

The issue of Peshat vs Derash, while perhaps always dormant under the surface, comes to the forefront in Parshas Mishpatim, perhaps more so than anywhere else in the Torah. This is true for two reasons:

1. In narrative portions, one is free to choose the interpretation they like best. But in legal portions, one is faced with the reality that the Derash, not the Peshat, is what is legally binding
2. This is especially difficult in situations where the Derash is not an additional layer of meaning on top of the Peshat, but replaces it entirely!

Mishpatim features more laws than anywhere else in the Torah, and in a large number of them, the Derash seems to entirely supplant the Peshat, including the quintessential example of this, an eye for an eye.<sup>1</sup>

While the polysemous nature of the text is logical, as multiple layers of meaning is certainly not a shocking feature of a divine work, the following questions present themselves:

1. What are the parameters of Derash? How does one determine the Midrashic meaning?
2. Why, when it comes to Halachic practice, is Derash superior?
3. When Peshat and Derash are both present, what is the interplay between their meanings?

While these are very deep questions beyond the scope of a small essay, I would like to outline 3 traditional approaches.

1. The divide between Peshat and Derash is only so wide because of our own deficient understanding. With a proper exegetical background, correct grammatical knowledge, and a correct set of axioms, Derash as we understand it would disappear, and instead would emerge directly from the Peshat. According to this approach, the parameters of Derash are rigorous, even if we do not always understand them, and Derash is superior because it is the true meaning. Derash and Peshat are not really ever both present, because Derash is just "Peshat in depth". This opinion is expressed by the Malbim
2. Derash is entirely the result of oral traditions. When it seems to us that a derasha does not emerge from a Passuk, it is because it doesn't. The source is not the Pasuk, but the tradition, and the Passuk is being used as a springboard for expressing this tradition. Thus, the parameters of Derash are limited to pre-existing traditions, and the derashot, as reflecting the Oral Law, are legally binding because that is exactly their nature: legal traditions from the Oral Law. This opinion is expressed by the Ralbag, among others.
3. Derashot operate using a separate set of rules from Peshat, but in no means supplanting it. Some derashot emerge from existing traditions, some from close reads of the text.

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<sup>1</sup> Other examples include: even ivri nirtza's duration as a slave, the division of the shomrim as paid vs unpaid as opposed to objects vs animals,