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In Memory of Rabbi Abraham Leibtag
Shiurim in Chumash & Navi by Menachem Leibtag

PARSHAT MISHPATIM [shiur # 1]

WHEN DID BNEI YISRAEL SAY 'NA'ASEH VE-NISHMA'?

When did Bnei Yisrael declare 'na'aseh ve-nishma'?

Most of us would probably answer: **before** they received the Ten Commandments (Rashi's opinion / and most of all elementary school teachers). However, many other commentators (including Ramban) disagree!

In the following shiur, we will uncover the source of (and the reason for) this controversy.

WHERE DOES PARSHAT MISHPATIM REALLY BEGIN?

Recall from Parshat Yitro that after Bnei Yisrael heard the Ten Commandments **directly** from God, they were overcome by fear and asked Moshe to act as their **intermediary** (see Shmot 20:15-18).

The result of this 'change in the plan' (i.e. 'transmission via Moshe' instead of 'directly from God') becomes apparent in the very next pasuk. Note how the next 'parshia' (i.e. 20:19) begins as God commands Moshe (now acting as His intermediary) to relay an **additional** set of mitzvot to Bnei Yisrael:

"And God said to Moshe: "Ko tomar el Bnei Yisrael... "

[Thus **you** shall **say** to Bnei Yisrael:]

- * "You saw that I spoke to you from the Heavens.
- * Do not make any idols of Me...
- * An altar made from earth you shall make for Me..."
(see 20:19-23).

However, this set of commandments that began with 'ko tomar' does not end here with the conclusion of Parshat Yitro. If you follow these psukim carefully, you'll note how these mitzvot continue directly into Parshat Mishpatim with:

"And these are the **mishpatim** (rules) that you shall set before them..." [see 21:1 / see also Rashi & Ibn Ezra].

In fact, this set of laws that began with 'ko tomar' continues all the way until the end of chapter 23! It is only in 24:1 where this long quote (of what Moshe is instructed to tell Bnei Yisrael) finally ends. At that point, the Torah then resumes its narrative by describing the events that take place at Har Sinai.

Based on this simple analysis, we have basically identified a distinct unit of 'mitzvot' [from 20:19 thru 23:33] embedded within the story of Ma'amad Har Sinai.

In the following shiur, we will show how the identification of this unit can help us understand the controversy concerning when the story in chapter 24 takes place.

[In our other shiur on Mishpatim, we discuss the content of this special unit, which contains a special unit of mitzvot.]

WHAT MOSHE DOES WHEN HE RETURNS

Considering that this unit began with God's commandment to Moshe of: 'ko tomar' [thus you shall say to Bnei Yisrael]; once the quote of those mitzvot is complete (i.e. at the end of chapter 23), we should expect to find a narrative that tells us how Moshe fulfilled this command by telling over these mitzvot to Bnei Yisrael.

And indeed, this seems to be exactly what we find in the beginning of chapter 24:

"... And Moshe came [back down from the mountain] and **told** the people all the **divrei Hashem** (God's words) and all the **mishpatim**" (see 24:3).

If 'divrei Hashem' refers to the laws in 20:19-22, and 'ha-mishpatim' refers to the laws that continue in Parshat Mishpatim (see 21:1), then this pasuk is exactly what we're looking for!

However, as you probably noticed, there is one minor problem.

We would have expected this sentence (i.e. 24:3) to be the **first** pasuk in chapter 24; but instead it is the **third**. For some reason, what should have been the opening pasuk is preceded by a short recap of another commandment that God had given Moshe:

"And Moshe was told to ascend the mountain [to God] with Aharon, and Nadav & Avihu, and the seventy elders to bow at a distance, after which Moshe himself will approach closer, while the others will not ..." (see 24:1-2, read carefully).

It is important to note that 24:2 forms the continuation of God's command that began in 24:1 - and is **not** a description of what Moshe did after that command! In other words, these psukim describe some sort of ceremony that God had commanded Moshe to conduct at Har Sinai. The question will be: When did this ceremony take place, and why?

Even though the meaning of these psukim (i.e. 24:1-2) may first seem unclear, later in chapter 24 we find precisely what they refer to:

"Then Moshe, Aharon, Nadav & Avihu, and the seventy elders ascended the mountain, and they 'saw' the God of Israel..." (see 24:9-11).

Therefore, to determine what Moshe is 'talking about' in 24:3, we must take into consideration not only the 'ko tomar' unit (20:19-23:33) that he was commanded to convey, but also this ceremony where he and the elders are instructed to ascend Har Sinai and bow down from a distance, as 'parenthetically' described in 24:1-2.

RAMBAN'S APPROACH [the 'simple' pshat]

Ramban explains these psukim in a very straightforward manner. He keeps chapter 24 in its chronological order, and hence understands 24:1-2 as an instruction for Moshe to conduct a ceremony immediately after he relays the mitzvot of the 'ko tomar' unit.

Therefore, when "Moshe came and told the people the **divrei Hashem** and all the **mishpatim**" (see 24:3), the 'divrei Hashem' and 'mishpatim' must refer to what was included in the 'ko tomar' unit. Hence, Ramban explains that 'mishpatim' refers to the 'mishpatim' introduced in 21:1, while (by default) the 'divrei Hashem' must refer to all the other 'mitzvot' in this unit that do not fall under the category of 'mishpatim' (surely 20:19-22, and most probably some of the laws and statements in chapter 23 as well).

As Bnei Yisrael now hear these mitzvot for the first time, they immediately confirm their acceptance:

"... and the people answered together saying: '**All** that God has commanded us - na'aseh - we shall keep" (24:3).

Even though Bnei Yisrael had already proclaimed 'na'aseh' before Matan Torah (see 19:5-8), this second proclamation is necessary for they have just received an additional set of mitzvot from God, even though it had been conveyed to them via Moshe.

THE CEREMONY

It is at this point in the narrative that Moshe begins the 'ceremony' that was alluded to in 24:1-2. Let's take a look at its details.

First, Moshe writes down the 'divrei Hashem' (see 24:4) in an 'official document' - which most all commentators agree is the 'sefer ha-brit' described in 24:7. Then; he builds a 'mizbeich' [altar] and erects twelve monuments (one for each tribe) at the foot of the mountain. These acts are in preparation for the public gathering that takes place on the next day - when Bnei Yisrael offer **olot** and **shlamim** on that altar (see 24:5-6).

The highlight of that ceremony takes place in 24:7 when Moshe takes this 'sefer ha-brit' - and reads it aloud:

"... Then Moshe took the sefer ha-brit and read it aloud to the people, and they answered: Everything which God has spoken to us - **na'aseh** ve-nishma [we shall keep and obey] (24:7).

[Later in the shiur we will discuss what precisely was written in this **sefer ha-brit** and **why** the people respond 'na'aseh ve-nishma'.]

As a symbolic act - reflecting the people's acceptance of this covenant:

Moshe then took the blood [from the korbanot] and sprinkled it on the people and said: This is the **dam** ha-brit - blood of the **covenant**... concerning these commandments..." (24:8).

Afterward, the ceremony concludes as its official leadership, representing the entire nation, ascends the mountain and bows before God:

Then Moshe, Aharon, Nadav, and Avihu, and the seventy elders of Israel went up (the mountain) and they saw the God of Israel... And upon the nobles of Israel He laid not His hand; and they beheld God, and ate and drank (24:9-11).

Clearly, this ascent by the elders fulfills God's command as detailed in 24:1. In this manner, God had instructed Moshe not only to convey a set of laws to Bnei Yisrael, but also to present them as part of national ceremony.

This seems to be a nice and simple interpretation for 24:1-11, and reflects the basic approach of Ramban, Ibn Ezra and Rashbam.

Yet despite its simplicity, Rashi (and most likely your first Chumash teacher) disagree!

RASHI'S APPROACH - LAST THINGS FIRST

Quoting the Mechilta on 24:1, Rashi claims that this entire ceremony - including Moshe telling over the 'divrei Hashem & mishpatim', writing down and reading the 'sefer ha-brit', and proclaiming **na'aseh** ve-nishma, etc. (i.e. 24:1-11) - all took place **before** Matan Torah, and hence **before** this 'ko tomar' unit was ever given to Moshe Rabeinu.

This conclusion obviously forces Rashi to provide a totally different interpretation for the phrases 'divrei Hashem & 'ha-mishpatim' in 24:3 and for 'sefer ha-brit' in 24:7 - for they can no longer refer to mitzvot in the 'ko tomar' unit.

At first glance, Rashi's approach seems unnecessary (and rather irrational). [Note how Ramban takes issue with this approach in his opening comments on 24:1!]

However, by undertaking a more comprehensive analysis, we will show how Rashi's interpretation is not only textually based, but also thematically quite significant.

Let's first consider some factors that may have led Rashi to his conclusion.

First of all, the very manner in which chapter 24 begins is quite peculiar - as it opens in 'past perfect' tense ["Ve-el Moshe amar..." - and to Moshe it was told (see 24:1), indicating that all of the events recorded in 24:1-11 may have occurred earlier. Furthermore, if chapter 24 is indeed a continuation of the 'ko tomar' unit, then 24:3 should have been the first pasuk (as we discussed above).

These considerations alone allow us to entertain the possibility that these events may have taken place at an earlier time. Recall however that the events that took place before Matan Torah were already described in Shmot chapter 19. Recall as well (from our shiur on Parshat Yitro) that chapter 19 contained numerous details that were very difficult to explain.

Therefore, Rashi's approach allows us to 'weave' the events described 24:1-11 into chapter 19, thus explaining many of the ambiguities in that chapter.

FILLING IN THE MISSING LINKS

For example, recall from 19:22 how God tells Moshe to warn the **kohanim** who stand closer, yet we had no idea who these **kohanim** were! However, if the events described in 24:1-11 took place at that time (i.e. before Ma'amad Har Sinai), then clearly the **kohanim** in 19:22 refer to the elite group (Nadav, Avihu, and the seventy elders) singled out in 24:1 & 24:9 - who were commanded to 'come closer' - but not as close as Moshe.

Furthermore, this interpretation explains the need for the extra warning in 19:20-25 [what we referred to as the '**limitation**' section]. Recall how the ceremony (described in 24:4-11) concludes as this leadership group ascends the mountain and actually 'sees' God (see 24:10). Nevertheless they are not punished (see 24:11). Despite God's leniency in this regard at that time, He must command Moshe before Ma'amad Har Sinai to warn both the people and the kohanim

not to allow that to happen once again!
[See 19:20-25.]

Rashi's interpretation carries yet another 'exegetic' advantage. Recall that Bnei Yisrael had already proclaimed 'na'aseh' in 19:7-8. If so, then there appears to be no need to repeat this proclamation in 24:3. However, if 24:3 takes place before Matan Torah, then 24:3 simply recaps the same event that already took place in 19:7-8.

Finally, Rashi's interpretation can also help us identify the '**heim**' mentioned in 19:13 - who are allowed to ascend Har Sinai once the Shofar sounds a long blast. Most likely, the '**heim**' are that very same elite group who are permitted to partially ascend Har Sinai during the ceremony (as described in 24:1-2, 9).

[See Ibn Ezra arach on 19:13, quoting this peirush in the name of Shmuel ben Hofni!]

These 'textual' considerations supply the 'circumstantial evidence' that allows Rashi to place the events of 24:1-11 within chapter 19, and hence before Matan Torah! With this in background, let's see how Rashi explains the details of 24:3 based on the story in chapter 19!

And Moshe came [see 19:14] and told the people 'divrei Hashem' = the laws of 'prisha' [see 19:15] and 'hagbala' [see 19:12-13] and the 'mishpatim' = the seven Noachide laws and the laws that Bnei Yisrael received at **Mara** (see Shmot 15:25). [See Rashi on 24:3.]

In the next pasuk, Rashi reaches an amazing conclusion. Because these events took place before Matan Torah, Rashi explains that the 'divrei Hashem' which Moshe writes down in 24:4 [which later become the 'sefer ha-brit' that Moshe reads in 24:7] is no less than all of Sefer Breishit (and the first half of Sefer Shmot)!

How about Bnei Yisrael's reply of 'naaseh ve-nishma' (in 24:7)? Even though Rashi doesn't explain specifically what this refers to, since it was stated before Matan Torah, it clearly implies Bnei Yisrael's acceptance of all the mitzvot that God may give them, before they know what they are! Hence, this statement is popularly understood as reflective of a statement of blind faith and commitment.

Let's consider the thematic implications of Rashi's interpretation, for they are quite significant.

'WHY' BEFORE 'HOW'

Identifying Sefer Breishit as the 'sefer ha-brit' that Moshe reads in public (in 24:7) ties in beautifully with our discussion of the primary theme of Sefer Breishit. It should not surprise us that Chumash refers to Sefer Breishit as 'sefer ha-brit' - for this highlights the centrality of God's covenant with Avraham Avinu [i.e. **brit** mila & **brit** bein ha-btarim] as its primary theme.

But more significant is the very fact that God commands Moshe to teach Sefer Breishit to Bnei Yisrael **before** they receive the Ten Commandments and the remaining 'mitzvot' of the Torah. Considering that Sefer Breishit explains **how** and **why** Bnei Yisrael were first chosen, it is important that Bnei Yisrael must first understand **why**, i.e. *towards what purpose* - they are receiving the Torah, **before** they actually receive it. [This would imply that before one studies **how** to act as a Jew, it is important that he first understand **why** he was chosen.]

Finally, Rashi's interpretation (placing 24:1-11 before Matan Torah) adds tremendous significance to the nature of the three-day preparation for Ma'amad Har Sinai (see 19:10-16). Recall how chapter 19 described quite a 'repressive' atmosphere, consisting primarily of 'no's' [don't touch the mountain, don't come too close, wash your clothes, and stay away from your wives, etc.]. But if we weave the events in 24:1-11 into this three-day preparation, then what emerges is a far more festive and jubilant atmosphere, including:

- * Torah study (see 24:3-4),
- * A 'kiddish' i.e. offering (and eating) korbanot (see 24:5-6,11),
- * A public ceremony [sprinkling the blood on everyone] - followed by public declaration of 'na'aseh ve-nishma' (see 24:7-8),
- * The nation's leaders symbolically approach God (see 24:9-11). [What we would call today a full-fledged 'shabbaton'!]

YIR'A & AHAVA

Despite the beauty of Rashi's approach, one basic (and obvious) question remains: What does the Torah gain by dividing this story of Ma'amad Har Sinai in half; telling only part of the story in chapter 19 and the remainder in chapter 24? Would it not have made more sense to describe all of these events together in chapter 19?

One could suggest that in doing so, the Torah differentiates between two important aspects of Ma'amad Har Sinai. Chapter 19, as we discussed last week, focuses on the **yir'a** [fear] perspective, the people's fear and the awe-inspiring nature of this event. In contrast, chapter 24 focuses on the **ahava** [love] perspective, God's special closeness with Bnei Yisrael, which allows them to 'see' Him (see 24:9-11) and generates a joyous event, as they join in a festive meal [offering **olot & shlamim** (which are eaten) / see 24:5-6,11].

To emphasize the importance of each aspect, the Torah presents each perspective separately, even though they both took place at the same time. Recording the 'fear' aspect beforehand, stresses the importance of the fear of God ['yir'at shamayim'] and how it must be the primary prerequisite for receiving the Torah. [See Tehillim 111:10: "reishit chochma yir'at Hashem".]

By recording the 'ahava' aspect at the conclusion of its presentation of the mitzvot given at Har Sinai, the Torah emphasizes how the love of God (and hence our closeness to Him) is no less important, and remains the ultimate goal. Hence, this 'ahava' aspect is also isolated, but recorded at the conclusion of the entire unit to stress that keeping God's mitzvot can help us build a relationship of 'ahavat Hashem'.

This lesson remains no less important as we adhere to the laws of Matan Torah in our daily lives. It challenges us to integrate the values of both 'yir'at shamayim' and 'ahavat Hashem' into all our endeavors.

shabbat shalom,
menachem

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FOR FURTHER IYUN

A. See Ramban on 19:5, especially "al derech ha-**emet**..."!
Relate each part of this Ramban to the above shiur.

B. See Shabbat 88a, regarding the machloket when the **dibrot** were given. Relate this sugya to the above shiur.

C. Based on the structure of the 'ko tomar' unit, which is followed by 'brit na'aseh ve-nishma' and where Bnei Yisrael build a **mizbeich** and offer **olot & shlamim**, explain why the primary mitzva in the opening section (i.e. 20:21-23) is "mizbach adama ta'aseh li..." [Does this insight support Rashi or Ramban's interpretation?]

D. Chizkuni, following Rashi, also explains that the covenant in chapter 24 takes place **before** Matan Torah. However, he explains that **sefer ha-brit** (in 24:7) is the **tochacha** in Parshat Behar-Bechukotai, even though it is only recorded much later in Chumash (see Vayikra chapter 26). According to Chizkuni, the **sefer ha-brit** explains how the **land** will serve as a vehicle to either reward or punish Bnei Yisrael, depending upon their observance or neglect of the mitzvot they are about to receive. (This peirush also neatly explains why the phrase "ki li kol ha-aretz" appears in 19:5.)

E. Note that Rashi's interpretation provides us with an excellent example of his exegetic principle of 'ein mukdam u-me'uchar' / see shiur on Parshat Yitro. Because of the many textual and thematic parallels between chapters 19 & 24, Rashi prefers to change the chronological order of the 'parshiot' so as to arrive at a more insightful interpretation. In contrast, Ramban prefers to keep these parshiot in chronological order.]

Note as well that according to Rashi, the entire **Ko Tomar** unit including the 'mishpatim') was given to Moshe Rabeinu during his first forty days on Har Sinai (see Rashi 31:18).