

TEXT 2 • These are the *Mishpatim*

Let's look at an idea called *mishpat*. The word "*mishpat*" is drawn from the same root as the word "to judge" [שפט]. The following text, found in the book of Exodus, is from the first body of legislation presented in the Torah.

שמות פרק כא:א, יד, יח-יט, כג-כד
וְאֱלֹהִים הַמְשַׁפְּטִים, אֲשֶׁר תִּשְׁיִם, לִפְנֵיהֶם...מִכָּה אִישׁ נֶמֶת, מוֹת יוֹמָת.
וְאֲשֶׁר לֹא צָרָה, וְהָאֱלֹהִים אָנָּה לְיָדוֹ--וְשָׁמְתִי לְךָ מְקוֹם, אֲשֶׁר יָנוּס שָׁמָּה.
וְכִי-יָזֵד אִישׁ עַל-רֵעֵהוּ, לְהַרְגוֹ בְּעֶרְמָה--מֵעַם מִזְבְּחִי, תִּקְחֵנּוּ לְמוֹת...
וְכִי יִרְיֹבֵן אַנְשִׁים-- וְהִכָּה אִישׁ אֶת-רֵעֵהוּ, בְּאֶבֶן אוֹ בְּאִגָּרֶף; וְלֹא נִמּוֹת,
וְנָפַל לְמִשְׁכָּב. אִם-יָקוּם וְהִתְהַלֵּךְ בַּחוּץ, עַל-מִשְׁעַנְתּוֹ--וְנָקָה הַמִּכָּה: רַק
שָׁבְתוּ יָתֵן, וְרָפָא יִרְפָּא...
וְאִם-אָסוּן, יִהְיֶה--וְנִתְמָה נַפְשׁוֹ, תַּחַת נַפְשׁוֹ. עֵינַי תַּחַת עֵינָיו, שֵׁן תַּחַת שֵׁן.
יָד תַּחַת יָד, רֵגֶל תַּחַת רֵגֶל. כְּוִיָּה תַּחַת כְּוִיָּה, פְּצַע תַּחַת פְּצַע, חֲבוּרָה,
תַּחַת חֲבוּרָה.

These are the *mishpatim* that you shall set before them... He who fatally strikes a man shall be put to death. If he did not do it by design, but it came about by an act of God, I will assign you a place to which he can flee. When a man schemes against another and kills him treacherously, you shall take him from My very altar to be put to death...

When men quarrel and one strikes the other with stone or fist, and he does not die but has to take to his bed—if he then gets up and walks outdoors upon his staff, the assailant shall go unpunished, except that he must pay for his idleness and his cure...

If damage ensues, the penalty shall be life for life, eye for eye, tooth for tooth, hand for hand, burn for burn, wound for wound, bruise for bruise.

Exodus, 21:1, 12-14, 18-19, 23-24

What the Text Means

- ▼ Leaving aside your personal opinions about capital punishment, what distinction do you think the Torah is making between premeditated and accidental killing?
- ▼ How does the text understand an individual's responsibility for any damages caused?
- ▼ Based on your reading of this text, what is your understanding of the term *mishpatim*? What principle of law or social value is expressed through the Torah's instructions?

What the Text Means to Me

- ▲ Do you agree with this approach to justice?
- ▲ Do you think it reflects an enlightened ideal or a primitive perspective?
- ▲ What might alternative approaches look like?
- ▲ Is there a place for *mishpat* in the way contemporary society is organized?