



**Parashat Mishpatim**  
"You Shall Not Ill-Treat Any Widow or Orphan"  
by David Silverberg

**Introduction**

Parashat Mishpatim introduces a wide variety of guidelines, prohibitions and obligations, ranging from the judicial to the ritualistic to the ethical. By and large, the Torah's presentation follows a very succinct, legalistic format, like that of a legal textbook or code, with very little philosophical exposition or moral admonishing. Among the few exceptions to this otherwise consistent format occurs in the context of the prohibition against mistreating the underprivileged. Though the initial introduction of this prohibition indeed conforms to the parasha's overall succinct style – "You shall not ill-treat any widow or orphan" (Shemot 22:21) – the Torah then provides a harshly worded elaboration on the particular gravity of this violation: "If you do mistreat them, I will heed their outcry as soon as they cry out to Me, and My anger shall blaze forth and I will put you to the sword, and your own wives shall become widows and your children orphans" (22:22-23). In the following discussion we will search for a more precise definition of this law and try to identify the basis for its particular severity, by comparing Maimonides' approach to these verses with that of other Medieval scholars.

**What About the Others?**

At first glance, one might question why the Torah forbids the mistreatment of only orphans and widows. Does this amount to an implicit sanction of the mistreatment of people with spouses and parents?

This question gave rise to the following discussion recorded in the Mekhilta (a halakhic treatise on the Book of Shemot from the Mishnaic period):

"This appears to include only the widow and the orphan; from where [may we infer the extension of this law to] all other men? The verse states, 'Lo te'anun' – these are the words of Rabbi Yishmael. Rabbi Akiva says, 'The widow and the orphan, who are customarily ill-treated – the Scripture speaks of them.'"

Rabbi Yishmael extends this prohibition to all members of society based on a linguistic nuance in the Torah's formulation. Standard usage would render the phrase, "You shall not ill-treat" as "Lo te'anu." But the Torah inserts an extra letter – "nun" – yielding the word "te'anun," a nuance that is generally employed as a means of emphasis. According to Rabbi Yishmael, this subtle deviation from standard usage alludes to the extension of this law to all other members of society.

Rabbi Akiva, seemingly, does not take issue with Rabbi Yishmael's view extending this prohibition, but rather proposes a more obvious explanation for why the Torah speaks specifically of widows and orphans. The Torah will often introduce a prohibition in a context where it is most likely to be neglected. For example, in the Book of Devarim, the Torah forbids the court magistrate administering corporal punishment from exceeding the prescribed number of lashes: "He [the criminal] may be given up to forty lashes, but not more" (Devarim 25:3). The Oral Tradition interprets this verse as the Biblical source for the prohibition against beating another person in any context. This prohibition is presented specifically in the context of corporal punishment, where some degree of flogging is in fact mandated, and thus one may likely justify unwarranted beating. Rabbi Akiva appears to ascribe this method to our verse, as well. The Torah found it necessary to specifically warn against mistreating the widows and orphans because

of their particular vulnerability to abuse. In truth, however, the Torah here forbids the mistreatment of any person.

This indeed appears to be how Rashi, the famous Medieval French commentator, understood Rabbi Akiva's position. Commenting on this verse, he writes, "This applies to all people, only the Scripture addresses that which is common – because they are feeble, and their mistreatment is a frequent occurrence." Rashi here clearly paraphrases Rabbi Akiva's remarks, and extends the prohibition to all people.

Rabbi Moshe of Kutzi, a preacher and writer from the Tosafist period, and author of the famous compendium, "Sefer Mitzvot Gadol" (a work known by its title's acrostic, "Semag"), suggested a different reason for the Torah's emphasis on the widow and orphan, despite this law's application to all people. As cited above, the Torah underscores God's harsh response to the mistreatment of the orphan and widow: "If you do mistreat them, I will heed their outcry as soon as they cry out to Me, and My anger shall blaze forth and I will put you to the sword, and your own wives shall become widows and your children orphans" (22:22-23). This punishment, which emphasizes that the perpetrators' wives and children will become widows and orphans, is clearly reserved for abuse of the widows and orphans. The Sefer Mitzvot Gadol thus suggested that although the Torah clearly forbids mistreating any person, it makes specific mention of the widows and orphans in order to warn of the particularly grave consequences of abusing these vulnerable members of society.

In any event, both Rashi and the Sefer Mitzvot Gadol interpreted this verse as forbidding the mistreatment of all people, not merely the widow and the orphan.

Maimonides clearly disagreed. In his Sefer Ha-mitzvot (listing of the 613 Biblical commands), he describes this prohibition as follows: "We are forbidden from mistreating the orphan and the widow, as it says, 'You shall not ill-treat any widow or orphan.'" Maimonides then proceeds to outline the basic laws of this prohibition, without ever suggesting that it should apply to anyone else. Similarly, in his Code of Law (Hilkhot Dei'ot 6:10), he cites this verse as forbidding only the mistreatment of widows and orphans, and emphasizes the reason underlying this prohibition: "because their mood is very despondent and their spirit is low." Clearly, the prohibition relates only to these particularly sensitive members of society. Maimonides apparently understood that Rabbi Akiva does offer a different reason why the Torah would specify the widows and orphans, given that this prohibition applies to all people. To the contrary, Rabbi Akiva seeks to explain why the prohibition applies only to widows and orphans. In the view of Maimonides, as opposed to Rashi and the Sefer Mitzvot Gadol, the Torah here introduces a special law that forbids the specific phenomenon of abusive treatment of the more vulnerable members of society.

Nachmanides, who authored (among many other important works) a critique of Maimonides' Sefer Ha-mitzvot, clearly agreed with Maimonides on this point. Nachmanides objected only to Maimonides' incorporation of widows and orphans under the same prohibition, rather than listing two separate prohibitions, one forbidding the abuse of widows, and the other, of orphans. Whatever the significance of this seemingly trivial point, Nachmanides clearly accepts Maimonides' general understanding of this verse, that it refers specifically to the treatment of widows and orphans, and should not be extended to include others.

Of course, according to this view, our original question resurfaces: does the Torah permit mistreating other members of society, who are neither widows nor orphans? In truth, the Torah elsewhere specifically forbids both monetary and verbal abuse of all people. Towards the end of the Book of Vayikra, the Torah twice commands, "you shall not wrong one another" (25:14,17). The Rabbis understood these exhortations are references to commercial fraud (overcharging or underpaying) and verbal harassment. Maimonides indeed includes these prohibitions in his listing of the commandments. What, then, is added by the Torah's prohibition against mistreating widows and orphans?

This question was addressed by Rabbi Eliezer of Metz, a Medieval author who arrived at his own, distinct listing of the 613 Biblical commands, entitled "Sefer Ha-yerei'im." In discussing this prohibition against mistreating widows and orphans, he suggests that the Torah added a specific prohibition in this regard simply to add further severity to the mistreatment of the weak and underprivileged. One who mistreats a widow or orphan has transgressed two Biblical

prohibitions, and thus faces harsher retribution. In terms of practical content, however, this law is equivalent to the general prohibition against mistreating others.

A careful reading of Maimonides' description of this prohibition, however, reveals a fundamental distinction between the Torah's laws concerning treatment of widows and orphans, and those regarding abuse in general. In the aforementioned passage in Maimonides' Code, he provides the following description of this law:

"One is obliged to exercise care with regard to orphans and widows... even if they are wealthy; even a king's widow and orphans – we are warned with regard to them... How are we to deal with them? One must speak with them only softly, and should treat them only honorably. And one may not inflict pain upon their bodies through hard labor, or in their hearts, through harsh words. And one must care for their money more so than his own."

What is striking about this description is its generally affirmative tone. Maimonides clearly understood "You shall not ill-treat" as requiring more than refraining from abuse; it demands proactive sensitivity. Not only must one avoid speaking with an orphan and widow harshly, but one must speak to them with sensitivity; we are not only forbidden from insulting them, but we must treat them honorably.

This emerges somewhat more explicitly from Maimonides' comments in his *Sefer Hamitzvot*: "This admonition includes that one may not mistreat them through words or deeds. Rather, one should speak to them positively and softly, and conduct business with them and allow them to live well and in happiness." Here, Maimonides adds an obligation to support the commercial enterprises of widows and orphans so that they can enjoy financial security and stability.

In his view, then, the Torah's expectations of our treatment of widows and orphans considerably exceed our obligations towards everyone else. When dealing with people generally, we are enjoined to avoid harmful or humiliating treatment; with respect to widows and orphans, the Torah demands that we help alleviate their sense of insecurity by displaying particular sensitivity and concern. It is worth noting that the anonymous *Sefer Ha-chinukh*, usually a close adherent of Maimonides, incorporates within this prohibition the collective obligation for the community – represented by the local rabbinical court – to assign a guardian to oversee an estate left to young orphans. Though it is doubtful that Maimonides himself drew this association, the *Sefer Ha-chinukh* clearly embraced Maimonides' general approach, viewing this law as requiring proactive measures to compensate for the vulnerability of young orphans.

### **"My Anger Shall Blaze Forth"**

Let us now turn our attention to the punishment the Torah warns will befall violators of this prohibition: "I will heed their outcry as soon as they cry out to Me, and My anger shall blaze forth and I will put you to the sword, and your own wives shall become widows and your children orphans" (22:22-23).

At first glance, this phraseology directly contradicts a principle established by Maimonides in his *Guide to the Perplexed* (1:36). In a lengthy elaboration on the singular severity of the sin of idolatry, Maimonides asserts that the anthropomorphic image of divine anger is employed in Scripture only with regard to this particular transgression. No other violation, he claims, provokes a response worthy of description in these terms. Yet, here in Parashat Mishpatim, God explicitly warns that His "anger shall blaze forth" in response to the mistreatment of widows and orphans. How might we reconcile Maimonides' theory with this verse?

Rabbi Meir Leibush Malbim, the preeminent 18<sup>th</sup>-century halakhist, philosopher, linguist and exegete, noted that the *Mekhilta* seems to have already addressed this anomaly. The *Mekhilta* draws an association between the image of "God's anger" depicted here and the use of the same term in the Book of Devarim (11:17), in reference to the calamities that threaten to befall the Jewish people should they resort to idolatry. The Torah there warns, "The Lord's anger will flare up against you, and He will shut up the skies and there will be no rain and the ground will not

yield its produce; and you will soon be lost from the good land... " The Mekhilta deduces from this warning that "the Lord's anger" manifests itself in drought and exile, and it is these calamities that the Almighty threatens to bring upon those who act insensitively to the widow and orphan. Accordingly, Malbim explains, we may easily reconcile Maimonides' theory with the depiction of divine anger in the context of insensitivity to the widow and orphan. Indeed, this phenomenon of "divine anger" surfaces only in response to idolatry; in our context, the Torah simply enlists this image to indicate that those who mistreat the widow and orphan will suffer the same consequences as idolaters.

However, this itself requires explanation. Why should unethical conduct towards the widow and poor render one deserving of the punishment that befalls the idolater? What are we to make of the association drawn between these two prohibitions – mistreatment of the widow and orphan, and pagan worship?

One approach was suggested the revered 20<sup>th</sup>-century sage, Rabbi Moshe Feinstein, as documented by his disciple, Rabbi Avraham Fishelis, in his *Bastion of Faith* (New York, 1973). Rabbi Feinstein theorized that insensitivity to the underprivileged often results from the flawed theological notion of predetermination. Many of those who permit themselves to take advantage of the weak and vulnerable believe that fate has destined the lower classes to suffering and persecution, and the more fortunate ones thus bear no responsibility to work towards improving their condition. Such a belief, Rabbi Feinstein contended, borders on paganism; it follows the ancient pagan doctrine that the Creator no longer governs the world, but rather delegated His powers to certain astrological forces and the like, which establish certain unalterable realities. This tinge of idolatry latent within the mistreatment of the less fortunate perhaps justifies the depiction of divine anger kindled as a result of this crime.

We might, however, suggest a different reason for associating this prohibition with idolatry, based on the enlightening comments of the Midrash regarding these verses:

"Rabbi Yossi said: why does God love orphans and widows? It is because their eyes look only to Him, as it says (Tehillim 68:6), 'Father of orphans, judge of widows.' Hence, whoever steals from them is considered as having stolen from the Almighty, who is their Father in heaven, and He becomes angry at him, as it says, 'My anger shall blaze forth and I will put you to the sword'."

A similar idea is expressed in the Mekhilta of Rabbi Shimon Bar Yochai:

"I [the Almighty] am quick to punish on account of the widow and orphan, more so than any other person, because a wife resorts to her husband, a son resorts to his father; but these – they have none to whom to resort, other than to Me."

These passages reflect the theological – beyond the ethical – violation entailed in the mistreatment of the widow and orphan. In these verses, God proclaims that He assumes the role of husband and father for the widow and orphan. They are part of His family, and thus a crime committed against them constitutes a crime against the Almighty Himself. God guarantees that when a widow or orphan cries as a result of their persecution, "I will heed their outcry as soon as they cry out to Me." Citing this verse, Maimonides adds, "The One who proclaimed that the world should exist established a covenant with them, that whenever they cry from injustice, they are answered" (Code, *ibid.*). God answers their cry just as a father or husband would naturally rush to defend and protect his child or wife. The mistreatment of a widow or orphan affects God personally, as it were, given His unique relationship – His "covenant" – with these otherwise defenseless men and women.

This philosophical basis for the prohibition might also shed light on Maimonides' concluding remarks on this subject: "Until when are they called orphans in this regard? Until they have no need for an older person on whom to rely, to train them and to care for them, but he rather cares for his own needs independently, like all other adults." The prohibition takes effect so long as the orphan has no one on whom to rely, because throughout this difficult period God Himself assumes that role. Once the orphan matures and can care for himself like all other adults,

he no longer needs God to be his "parent," the "covenant" no longer applies, and the prohibition is therefore no longer in effect.

With this approach in mind, we can return to the implicit association drawn between the mistreatment of widows and orphans, and idolatry. The idolater arouses God's anger because he has committed an act of personal betrayal. Last week, we read in the Ten Commandments, "You shall not bow to them [idols] or serve them, for I the Lord your God am a zealous God" (20:5). God's reaction to idolatry is comparable to that of the husband of an unfaithful wife; He feels, as it were, personally betrayed. The same anthropomorphism of personal betrayal is employed in our context, as well. God here describes the sense of personal responsibility He has towards the vulnerable elements of society, to take up their cause and come to their defense. Hence, just as in the case of pagan worship, this crime kindles God's anger and yields the same tragic consequences as the gravest of all transgressions, idolatry.