

MISHPATIM SH'KALIM



18th of 54 sedras;
6th of 11 in Sh'mot

Written on 185 lines in a Torah (31st)

33 parshiyot; 6 open and 27 closed

3rd most in the Torah;

2nd most S'tumot in the Torah

118 p'sukim - ranks 22 (5th in Sh'mot)

1462 words - ranks 31 (7th in Sh'mot)

5313 letters - ranks 37 (8th in Sh'mot)

The noticeable drop in ranking from p'sukim to words indicates short p'sukim; in fact, Mishpatim's p'sukim are among the shortest in the Torah.

MITZVOT

MISHPATIM has 53 mitzvot;
23 positive and 30 prohibitions.

Only three sedras have more mitzvot - Ki Teitzei (74), Emor (63), and R'ei (55). K'doshim follows Mishpatim with 51 mitzvot. And let's add Shoftim with 41, since the next in line is down at 28. Mishpatim has 8.65% of the Torah's mitzvot (1.85% is average); 48% of the mitzvot in Sh'mot. The top 6 mitzva-sedras account for 337 of the 613 mitzvot - that's 55% of the Torah's mitzvot in 7½% of its sedras.

MAFTIR FOR PARSHAT SH'KALIM adds 6 p'sukim, 90 words, 346 letters, and one mitzva.

Aliya-by-Aliya Sedra Summary

[P> X:Y (Z)] and [S> X:Y (Z)] indicate start of a parsha p'tucha or s'tuma. X:Y is Perek:Pasuk of the beginning of the parsha; (Z) is the number of p'sukim in the parsha.

Numbers in [square brackets] are the Mitzva-count of Sefer HaChinuch AND Rambam's Sefer HaMitzvot. A=ASEI; L=LAV (prohibition). X:Y is the perek & pasuk from which the mitzva comes.

Kohen - First Aliya - 19 p'sukim - 21:1-19

[P> 21:1 (6)] EVED IVRI, a Jewish male indentured servant, works for 6 years and goes free in the 7th year. He leaves as he entered, i.e. if he had a wife and children previously, they, of course, leave with him. If, on the other hand, his master had given him a SHIFCHA K'NAANIT as a wife, she and any children he fathered remain the possessions of the master - they are halachically not his wife or children.

If the EVED IVRI wants to remain in his master's service, his ear is pierced (a symbolic rebuke: "The ear that heard at Sinai that we are G-d's servants, should not want to be a servant to a servant.") and now he serves "forever" (until Yovel). The details of EVED IVRI constitute a positive mitzva [42, A232 21:1].

SDT: Of all the topics to begin this mitzva-filled sedra, we see a signifi-

cance in the Torah's choice of SERVITUDE. This is part of the definition of Belief in G-d, the first Commandment. G-d puts Himself in the context of He Who freed us from slavery. We should not be slaves anymore; and we shouldn't really have any. But at a time when it was still practiced, we are duty-bound to treat the EVED in the manner commanded by the Torah, thus reflecting our belief in G-d. In fact, the Gemara says that he who acquires an EVED (IVRI), it is as if he has acquired a master. One blanket in cold weather - the EVED gets it, not the "owner". No humiliating treatment permitted. And lots more.

As you can tell by the large number of parshiyot, the many topics and mitzvot are subdivided well in this sedra. This indicates not only many mitzvot, but many different types and categories of mitzvot. The first parsha deals with EVED IVRI, as explained, and is introduced by the opening pasuk of this entire mitzva-filled sedra - And these are the laws that you shall place before them...

[S> 21:7 (5)] A man can arrange for his daughter to be "in service". She, the AMA IVRIYA, does not have the same rules as an EVED IVRI. Either her master, master's son, or someone else, takes her as a wife [43, A233 21:8] with the full rights and respect accorded a Jewish wife - NOT LESS [46, L262 21:10], or she is to be

redeemed or returned to her family [44, A234 21:8], but she may not be sold to anyone else [45, L261 21:8] or belittled or disgraced.

The alternative to the above options is to free her completely. (Apparently, the purpose of AMA IVRIYA is to help the young girl improve her status in society.)

It is interesting and important to note that mitzva #46 includes giving ALL wives (not just the former maid-servant) their rights under Jewish Law. This is an example (there are others) of a mitzva whose context in the Written Torah is narrow, but whose scope, as taught to us by the Oral Torah, is much broader. This is NOT a case of Rabbinic extension of Torah Law, nor of Rabbinic legislation. It is a DEFINITION of the Torah's intent, as transmitted to us via the Oral Law. Our Sages did both - transmit G-d's law and legislate their laws... and teach us which is which.

[S> 21:12 (2)] Murder is punishable by beheading, known as HEREG or SAYIF. This is an example of the Torah's presenting both a warning - LO TIRTZACH (from Yitro), Thou shalt not murder, and a punishment - He who strikes a man and he dies, he shall be put to death.

At this point in Mishpatim, Rambam counts the mitzva to execute by strangulation he who is tried, convicted, and sentenced for a sin whose

punishment is strangulation [47, A227 21:12]. (It seems that this mitzva was meant to link to 21:16 below, because the punishment fits that context.)

Unintentional killers are provided with a place (city) of refuge.

[S> 21:14 (1)] Intentional murderers who flee to a city of refuge - or even to the Mikdash to cling to the Mizbei'ach - are forcibly returned to stand judgment.

[S> 21:15 (1)] Striking one's parent (and drawing blood) is a capital offense [48, L319 21:15].

[S> 21:16 (1)] Kidnapping (prohibited by LO TIGNOV, Commandment #8) is a capital offense if the kidnapper sells the victim into slavery. (Rashi explains the seeming anomaly in the text.)

[S> 21:17 (1)] Cursing one's parent (even after death) is a capital sin.

[S> 21:18 (2)] If one inflicts a non-fatal injury upon another, he must pay full compensation based on five factors: damage, pain, insult, expenses, and lost earning potential [49, A236 21:18].

Implied in this concluding portion of the first Aliya is our Jewish and human obligation and challenge to heal the sick. This derives from the double wording of V'RAPO Y'RAPEI. We do not see G-d as the only Healer, so to speak. Of course, everything depends upon G-d, but He expects us, so to speak, to do our share of the task of healing. He supervises that,

helps out, and takes over when we've done all we can. (The plain meaning of V'RAPO Y'RAPEI is that part of the payment required of the one who caused the injury is covering the medical costs.)

Levi - Second Aliya - 21 p'sukim - 21:20-22:3

[S> 21:20 (2)] Next we have the command to the courts to carry out the punishment for murder, viz. execution by beheading [50, A226 21:20].

It is significant that the Torah "chose" as the context for this mitzva, the situation of one who beat his EVED CANAANI to death. This is considered an act of murder, in contrast to the world's attitude and mistreatment of slaves throughout history. In Jewish law, one may not mistreat his slaves. On the other hand, corporal punishment which does not result in death or even the loss of limb (or even a tooth), is within the prerogative of the slave's owner. (But even causing a tooth to fall out is considered excessive and results in the slave being freed.)

[S> 21:22 (4)] The Torah next elaborates on the rules of personal injuries requiring the guilty party to pay compensatory damages. The famous "an eye for an eye..." passage has stimulated much slander against Torah and Judaism by being construed literally. Our Oral Law explains the

passage as requiring a thorough evaluation by the court to determine the proper amounts to be paid to the injured party.

[S> 21:26 (2)] A few p'sukim back, the Torah was discussing killing a slave or just injuring him mildly. Here the Torah teaches that if striking a slave causes the loss of an eye... or even a tooth, the slave must be freed.

[P> 21:28 (5)] The next passage of the Torah deals with damages caused by one's ox (all animals are included; the Torah uses a practical example) [51, A237 21:28]. We distinguish between damages that can, and therefore must be foreseen by the owner (for which he is held completely responsible), as opposed to an unexpected and unusual action by the animal that causes damage, for which the owner is held only partially accountable.

An animal that kills a human, is to be destroyed by stoning and its carcass is ASUR B'HANA'A - it may not benefit anyone [52, L188 21:29].

[S> 21:33 (2)] The Torah then discusses damages caused by a pit dug in the ground and negligently left uncovered [53, A238 21:33].

The Gemara enumerates various categories of damages. Each case is to be examined on its own merits, so that the fairest treatment of the parties will result. For example...

[S> 21:35 (2)] If an ox owned by one

person gores the ox of another person and kills it, then the two owners share the responsibility and each gets 50% of the value of both the live ox and the dead one. But if the ox that gores had developed a reputation for violent attacks, then its owner is held more accountable. He gives his live ox to the other owner and takes the carcass of the dead ox. It has value, but not as much as a live ox.

[S> 21:37 (4)] Stealing an animal for slaughter or sale is punished by compensation of 4x (for a small animal) or 5x (for a large animal) the market value. This reflects the seriousness of stealing not just another person's property, but his livelihood as well.

If a thief is caught "red-handed" and is killed by the home-owner, there are certain circumstances for which the killing would be justified, and other cases where it would be considered criminal homicide.

This is the very sensitive passage that deals with self-defense and pre-emptive action to protect oneself. The Torah presents both possibilities; it is a Court (of 23) that would have to rule on specific cases and perhaps provide us with rough guidelines to distinguish between cases. This is the Torah source of "He who comes to kill you, beat him to the draw and kill him first." HABA L'HORG'CHA, HASH-KEIM V'HORG'GO - This 'permission' to kill is conditional upon it being the only way to save yourself (or

someone else). This is part of what makes this issue so sensitive. It is a "judgment call" on the part of the person, and, literally, a judgment call on the part of Beit Din.

A thief who voluntarily turns himself in repays that which he stole. (In certain cases where a false oath compounded a theft, there can be an added penalty of "one fifth - 25% added to the principal.) If a thief is caught, he pays double [54, A239 22:2], or 4-5 times in the case of livestock (that he slaughtered or sold).

A thief (male, not female) who cannot make full restitution can be sold by the court as an Eved Ivri in order to pay off his debts.

Shlishi - Third Aliya - 23 p'sukim - 22:4-26

[S> 22:4 (1)] Compensation must be made for damages caused by one's animal's grazing on someone's property [55, A240 22:4].

[S> 22:5 (1)] So too, if damages result from a fire that one carelessly caused, he must pay damages [56, A241 22:5].

[S> 22:6 (4)] Next, the Torah presents the responsibilities of guardianship - when one is watching that which belongs to someone else without being paid for the service, then the guardian is responsible if something happens to that which he is watching, only if he was negligent in his guardianship.

Properly carrying out the laws of the SHOMEIR CHINAM is a positive mitzva [57, A242 22:6].

[S> 22:9 (4)] There are differences in the rules in the case that the guardian is being paid for his services. E.g. paying someone to house-sit while one is on vacation. Because the guardian is being compensated, he is held responsible for some situations besides his own negligence. These rules also constitute a mitzva [59, A243 22:9]. Included in the rules for SHOMEIR SACHAR are the rules for renting and leasing (SOCHEIR).

The courts are charged [58, A246 22:8] with careful handling all of these types of cases.

[P> 22:13 (2)] The 4th "guardian" is the borrower who is responsible for all losses except the death of a work animal in the normal course of work [60, A244 22:13] (and by extension, the ruin of an object from "normal wear & tear").

[S> 22:15 (2)] A man who seduces an unmarried woman is required to pay punitive damages to her &/or her father. And he must marry her, if she insists [61, A220 22:15].

[S> 22:17 (2)] Sorcery is a capital offense, and it is forbidden for the courts not to judge and execute its practitioners [62, L310 22:17].

Bestiality is a capital offense.

[S> 22:19 (8)] Sacrificing to a god other

than HaShem is condemned (to death).

A convert to Judaism must not be embarrassed or taken advantage of with words [63, L252 22:20] or in money matters [64, L253 22:20]. These rules vis-à-vis the Ger are in addition to the "regular" prohibitions of embarrassing and taking advantage of any Jew. Thus the Torah sensitizes us to the plight of the more vulnerable members of our society. The Torah also spells this out vis-à-vis the orphan and widow [65, L256 22:21].

With so many different parshiyot to handle so many different mitzvot, notice that the requirements of sensitive behavior towards the convert, widow and orphan shares a parsha with sacrificing to idolatry. One can imagine G-d saying to us, be very careful, I take this as seriously as that. Mistreat a GER? That to Me is as serious as if you mistreated Me, so to speak.

[P> 22:24 (3)] It is a mitzva to lend money to a poor person [66, A197 22:24] and not demand repayment when none is reasonably forthcoming [67, L234 22:24]. Included in this passage is the prohibition of charging interest on personal loans or having any part in such a loan [68, L237 22:20].

If one took a poor person's bedding as security for a loan, it must be returned each evening for his use. This is but one of the many lesson's in the Torah in G'milut Chasadim.

R'vi'i - Fourth Aliya - 9 p'sukim - 22:27-23:5

[S> 22:27 (4)] Do not curse judges [69, L315 22:27] nor The Judge (the prohibition of blasphemy) [70, L60 22:27], nor may we curse our leaders [71, L316 22:27].

Do not withhold the gifts of the produce - T'ruma, Maaser, etc. - nor confuse the order in which these gifts should be taken from produce [72, L154 22:28].

Firstborn sons are to "be given to G-d" (i.e. redeemed, with Pidyon HaBen). Firstborn cows, goats, and sheep are sanctified and require special procedures. [These mitzvot are counted from elsewhere in the Torah.]

The Torah here briefly mentions the prohibition of taking an animal for a korban from its mother before it is eight days old. Such a korban would be automatically invalid, as M'CHUSAR Z'MAN, deficient in time.

TREIFA, literally is an animal torn up by a predator and left to die, is forbidden to eat (even if the animal was killed by proper sh'chita), but other benefits may be derived from it. Included in the laws of TREIFA are animals found, upon post-mortem examination, to have specific defects [73, L181 22:30]. Note that the term TREIF is also used for all non-kosher, but its specific meaning is as above.

[S> 23:1 (3)] Courts may not hear one side of a dispute without the other party being present [74, L281 23:1]. This prohibition includes not being influenced by rumors. Judges may not accept testimony from unworthy witnesses [75, L286 23:1]. A majority of one is not sufficient to convict in capital or corporal cases [76, L282 23:2]. In their deliberations, judges must be careful not to do anything that might pervert justice or unfairly shift the feelings of the court against the accused [77, L283 23:2]. Generally, rules of law are determined by majority vote of the judges [78, A175 23:2]. Judges may not show favoritism, even towards the poor [79, L277 23:3].

SDT: A judge's heart might go out to a poor person who stands before him in a dispute with a wealthy man. Would it not be an act of kindness, of Chesed, to see to it that the poor person wins the dispute? NO! Not at the expense of justice. A judge wants to give charity? Fine. He wants to convince the rich guy to help the poor guy out? Nice. But justice must be fairly meted out. Any and every bent case shakes the whole society's confidence in the justice system.

[S> 23:4 (1)] If one finds a stray animal, he shall return it to its rightful owner (even if it involves personal expense). This command is related to Lost & Found whose "main" place is in Parshat Ki Teitzei.

[S> 23:5 (1)] One must help even his enemy unload his beast of burden [80, A202 23:5]. This mitzva is one of several that are considered the sources of the concept of avoiding Tzaar Baalei Chayim.

SDT: Sefer HaChinuch says that if this mitzva applies to a donkey, how much more so does it apply to humans. If one sees a fellow loaded down with bundles, it is a Torah mitzva to help him with them. And what might follow from that idea is that when someone offers to help you with packages, don't immediately say "No thank you, I got it." It is a nice thing to be gracious and accept the help - good for you and a merit for the one offering.

BTW, when someone does a mitzva that is also helpful to you, it is proper to say THANK YOU and TIZKEH L'MITZVOT (not just the latter). Thank you addresses the BEIN ADAM L'CHAVEIRO aspect of what was done, and Tizkeh L'Mitzvot relates to BEIN ADAM LAMAKOM.

Chamishi 5th Aliya - 14 p'sukim - 23:6-19

[S> 23:6 (14)] One must not pervert justice even by slanting a case against a wicked person [81, L278 23:6]. Keep far away from falsehood and be careful not to build a case on circumstantial evidence and supposition [82, L290 23:7]. Do not take bribes, even if they

won't affect the outcome of a case [83, L274 23:8]. Do not oppress a stranger (convert?); this is a lesson of the Egyptian experience. One's fields are to be worked for six years and rested during the seventh, so that the poor and even the wildlife will be able to enjoy the land [84, A134 23:11]. One must abstain from all manner of Melacha on Shabbat [85, A154 23:12].

This mitzva is the positive counterpart of the prohibition of melacha on Shabbat from Commandment #4 in Yitro. It gives a positive spin to the restrictions of Shabbat. As Dayan Grunfeld z"l puts it (in The Sabbath), we lay at the feet of G-d in homage to Him the Creator, the various gifts and creative skills He gives us for our workaday week. This partially explains the significance of the distinction between "abstain from" and "do not do".

Generally, the main motivation for not violating a prohibition is FEAR. Fear of G-d, fear of heaven (as it is often called), fear of sin, fear of punishment. The main motivation of doing a positive mitzva is AHAVA, Love of G-d, Love of Torah, etc. We tremble at the thought of the seriousness of Chilul Shabbat. The punishment is very severe. But we also delight in obeying G-d when He asks (commands) us to abstain from the creative activities with which He endowed us. It is this positive mitzva of "resting on Shabbat" that gives

meaning to the concept of SHAMOR, keep & preserve Shabbat. (Resting, meaning a nice Shabbat afternoon nap is Oneg Shabbat, and is derived from the Navi Yeshayahu.)

Swearing in the name of (and sometimes even just mentioning) a deity is forbidden [96, L14 23:13]. In the spirit of this mitzva, one should avoid popular interjections whose origins are associated with other religions - Gee!, Holy cow! etc.

Inciting others to idolatry (even without worshiping) is forbidden [87, L15 23:13]. Chagiga offerings in the Mikdash are to be brought on each of the Three Festivals [88, A52 23:14]. Matzot are to be eaten during the 7 days of Pesach. It marks the Spring season during which we left Egypt. We must not appear empty-handed at the Beit HaMikdash (but rather bring specific Festival korbanot). Shavuot is the Festival of the First Harvest and Sukkot marks the final harvest at "the turn of the year". We are to go to Jerusalem for the Three Festivals. Korban Pesach may not be brought while we are in possession of Chametz [89, L115 23:18] nor may its fats be left over for the morning [90, L116 23:18]. Bikurim are to be brought to the Mikdash from Shavuot time and on [91, A125 23:19]; it is forbidden to cook meat with milk [92, L186 23:19].

This is the first of 3 times that the Torah commands LO T'VASHEIL G'DI BACHALEIV IMO. Rambam, Chinuch,

and others consider this first time to be the prohibition of cooking meat and milk together, regardless of who does or doesn't eat or benefit from it. The act of cooking itself is a Torah violation. The second time (in Ki Tisa) is considered the prohibition of eating mixtures of milk and meat that have been cooked. The 3rd occurrence (in R'ei) teaches us that the prohibition of eating includes all other benefits from the forbidden mixture. And our Sages added additional rules & regulations to these.

Shishi - Sixth Aliya - 6 p'sukim - 23:20-25

[P> 23:20 (6)] G-d will send an angel (a prophet?) to lead and protect the People upon our entrance into the Promised Land. We must heed his words so that our enemies will fall before us. We may not bow to idols, nor worship them, nor learn from the deeds of pagans; we must destroy their idols. We must serve G-d and He will bless us with wealth and health.

Sh'VII - Seventh Aliya - 26 p'sukim - 23:26-24:18

[S> 23:26 (8)] G-d promises that we will live full satisfying lives and that our enemies will panic before us and will be driven out of the Land - not quickly, but slowly, so that Bnei Yisrael may properly populate the Land.

SDT: Wait a minute! Miracles, laws of nature turned upside down. Plagues. Splitting of the Sea. Manna. Water from this and that. MA PITOM (what all of a sudden!) that we will only take over the Land of Israel slowly? What about a couple of miracles to handle the problems? HaShem can do things with the proverbial snap of a finger. The answer is that miracles are nice, but we don't live by them.

We get them when we need them. The purpose of going (coming) to Eretz Yisrael is to live a Torah life in the place it was made for; we have to do it naturally. This is the difference between the suspended animation experience of the Midbar and the down to earth, practical life in Eretz Yisrael. Flashy miracles give way to G-d's natural miracles. The experience in the Midbar is like a baby's experience in the womb. Coming to Eretz Yisrael is like the birth of the Nation.

We may not make treaties with the 7 Nations nor with other idolaters [93, L48 23:32], nor shall we permit idolaters a foothold in the Land [94, L51 23:33], so that we will not be entrapped by them.

[P> 24:1 (11)] The sedra concludes with a description of Matan Torah, including the famous NAASEH V'NISHMA response of the People to the offer of a Torah way of Life. Some of the things described in this portion

"confuse" commentaries as to when they exactly happened.

[S> 24:12 (7)] This final parsha of Mishpatim seems to be the immediate aftermath of Matan Torah - really a continuation of it. G-d tells Moshe that He will be giving him the Luchot AND the Torah AND the mitzvot. **(If anyone you know thinks that all G-d gave us at Sinai was the "Big Ten", just show him the end of Mishpatim.)** After six days of "cloud-cover", which prevented Moshe from ascending Har Sinai, he is welcomed on the 7th day. He remains on the mountain for 40 days and 40 nights.

Maftir in 2nd Torah 6 p'sukim, Sh'mot 30:11-16

Maftir for Parshat Sh'kalim deals with the mitzva of Machatzit HaShekel, the silver half-shekel that was collected from every adult Jewish male each year. If a woman wanted to give, it was accepted from her. Not so with a non-Jew.

Although the 1/2-Shekel collection was used for the census, its main purpose was to provide funds (to which all Jews contributed equally) for communal offerings throughout the year. All Jews - rich or poor - have the same share in the communal fund.

To be specific: The first time the mitzva of Machatzit HaShekel was performed, the silver was used (mostly) for the ADANIM, the founda-

tion blocks of the Mishkan. It is significant that specifically the foundation came from equal amounts given by all eligible people. Different amounts - whatever one was moved to and able to give, 'paid' for everything else in the Mishkan. But the foundation was equally shared.

It is further significant that the amount was HALF of the silver shekel. HALF is not whole, it is only part. And that implies a communal endeavor rather than the efforts of individuals.

In future years, the proceeds of Machatzit HaShekel went for many communal needs in the Mikdash, and that retains the message of "We are all in this together - and equally." Plenty of opportunities to be different from each other. Not with Machatzit HaShekel.

Reading the maftir of Sh'kalim is a ZEICHER, a remembrance of the mitzva, past and future. So too, the practice of giving half shekels (or half dollars, Euros, etc. depending upon where one lives) on Taanit Esther or before Megila reading. A commemorative of the mitzva, but not (yet) the actual mitzva - may we be privileged to fulfill it in our time.

Haftara - 17 p'sukim - Melachim Bet 12:1-17

(S'faradim start 4 p'sukim earlier)

The regular haftara for Mishpatim is preempted often. 60% of the time, Mishpatim is Shabbat Parshat Sh'kalim (as it is this year) and the Sh'kalim haftara is read. Another 5.8% of the time, Mishpatim is Rosh Chodesh of Adar Alef (Mishpatim can also be Rosh Chodesh Adar in a 12-month year, in which case its haftara being pre-empted is already counted in the 60%, as above). Another 10%+ of the time, Mishpatim is Machar Chodesh (with Sunday-Monday being Rosh Chodesh Adar Alef), with its special haftara. The regular haftara of Mishpatim is read only 23.8% of year-types (this year is not one of them).

Silver is a recurring theme in the Haftara for Sh'kalim. It was used for repairs in the Beit HaMikdash and symbolized the people's return to G-d after severe straying.