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speaking of the divine attributes, which he has commanded us to imitate, the psalmist says: "His mercy is over all his works" (Psalm 145:9). Whoever is merciful will receive mercy, as it is written: "He will be merciful and compassionate to you and multiply you" (Deuteronomy 13:18).



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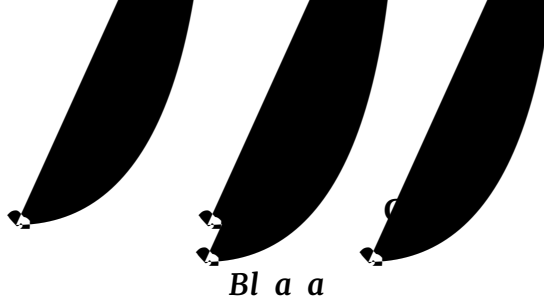
The Torah, which always are pleasant ways" opened its laws with [a discussion of the laws of slaves and maidservants, who in ancient times were considered animals] no judge would hear their grievances against their masters.

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R. Rabinovich points out that there is no positive obligation to buy a slave, because the ownership of another person is a violation of the essential equality of all humanity. Nevertheless, in giving the Torah to Israel, God recognized that this young nation was living in a world in which slavery was a normative institution. For reasons both social and economic, the Jews would have been unable, at that point in history, to give up the institution of slavery completely. The Bible therefore chose to regulate and improve the existing institution until the time came when humanity would grow out of it. Like animal sacrifice, slavery was permitted as an accommodation; but unlike animal sacrifice—and in applying Maimonides' principle to slavery, this seems to be R. Rabinovich's subtle innovation—slavery could ultimately vanish completely, since there is no positive obligation to own slaves, as there is too for sacrifices.

- How much should the "historical context" of the Torah be taken into account when evaluating the morality of mitzvot?
- Does the fact that the Torah never commands buying slaves but just allows for it, make it more moral?

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In parshat Mishpatim we witness one of the great stylistic features of the Torah, its transition from narrative to law. Until now the book of Exodus has been primarily narrative: the story of the enslavement of the Israelites and their journey to freedom. Now comes detailed legislation, the "constitution of liberty."

This is not accidental but essential. In Judaism, law grows out of the historical experience of the people. Egypt was the Jewish people's school of the soul; memory was its ongoing seminar in the art and craft of freedom. It taught them what it felt like to be on the wrong side of power. "You know what it feels like to be a stranger," says a resonant phrase in this week's parsha (23: 9). Jews were the people commanded never to forget the bitter taste of slavery so that they would never take freedom for granted. Those who do so, eventually lose it.

Nowhere is this clearer than in the opening of today's parsha. We have been reading about the Israelites' historic experience of slavery. So the social legislation of Mishpatim begins with slavery. What is fascinating is not only what it says but what it doesn't say.





Proof of this thesis is the fact that in certain important cases, the Rabbis has the right - which they exercised - of suspending Biblical law passively when they regard it as counter-productive, as in the case of the Scroll of the Suspected Adulteress (the  $\text{Sefer Sotah}$ ), or the abandonment on technical grounds of the death penalty, or the gradual abolition of slavery, or when they wished to protect another halakhic commandment (such as banning the sounding of the  $\text{Shofar}$  on Rosh Hashanah which falls on a Saturday)... Similarly, polygamy was widely practiced in the Biblical period, but was formally banned for Ashkenazi communities by Rabbeinu Gershon, " the Light of the Exile," in the 11th century. The Talmud's severe treatment of heretics.. is suspended nowadays, according to the Hazon Ish himself, because it is inoperative in times of " the hiding of God's face," i.e., when the society no  $\hat{e}$ ath

9 foundling at his doorstep. I knew that I slept quite soundly, and I concluded that if such a paragon of            coped with these            <sup>9</sup> , evide