to equal the value of an eye. It is for this reason, amplified Rav Soloveichik, that the amount of payment is estimated according to the value of the perpetrator's eye, not the victim's (Bovo Kama ibid). For it is **his** eye that is now being saved by Hashem's compassion.

We're also cognizant of the spiritual counterpart of every organ in the human body, especially the eye. "For they shall see Ayin B'ayin (clear perceptive vision) as Hashem returns to Zion" (Isaiah 52:8). This, says the Malbim, refers to the prophetic eye.

No wonder, the sages who counted the words of Shema Yisroel and found 245 words, suggested the Chazan repeat the last three words corresponding to the two hundred forty-eight organs of the body. This is a fulfillment of the passage "all my bones shall say 'Hashem, who is like You'" (Tehilim 35:10).

