

Guest article

by Rabbi David Walk

DIVINE JUDGES

As a young and casual reader of Torah, I was always dismayed when we reached Mishpatim, this week's Torah reading. After all, B'reishit and the first twenty chapters of Sh'mot are just so exciting and actually fun to read. It's all fascinating stories and compelling characters. And except for Shmot 12, even the mitzvot are cool, the result of a wrestling match with an angel (gid hanasheh, prohibition of eating the sciatic nerve) or given in fire and thunder at Mt. Sinai. But now, alas, we've reached the serious halachic material, and the entertainment value has evaporated. Or has it? Embedded in this legal material are many lessons for life along with the laws required for the smooth running of society. Our Sages have taught us that studying these laws of civil damages (nezikin) will increase our wisdom and moral fiber. So, let's endeavor to find a spiritual gem among the legal material.

Just in way of a quick overview, from Sh'mot 21:1 until 23:19 there are a plethora of legal issues covered. These include: Hebrew indentured servants, murder, kidnapping, all sorts of damages, laws of guardians or custodians, money lending, and care for other's property. This is a partial list, but suffice it to say that

this material forms the basis for the Talmudic tractates we call Baba Kama, Baba Metzia and Baba Batra. After the awesome experience at the foot of Har Sinai, God is giving us the building blocks for a Torah society.

The presentation of this material begins with an unexpected expression. God tells Moshe that these are the mishpatim (rules and regulations for society) to be 'set' (tasim) before the nation. This is already a revolution in human experience. No other society felt the need to present the basics of law before the entire nation. Hamurabi's Code? Well, basically, no one could read it, except the priests. But the Jews were all expected to have a basic familiarity with God's expectations for our behavior. This is the beginning of responsible citizenship, as opposed to the later Greek polis where the expectation was the same, but only a small percentage had full rights.

The first of the laws which is presented is about indentured servants. A person has been sold into servitude because a debt couldn't be paid. Most of you know that this servitude is abrogated by sh'mita, every seventh year. This was the basis for many colonists coming to America. They got passage from England in return for seven years work in the colonies, except South Carolina where servitude could be for life.

But what happens if for various

reasons the servant prefers the more protected, secure life of an indentured servant? One may opt to stay until yovel through a very solemn ceremony, which included boring the ear of the servant. But look at the wording of the verse: his master shall bring him to the elohim, and he shall bring him to the door or to the doorpost, and his master shall bore his ear with an awl, and he shall serve him forever (Sh'mot 21:6). Who are these elohim? Rashi (based on the Mechilta) says that it refers to courts, but Onkelos and the preponderance of commentaries aver that it means the judges. We, of course, think of this term as one of the more popular names for God. So, what gives? Do we have the right to describe humans in divine terms? Usually not. However, in the solemn execution of Torah law we allow ourselves to see these august individuals as representing the law, and by extension God. The root of this term is el which means power, therefore sometimes a human can ascend to power which is derived from God.

Now this brings up a technical halachik point. These terms when applied to humans are mundane and not holy, which means that our Sages had to determine when this word referred to God, which would mean it can't be erased, and when it didn't and could be discarded.

In our section (from 21:1 to 23:19) this term appears seven times. Five

of them (21:6, 22:6, 22:7, 22:8 and 22:19) clearly mean human judges, and are, therefore, not holy, and those fit into the concepts we've been discussing. However, two of them are very different. Here's 22:13: If one did not plan to kill the victim, but it happened as an act of Elohim, then I will provide a place where the killer can find refuge. This is, of course, the law of manslaughter, where the accidental murderer goes to one of the cities of refuge. In this verse our term clearly refers to God, and, of course, is holy and can't be erased. This is interesting, here's an odd man out in the middle of all these references to human judges. But the next one is even cooler.

Here's verse 22:19: Whoever sacrifices to elohim shall be utterly destroyed; sacrifices are to God alone. This is like the elohim acheirim, 'other gods' in the Ten Commandments. In our section we run the gamut from a reference to God to human authorities to idolatry. Is this some sort of test to see if we can pick out the holy from the mundane? Not at all. I strongly believe that a profound message is being communicated to anyone who would like to become an earthly representative of God: You get the awesome title elohim, but use it carefully or you could be the cause of that term being desecrated.

I believe that the judicial material in our parsha uses the term elohim to give these individuals the gravitas

they require to get the job done. However, the moment that one of them oversteps the boundary of their authority they're in danger of destroying the entire enterprise. The five times elohim is used to mean judge are for us, and our respect for the system. The times it means God or false god are for the judges, for they must remember their place, too.