

The Commandments of the Covenant

By Rav Tamir Granot

Introduction

After God is revealed to Moshe for the second time on Mount Sinai, He reveals His attributes of mercy and tells Moshe that He has forgiven the nation of Israel completely. God informs Moshe that He is renewing His covenant with them, and adds a list of commandments – some related to the prohibition of idolatry, others related to Shabbat and the pilgrim festivals and all that they entail (such as, for instance, the prohibition of mixing meat and milk). We may refer to these collectively as "ritual" commandments. Part of this list looks very similar to *Parashat Mishpatim*, where the lengthy collection of "judgments" (*mishpatim*) is followed by an appendix of "ritual" laws, including Shabbat, pilgrim festivals, meat and milk, etc. The resemblance between these two *parshiyot* extends beyond their content; they are also similar in their style and language.

As we know, there are many *mitzvot* that appear twice or even three times in the Torah. In most cases, it is in *Sefer Devarim* that we find repetitions of *mitzvot* that were transmitted previously. Indeed, this phenomenon is characteristic of *Sefer Devarim*, which is also called "*Mishneh Torah*" (repetition of the Torah). In the Books of *Shemot*, *Vayikra* and *Bamidbar*, repetitions occur far less frequently. However, the almost word-for-word reiteration of an entire body of *mitzvot* is unique to our *parasha*: [Shemot 34:18-26](#) (the body of ritual laws which we shall refer to as the unit from *Ki-Tisa*) is a repetition of [Shemot 23:14-19](#) (henceforth: the unit from *Parashat Mishpatim*).

Moreover, the repetition here occurs within the same *Sefer*, in close proximity of time and subject. In both cases, the commandments in question are conveyed by God to Moshe at Mount Sinai: the first time – within the framework of the forging of the first covenant; the second time – when Moshe ascends the mountain the second time, as part of God's assurance that the covenant has been renewed.

Hence, we need to understand why God repeats an entire body of *mitzvot* that has already been conveyed – and recently, too. Furthermore, what is the significance of the slight differences between the two versions?

A. Comparison of the Two Sources

Let us start by comparing the two units. Our examination will include the verses that precede the ritual laws, with a view to clarifying the context. We shall also highlight the differences between the two units:

i. Introduction to the unit:

Mishpatim: (23:6) "You shall not pervert the justice of your poor in his cause. (7) Keep far from a false matter, and do not slay the innocent and the righteous, for I shall not justify the wicked. (8) And do not take a bribe, for bribery blinds the wise and distorts the words of the righteous. (9) And do not oppress a stranger, for you know the heart of a stranger, since you were strangers in the land of Egypt."

Ki Tisa (34:10) "He said: Behold, I make a covenant before all of your nation; I shall perform wonders such as have not been conceived in all the land, nor among all the nations; and all the nation in whose midst you are will see the work of the Lord, for that which I shall perform for you is awesome. (11) Observe that which I command you this day; behold, I drive out before you the Emorites and the Canaanites, and the Hittites and the Perizzites and the Hivites and the Jebusites. (12) Watch yourself lest you forge a covenant with the inhabitants of the land to which you come, lest it become a snare in your midst. (13) Rather, you shall smash their altars and break their statues and cut down their *asherim*. (14) For you shall not worship any other god, for the Lord – Jealous is His Name – is a jealous God. (15) Lest you make a covenant with the inhabitants of the land, and go astray after their gods, and sacrifice to their gods, and (they) call you, and you eat of (their) sacrifice. (16) And take of their daughters for your sons, and their daughters will go astray after their gods, and they shall draw your sons astray after their gods. (17) You shall make yourself no molten gods."

ii. Shemitta

Mishpatim: (23:10) "Six years you shall sow your land and gather its produce. (11) But in the seventh you shall let it rest and lie fallow, that the poor of your nation may eat, and what they leave shall be eaten by the beasts of the field; so shall you with your vineyard and your olive grove."

Ki Tisa: omitted.

iii. Shabbat

Mishpatim: (23:12) "Six days shall you perform your activities, but on the seventh day you shall rest, in order that your ox and your donkey may rest, and the son of your handmaid and the stranger may be refreshed."

Ki Tisa: (appears later on, with a different emphasis.)

iv. General exhortation:

Mishpatim: (23:13) "And concerning all that I have said to you – be mindful, and do not make mention of the name of other gods; let it not be heard from your mouth."

Ki Tisa: omitted.

v. Introduction to pilgrim festivals:

Mishpatim: (23:14) "Three times you shall observe a festival for Me in the year."

Ki Tisa: omitted.

vi. Festival of Matzot:

Mishpatim: (23:15) "You shall observe the festival of *matzot*; seven days shall you eat *matzot*, as I have commanded you, at

the appointed time – the month of spring, for then you left Egypt; and **you shall not appear before Me empty-handed**".

Ki Tisa: (34:18) "You shall observe the festival of *matzot*; for seven days shall you eat *matzot*, as I have commanded you, at the appointed time – the month of spring, for in the month of spring you left Egypt."

vii. Law of the firstborn of the donkey

Mishpatim: omitted

Ki Tisa: (34:19) "All that opens the womb is Mine, and every male firstling among your livestock, whether ox or sheep. (20) But the firstling of a donkey you shall redeem with a lamb; if you do not redeem it then you shall break its neck. All the firstborn of your sons you shall redeem, and **you shall not appear before Me empty-handed**."

viii. Shabbat

Mishpatim: (appeared previously, with social emphasis)

Ki Tisa: (34:21) "Six days shall you work, but on the seventh day you shall rest; **in plowing and in harvest you shall rest**."

ix. Festival of the harvest and festival of the ingathering

Mishpatim: (23:16) "And the festival of the harvest, **the first fruits of your labors which you have sown in the field**, and the festival of the ingathering, **at the end of the year, when you gather in your labors from the field**."

Ki Tisa: (34:22) "And you shall celebrate the festival of weeks, **the first fruits of the wheat harvest**, and the festival of the ingathering, **at the year's end**."

x. Obligation of pilgrimage to the Temple

Mishpatim: (23:17) "Three times in the year all your males shall present themselves before the Lord God."

Ki Tisa: (34:23) "Three times in the year all your males shall present themselves to the Lord God, God of Israel."

xi. Assurance concerning pilgrimage:

Mishpatim: omitted

Ki Tisa: (34:24) "For I shall cast out nations before you, and I shall expand your borders, and no man shall covet your land when you go up to present yourself before the Lord your God, three times in the year."

xii. Prohibitions against leftovers and leaven

Mishpatim: (23:18) "You shall not **offer** the blood of My sacrifice with leaven, nor shall **the fat of My festive offering** remain until the morning."

Ki Tisa: (34:25) "You shall not **slaughter** the blood of My sacrifice with leaven, nor shall **the sacrifice of the Pesach feast** remain for the morning."

xiii. First fruits and mixture of milk and meat

Mishpatim: (23:19) "You shall bring the earliest of the first fruits of your land to the House of the Lord your God; you shall not cook a kid in its mother's milk."

Ki Tisa: (34:26) "You shall bring the earliest of the first fruits of your land to the House of the Lord your God; you shall not cook a kid in its mother's milk."

xiv. Conclusion of the unit

Mishpatim: (23:20) "Behold, I send an angel before you, to watch over you on the way and to bring you to the place which I have prepared. (21) Be mindful of him and obey his voice; do not provoke him, for he will not pardon your sins, for My Name is in him. (22) But if you indeed obey him and do all that I say,

then I shall be the enemy of your enemies, and the adversary of your adversaries. (23) For My angel shall go before you and bring you to the Amorites and the Hittites and the Perizzites and the Canaanites, the Hivites and the Jebusites, and I shall cut them off."

Ki Tisa: (34:27) "The Lord said to Moshe: Write for yourself these things, for in accordance with these words I have forged a covenant with you, and with Israel. (28) And he was there with the Lord for forty days and forty nights; he did not eat bread, nor did he drink water, and he wrote upon the tablets the words of the covenant – the Ten Utterances."

Let us now set out the information that arises from the above comparison, in order of its appearance:

a. Introduction to the unit: In *Parashat Mishpatim*, the body of ritual laws is preceded by some laws dealing with the obligation of ensuring justice and protection for the weak, and provide a general summary of the subjects addressed in *Parashat Mishpatim*. We chose to begin our comparison from the commandment not to distort justice for the poor, since this represents the beginning of a "closed" unit, and because the *mitzvot* preceding it are still formulated in causal style ("If... then..."), whereas here we have three absolute, general commandments, which appear to be a general conclusion/introduction: "You shall not distort...", "Keep yourself far," "Do not slay," etc. The introduction to the unit in *Ki Tisa* deals with the obligation of keeping distant from the nations of the land, to avoid creating treaties with them, and to refrain from copying their behavior and their idolatry. This introduction would appear to arise from the renewal of the covenant previously recorded between God and Moshe – at the mountain; in summary, it is a prohibition against forging any other covenant, which would be a form of betrayal of God.

b. In *Parashat Mishpatim*, the unit includes the commandment of *Shemitta*, whereas in *Ki Tisa* it is omitted. The discussion of *Shemitta* in *Parashat Mishpatim* is presented from a moral, social perspective, its aim being "that the poor of your people may eat..." Thus, it connects with the preceding body of laws, in that it deals with protection for the weak and improving their situation. (The preceding laws included, "You shall not pervert the justice of your poor" and, two verses later, "That the poor of your people may eat".) It is therefore logical for the commandment of *Shemitta* to appear here, prior to the commandments concerning the pilgrim festivals, since on one hand it is a commandment that is time-dependent (like the celebration of the festivals); on the other hand, it is a social commandment, like those that conclude the "judgments" that precede it.

c. In *Parashat Mishpatim*, the commandment of Shabbat appears here. There are three good reasons for this: i) It is similar in spirit and in its time-structure to the commandment of *Shemitta*, which precedes it; ii) It serves as a basis for the sanctity of time and the holy days, and is indeed followed by the laws of the pilgrim festivals; and iii) The emphasis, in the commandment of Shabbat as it appears in *Parashat Mishpatim*, is once again social: "In order that your ox... may rest, and the son of your handmaid **and the stranger** be refreshed." This social emphasis links Shabbat with *Shemitta* (another social commandment) which preceded it, as well as with the series of preceding commandments that addressed matters of justice and society, and particularly with the law, "You shall not oppress **a stranger**."

Why, then, is there no parallel commandment of Shabbat in *Ki Tisa*? The answer would seem to arise from the perspective described above: the social context is altogether absent from *Ki Tisa*; there is no *Shemitta*, and therefore no room for a "social" Shabbat (see also below).

d. At this point in *Parashat Mishpatim* there is a warning that serves as a sort of summary as well as introduction: "Concerning all that I have told you – be mindful"; this applies to the preceding prohibitions. "And make no mention of other gods" – this introduces the unit of ritual laws; it is indeed appropriate that these be introduced with an exhortation that religious worship be directed to God alone. This warning and summary is unnecessary in *Ki Tisa*, since the context there is not one that follows immediately after a lengthy unit of laws, and the prohibitions of idolatry are set out at length in the preceding introduction, such that there is no need for another warning.

e. Heading for the festivals: The heading appears only in *Mishpatim* – apparently because what follows there is really only the commandments of the festivals, whereas in *Ki Tisa* there are also some additional laws, including the redemption of the firstborn and Shabbat, and therefore an introduction to the festivals exclusively would not be appropriate.

f. Identical commandment concerning the festival of *matzot*. In *Parashat Ki Tisa* the commandment "You shall not appear empty-handed" is postponed until after the commandment concerning the firstling of the donkey (which is absent from *Mishpatim*) since it includes both the pilgrimage and the firstling of the donkey.

g. Firstling of the donkey and the redemption of the firstborn: Here, for the first time, we encounter a commandment that appears in *Ki Tisa*, but not in *Mishpatim*. The commandments concerning the firstling of the donkey and the redemption of the firstborn are directly linked to the commandment of Pesach, since they are meant as a reminder of the Exodus (specifically, the slaying of the Egyptian firstborn). The commandment of the firstling/firstborn is essentially "ritual" (religious as opposed to moral, social etc.) and therefore it has a place in this group of ritual laws. This apparently defines the nature of the unit in *Ki Tisa* (see below). In *Parashat Mishpatim*, the emphasis thus far has been social; in this context the commandments concerning the firstling of a donkey and the firstborn son are irrelevant, and it is for this reason, it seems, that they do not appear here.

h. Shabbat: This is where the commandment of Shabbat appears in *Ki Tisa* (i.e., following the commandments of Pesach and the firstling/firstborn). No social aspect is mentioned here; there is only the prohibition against labor. In *Mishpatim*, as we have seen, the emphasis was on, "In order that... may rest," and therefore it is juxtaposed with *Shemitta*, prior to any mention of the pilgrim festivals. In *Ki Tisa* the command of Shabbat appears after the festival of *matzot*, the Exodus from Egypt and the festival of *matzot* that commemorates it are the source of the covenant that serves as the basis for this unit. Therefore, the commandment of Pesach comes first, followed by Shabbat – which is another expression of the covenant ("To perform the Shabbat throughout their generations; an eternal covenant") and a commemoration of

the Exodus from Egypt. The social aspect of Shabbat is irrelevant here.

i. The commandments of the harvest festival and the festival of the ingathering appear in very similar language; there seems to be no essential difference between the two units. The formulation in *Mishpatim* is longer ("When you gather your labor..."), and this is logical, since the same command in *Ki Tisa* is a repetition. The "festival of the harvest" is referred to in *Ki Tisa* as "the festival of weeks"; there may be some significance to this point, since the name "weeks" links this festival to the Omer and to Pesach, which – as noted – represents the basis of the covenant (the Exodus from Egypt). *Parashat Mishpatim* speaks of three set times of festivals during the year; therefore the festival is referred to as the "festival of the harvest," as a seasonal reference, with no specific connection to Pesach.

j. The obligation of pilgrimage appears in similar form in the two sources. *Ki Tisa* uses the words, "Before the Lord God, God of Israel," and also "*et penei*" instead of "*el penei*" as in *Mishpatim*. The first difference appears to express the need, in *Ki Tisa*, for exact specification of Whom it is that we are to address, in light of the episode of the Golden Calf, and the concern lest there be any deviation from the covenant, as expressed in the preceding list of prohibitions related to idolatry. The second difference may have broader significance: "*el penei*" means "towards," "before," "in the place of" – but not actually "facing." "*Et penei*" means actually standing in front of the object. It is perhaps only after the commandment concerning the Mishkan, and God's promise that He will accompany the nation, in their midst – "My countenance will go" – that this is possible.

k. The promise of protection during pilgrimage is mentioned only in *Ki Tisa*, and the reason for this seems simple. In *Parashat Ki Tisa*, we have already been told that God will lead the nation to the land and drive out the seven nations. On the basis of the end of *Parashat Mishpatim*, we may also include the promise to expand the nation's borders: "And I shall set your borders from the Red Sea to the Sea of the Pelishtim..." Thus, the problem arises – what will happen to the land during the pilgrimage festivals? In *Ki Tisa*, God promises a solution to the problem. In *Parashat Mishpatim*, however, the unit of ritual laws appears before this promise is mentioned – indeed, prior to any promise concerning the conquest of the land in its entirety, and therefore there is no need to raise a problem that does not yet exist.

l. The prohibitions of leaven in sacrifices and allowing the sacrifices to remain until morning look very similar, but careful examination shows that the two sources are actually talking about different commandments. Some opinions interpret the unit in *Mishpatim* in light of that which is stated explicitly in *Ki Tisa* – i.e., that only the Pesach sacrifice is involved, but this seems unlikely, since if one source elaborates at greater length while the other is brief, it is more logical that it is the first source that should be longer, not the second – as noted above, in our discussion of the commandment concerning *Shavuot* and *Sukkot*. It would seem that the unit in *Mishpatim* represents a general instruction concerning the sacrifice of peace offerings and *chaggigas* sacrifices, while the unit in *Ki Tisa* speaks only – or principally – about Pesach. In *Parashat Mishpatim*, this is a complement to the general instructions concerning Divine

worship; the prohibition against leaven is not a law related to Pesach, but rather a general law applicable to every type of sacrifice. The prohibition of allowing the sacrifice to remain until the morning concerns the fats of the *chaggiga* offering, and hence is of ritual significance. In *Ki Tisa*, on the other hand, this law is a complement to the laws of Pesach, which – as noted above – occupies a central place in this *parasha*. In fact, the *parasha* both starts and ends with laws of Pesach. The prohibition against leaven appears here to be related to the laws of this festival, and it is possible that the expression "you shall not slaughter," instead of "you shall not offer," hints at the fact that this refers to the Pesach sacrifice, which is not altogether an "offering" (*zevach*).

m. The obligation concerning first fruits and the prohibition of mixing meat and milk appear in identical form in both sources. Apparently, the first context in which the prohibition against mixing meat and milk appears is ritual in nature, in keeping with the theme of the *parasha* as a whole. In other words, the Torah is prohibiting the cooking of a *chaggiga* or peace offering in milk, or offering it in a manner reminiscent of the pagans etc., as Rambam, Ibn Ezra and others explain.

n. Following this collection of ritual laws in *Parashat Mishpatim*, God gives a promise concerning the conquest of *Eretz Yisrael*. Here we find laws prohibiting idolatry, adopting the practices of the nations, etc. All of this is connected to the entry into the land, and is similar to the laws that precede the unit in *Ki Tisa* ("Do not worship...", "Do not adopt their practices...", etc.).

B. Principal Differences Between the Two Units

Having examined the details of the differences between the two units and attempted to explain them, we may now point to some fundamental characteristics of each, which may help us to answer our original questions.

a. The unit in *Parashat Mishpatim* bears the stamp of that *parasha*, and has a clearly social emphasis. This fact is prominently expressed in the social commandment of *Shemitta*, in the social justification for the commandment of Shabbat, in the link to the preceding social commandments, and perhaps also in other aspects, which we shall discuss below. The unit in *Parashat Ki Tisa* bears the stamp of the renewed covenant which precedes it, and it seeks mainly to highlight the ritual aspects of the commandments that were transmitted in *Parashat Mishpatim* – especially the worship of God and avoidance of any desecration of His covenant. This orientation is reflected in the omission of the social commandments and justifications, in the introduction of ritual laws such as redemption of the firstborn son and of the firstling of the donkey, in the significance attached to the festival of Pesach, and to the link to the list of prohibitions related to idolatry that precedes this unit.

b. In terms of the order of the *parshiyot* in *Sefer Shemot*, *Mishpatim* precedes the renewal of the Covenant at Sinai, the promise concerning the entry into the land, the building of the Mishkan, and – certainly – the Sin of the Golden Calf. Hence, there are elements that are related to this unit of laws that cannot appear in *Parashat Mishpatim* – or that would be irrelevant there – and that are added in *Ki Tisa*. Examples include the promise concerning property during the

pilgrimages, following the expansion of the borders of the land, the emphasis on the "God of Israel," etc.

c. The crux of both of these units is the commandment of pilgrimage and the three pilgrim festivals. In other words, the essence of the unit is preserved, and it is here that the repetition is manifest. In the other aspects there are substantial differences, additions or omissions.

C. The Role of the "Ritual" Unit in *Parashat Mishpatim*

Our conclusion thus far is that these two halakhic units, sharing the same halakhic core, serve or emphasize different purposes. Let us now return to our principal question concerning the reason for the repetition. Let us first consider the role of this "ritual" unit in *Parashat Mishpatim*. Seemingly, this is not the natural place for such a unit, since the main theme of *Parashat Mishpatim* is justice and righteousness. In truth, however, a general view of God's command to Moshe following the Ten Commandments reveals that this *parasha* fills a void; without it the covenant at Mount Sinai could not be complete. Let us review the order of the commandments, starting from right after the Ten Commandments:

A. Prohibitions of idolatrous worship ("You shall not make with Me gods of silver and gods of gold...")

B. The order of proper worship – freewill offering of the individual ("An earthen altar shall you make for Me, and offer upon it...")

C. Judgments (*mishpatim*)^[1]

b. The order of proper worship – obligatory offerings of the congregation (the "ritual" unit with the three pilgrim festivals at its core)

a. Prohibitions of idolatrous worship in *Eretz Yisrael* ("You shall not worship them, nor shall you serve them, nor shall you follow their actions").

This entire body of commandments is the "Book of the Covenant," concerning which we read, in chapter 24: "He placed before them all the words of God, and all the judgments"; hence, this is the substance of the covenant. We conclude, then, that the content of the covenant is a sort of a "sandwich," with the beginning and ending defining the nature of Divine service, with the middle – the "filling" – describing a social existence of justice and righteousness. The difference between the "ritual" beginning and the conclusion is the same difference that exists between the individual, voluntary aspect of the obligations and prohibitions of Divine worship, and the obligatory, communal aspects, as expressed principally in the pilgrimage and the celebration of the holidays at their set times during the year. *Parashat Mishpatim*, which sets down the guidelines for proper social existence, facilitates the transition from the existence of individuals who serve God, to a national, public existence in the service of God, with fixed times and practices. The observance of all of this together makes it possible for God to realize the promise of the inheritance of the land, which follows the Book of the Covenant, and also allows the forging of a covenant with God. The centrality of the chapters of judgment and righteousness, in terms of location as well as quantity and content, shows that the metamorphosis of Israel into a nation worthy of entering into a covenant with God is dependent principally on social factors – i.e., the performance of justice and righteousness. Hence, even Divine worship itself does not appear here as an independent subject;

rather, it appears as part of the entire organization of a society that is righteous in the eyes of God. *Shemitta*, Shabbat, and – indirectly – even the pilgrim festivals, as stated explicitly in *Devarim 16*, complete the charitable aspect of the social obligations.

D. Role of the "Ritual" Unit in *Ki Tisa*

In order to understand the reason for the repetition of a body of laws that the Torah has already commanded, we must consider what is omitted from this repetition, and what is added. We have already noted that the social aspects of the laws, as they appeared in the unit in *Mishpatim*, are entirely absent here; the social commandments themselves are also omitted here. The reason for this is simple: the social imperative itself was the principal message of the unit as it appeared in *Mishpatim*, and there is no reason for a repetition of the unit from that same perspective. What is added to the unit in *Ki Tisa*, which had not previously appeared in *Mishpatim*? The "ritual" emphases and warnings. Why? For two reasons: a) Because in the meantime, in the wake of the forging of the covenant before and after the Sin of the Golden Calf, God had promised that He would cause His Presence to rest in the midst of the nation. For this reason, the ritual laws must address this aspect of Divine service, which was not yet applicable in *Parashat Mishpatim*. b) Because in the meantime, the nation of Israel had sinned with the Golden Calf, betraying God and violating His covenant. When God renews that covenant, He completes His promise and the occasion of the covenant itself by means of laws that have a dual purpose: on one hand, God warns against deviating from the covenant, since it has already become apparent that such a possibility exists. Moreover, the promise that Israel will enter *Eretz Yisrael* gives rise to major concerns as to possible deviations. Therefore, "You shall not marry among...", "You shall cut down their *asherim*," and – especially – "You shall make yourself no molten gods." On the other hand, God declares that following the renewal of the covenant, He may be served again as before; indeed, He may now be "beheld." This is not an obvious assumption; on the contrary, it was precisely for this reason that the nation mourned – even after God had been appeased by Moshe's prayer and had decided against their annihilation. Now, when God promises, "Behold, I forge a covenant with you," He goes back to the ritual core of the first unit – as though renewing the invitation to "behold Him." As mentioned, there is no need here for any social exhortation; what is needed is the addition of emphases arising from the conditions that have changed in the meantime, in view of the renewal of the covenant. The crux of the message is, You are once again invited to My House: "Three times in the year, all of your males shall present themselves before the Lord God, God of Israel...."

Translated by Kaeren Fish

[1] Towards the end of the "judgments" there are some prohibitions and commandments that do not fall into the category of "judgments" – for example, "You shall not suffer a witch to live," and "The firstborn of your sons you shall give to Me." These require a separate discussion.