

TEN TERMS IN THE TORAH FOR TEACHINGS, COMMANDMENTS AND LAWS

JACOB CHINTZ

The Torah, for all its emphasis on law and legality, has a surprising lack of consistency in legal terminology. If it used just one term for obligation or command, such as *mitzvah*, and spoke only of such commands and the punishments for lack of compliance, it would have been seen as a systematic, and consistent code of law. But, such is not the case. The Pentateuch uses no fewer than 10 terms for "law," and there seems to be no particular, permanent meaning to these terms, except a degree of tendency in one direction or another.

The 10 terms are: *din*, *tzedakah*, *davar*, *mishmeret*, *mitzvah*, *torah*, *mishpat*, *hok*, *edut*, *ot*. These terms are variously translated as: commandment, judgment, observance, righteousness, rule, sign, statute, teaching, testimony, word,. If we look at some of the textual contexts of these terms, we see that they certainly are not synonymous, but it is equally evident that there is a great degree of semantic overlap in them, and also a degree of interchangeability which is surprising in such a tightly written document as the Torah.

A brief excursus into this matter of exact, technical language, as opposed to literary, flexible prose, is perhaps in order. A. J. Heschel in his *Torah Min Hashamayim*,¹ devotes a chapter on the difference between R. Akiba and R. Yishmael in this area. He shows that while Akiba attached semantic significance, or at least midrashic potential, to every word and every letter in the Torah, Yishmael adopted the principle that the Torah speaks in human language. Human language uses repetition, metaphor, and loose prose, as distinct from logic and mathematics which insist on precise, concise, exact terminology. If the Torah is Divinely revealed, the view of Akiba is understandable. But any fair reading of Torah leaves the impression that Yishmael was more accurate with regard to the language of the Pentateuch. And, when he said that the Torah speaks in the language of "the sons of men," he was

Jacob Chintz was ordained at Yeshiva University and is a member of The Rabbinical Assembly. He has taught at several colleges, and written over 100 articles for many journals. He has served as rabbi at numerous congregations. His book In My Opinion, a collection of 60 essays that appeared in 17 journals, was published in 2000.

not denying the Divine authorship of the Torah. He was saying that God chooses to use human language when He gives a Torah to human beings.

Neither the Mishnah nor Rambam's Mishne Torah, in codifying *halakhah*, uses the Torah terminology with regard to classification of the *mitzvot*. In the six divisions of the Mishnah, none of these terms corresponds to the Torah terms listed above. Of the 14 books of the Rambam's code, only *Mishpatim* corresponds with the 10 terms listed above, that are used in the Torah itself with reference to classes of *mitzvot*. Would this indicate that the Torah terminology does indeed fall short of the codifying rigor represented both by the Mishnah and the Mishne Torah?

DIN

Regardless of what position we take in this controversy, an examination of the actual texts yields observations about the nature and use of the 10 terms in the legal language of the Torah. For example, the word *din* occurs only once in the Torah. *If there arise a matter too hard for you, in judgment, between blood and blood, between plea and plea [din le'din], and between stroke and stroke . . .* (Deut. 17:8). It would seem that the term *din* as used in other books of the Bible as well as in post-biblical literature, meaning justice or law, cannot be applied here. In the context of blood and blood, stroke and stroke, the term *din* in this one usage has to be taken as referring to the claims made in court between adversaries, rather than as a term signifying a legal obligation or a legal system.

TZEDAKAH

The word *tzedakah* and the variant *tzedek* occur more than once but, like *din*, cannot be taken to connote either any specific law or the legal system as a whole. It can, rather, be understood as referring to "righteousness" or "charity." We see this in the following texts: *And he believed in the Lord, and He counted it to him for righteousness [tzedakah] (Gen. 15:6)*. The commentators disagree as to the exact meaning of this expression, but whether we attribute this *tzedakah* to God or to Abraham, it apparently is not a legal term but more closely related to the concept of "grace."

In . . . *that they may keep the way of the Lord, to do righteousness and justice [tzedakah u'mishpat] (Gen. 18:19)* we come closer to the concept of

lawful behavior, but the term *tzedakah* is yet short of the more clear legal element involved in the *mishpat* [justice]. In *And you shall judge righteously [tzedek] between a man and his brother. . .* (Deut. 1:16) *tzedek* does seem closer to the idea of justice than to charity, more legal than moral. In Deuteronomy 16:18, we have an identity between the legal process and righteousness: *they shall judge the people with righteous judgment [mishpat tzedek]*. And, finally, two verses later we have an unmistakable use of the word *tzedek* as referring to justice: *Justice, justice, shall you follow [tzedek tzedek tirdof]* (v. 20).

DAVAR

What we found in examining the use of the terms *din* and *tzedakah* in the Torah applies also to the term *davar*, that can be translated as "word" or "thing" or "matter." The most prominent association is with the *aseret hadevarim* or *dibrot*, usually known as the Ten Commandments: *And God spoke all these words [hadevarim]* (Ex. 20:1). The following 10 "words" carry clear and absolute obligations, with no doubt about the legal standing of the *davar*. Whether the word has extra-legal overtones in that the 10 words here are really 10 principles rather than individual commandments, is discussed in an earlier article.¹

We find the word *davar* used also with reference to individual laws, such as the directions for the Pessah offering: *You shall observe this matter [hadavar] as a statute [l'hok]* (Ex. 12:24). An equally close link between *davar* and legal obligation is found in the procedure for gathering the manna: *This is the matter [hadavar] commanded [tziva] by the Lord* (16:16). *Davar* is also linked with *mishmeret*, another of our 10 terms: *This is the thing [hadavar] which the Lord commanded. . . be kept [mishmeret]* (16:32).

MISHMERET

Mishmeret, rendered as "charge" in the NJPS translation, is used tangentially to imply legal obligation, as in: *And you shall keep the charge [mishmeret] of the Lord that you do not die. . .* (Lev. 8:35). The word occurs in a pre-Sinaitic context in a rare combination of legal terms. God speaks to Isaac about his great father: *'Because Abraham hearkened to My voice and he kept My charge [mishmarti], My commandments [mitzvotai], My statutes [huko-*

tai] and *My teachings* [v'toratai] . . . ' (Gen. 26:5). Here four of the legal terms are used in the same verse, but *mishmeret* lacks the specific connotation of legal force in the same measure as the other three terms.

MITZVAH

Mitzvah in singular and plural form is found 33 times. Here, too, the singular form is not used with reference to any particular commandment, but rather as a synonym for the whole Torah, as in *I will give you. . . the Torah and the mitzvah* (Ex. 24:12). In the plural form. It is used as the sum of a group of commandments, as in *These are the commandments [hamitzvot] and the judgments [v'hamishpatim] which the Lord commanded by the hand of Moses to the children of Israel in the plains of Moab by the Jordan at Jericho* (Num. 36:13).

MISHPAT, HOK, TORAH

There are 51 references to *torah* in its various forms. While the term is primarily identified with the entire Pentateuch, it is also used for particular laws.

There are 65 references to *mishpat* [justice] and the plural *mishpatim*, a generally associated with civil and criminal law.

There are 69 references to *hok* in its singular, plural and connective forms. This word has ritual connotations, and is traditionally associated with commandments "without reason," such as the rules on the red heifer. However, it seems to be used for ordinary legislation as well.

OT AND EDUT

Ot is used with reference to the Sabbath: *'Between Me and the children of Israel it is a sign [ot] forever* (Ex. 31:17). It is also used in connection with tefillin: Exodus 13:9 and 13:16: *It shall be for you a sign [ot] upon your hand; . . . It shall be for a sign [ot] upon your hand* (13:9, 16).

Edut is found only in the plural form, and only with respect to the entire Torah, not to a single commandment. As in *These are the testimonies [ha'edot] and the statutes [v'hahukim] and the judgments [v'hamishpatim] . . .* (Deut. 4:45).

There seems to be no consistency in the use of the six terms last in the list. There are examples of two of the terms used together: *To observe His com-*

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mandments [mitzvotav] and *statutes* [v'hukotav]. . . (Deut. 30:10); *Warn them about the statutes* [ha'hukim] and *the teachings* [v'hatorot] (Exodus 18:20); *There he placed before them a statute* [hok] and *judgment* [u'mishpat] (Ex. 15:25).

We find *hok* combined with *mitzvah*, with *torah*, and with *mishpat*, but most of the double combinations are *hok* and *mishpat*. Each term has its own meaning, yet it can combine with each of the others to expand the combined meaning.

TALMUDIC AND POST-TALMUDIC CLASSIFICATION

MIYUN HAMITZVOT AND MINYAN HAMITZVOT

Talmudic discussion of the classification of commandments is very sparse, and hardly provides us with a glimpse into any kind of systematic structure of such classification as part of the legal totality of the Torah. It has been noticed long ago that with regard to *minyan hamitzvot* [number of *mitzvot*], there is nothing in the Torah similar to the reference to the 10 words. There is only the lone passage of R. Simlai in Tractate Makkot on the number *taryag* (613). With regard to *miyun hamitzvot* [classification of *mitzvot*], very few talmudic passages are available. One such passage, not from Talmud itself but from the Midrash Halakhah, reflects upon the difference between *hok* and *mishpat*:

Safra, Aharei Mot, 9.13: Perform My Judgments. These are the things that are written in the Torah, but if they had not been written, it would be proper to write them. Such as theft, sexual offenses, idolatry, blasphemy, murder...And these are the ones concerning which the Evil Inclination reacts to them, and the nations of the world react to them, such as the eating of the swine, wearing mixed textiles, the release ceremony of the brother's widow, the purification of the leper, the sending of the scapegoat. These, the Evil Inclination reacts to, and the nations of the world react. Therefore, it is said: "I am the Lord who decreed and you have no permission to react to them."

TAAMEI HAMITZVOT

Many other forms of classification are found in the post-talmudic literature, especially among the Jewish philosophers who engaged in the task of providing *taamei hamitzvot* [defenses of the commandments]. There are distinctions between commandments of reason and those of revelation; those based on tradition and those that can be deduced from logic; those related to relations between God and man and those related to relations between man and man. None of these systems utilizes the terminology of classification of *mitzvot* found in the Torah itself. We have to assume that the reason for this neglect of biblical language and the invention of new terms and categories to classify the *mitzvot*, was forced on the Jewish thinkers and scholars by the insufficiency and lack of system in the terminology of classification of *mitzvot* in the Torah itself.

THE HIRSCH CLASSIFICATION

It was not until the advent of Samson Raphael Hirsch in the mid-19th century that we find the most ambitious attempt at the classification of *mitzvot*, using the six terms which we have tried to demonstrate as representing the rudimentary classification we have cited in the Torah text. Hirsch's work *Ho-rev* has six sections, and each one of these is based on one of the six terms we have identified: *torot*, *mishpatim*, *hukim*, *mitzvot*, *edot*. The exception is the sixth division, which Hirsch calls *avodah*. *Ot* is omitted.

The six divisions among the commandments are defined by Heineman² as follows:

1. *Torot* – The ideas revealed to us about the Lord and the world, humanism and Judaism.
2. *Mishpatim* – Commands which deal with Justice toward beings that are equal to us in value.
3. *Hukim* – Commands which deal with justice toward beings that are lower than us, our property, our bodies, our lives and our spirits.
4. *Mitzvot* – Commands that express love to all beings.
5. *Edot* – Signs indicating the truths, from which flow our humanity and our Jewishness.
6. *Avodah* –Elevation and sanctification of our inner lives in the fulfillment of our functions in external life.

In view of our survey of Torah terminology, and the six specific terms found in the Torah and used by Hirsch in his scheme of composition of his book, it is obvious that he is not interpreting the terms in question as the simple text of the Torah seems to do. It is tempting to think of the term Torah as involving general teaching and summary type versions of the contents of Torah. After all, we use the words *Torah* and *Sefer Torah* in this sense. But, strangely, the Torah itself uses *torah*, and *torat* in the connective form, very often with specific, individual reference to separate *mitzvot*.

Hirsch may choose to view *mishpatim* as justice toward fellow human beings, as indeed we must admit in the case of the code following the revelation at Sinai: *These are the ordinances* [ha'mishpatim] *which you shall set before them* (Ex. 21:1) (translation of Soncino Chumash). Indeed, most of the portion of *mishpatim* which coincides with that code deals with civil and criminal law. But, it also includes the sabbatical year (v. 11); the sabbath (v. 12); the prohibition of the names of other gods (v. 13); the three pilgrim festivals (vv. 14-17); the ban on seething a kid in its mother's milk (v. 19). Are these to be considered *mishpatim*, or supplements to the code of *mishpatim*?

Similar inconsistencies can be demonstrated with the other four remaining terms: *hukim*, *mitzvot*, *edot* and *avodah*. Although Hirsch uses the same words found in the text of Torah with reference to the different *mitzvot*, his method and nomenclature are just as arbitrary as we have shown to be the case in the Mishnah of R. Yehuda Hanasi and the Mishne Torah of Rambam.

The Torah seems to have left the areas of classification [*miyun hamitzvot*], and counting [*minyán hamitzvot*], and philosophy and rationale [*taamei hamitzvot*] open and free for speculation on the part of students, codifiers, and exponents of the halakhic and Torah legal system.

NOTES

1. Jacob Chinitz, "Ten and the Torah," *Jewish Bible Quarterly* XXV:3 (July-September 1999) pp. 186-191.
2. Yitzchak Heineman, *Taamei Hamitzvot B'safrut Yisrael* (Jerusalem: HaHistadrut haTziyonit, 1956) p. 113.