



# THROUGH JUSTICE... THE WORLD IS SECURE

## YadAvNow.com Weekly Video Series: Mishpatim

Rabbi Yosef Kalatsky

**Weekly Video:** The Epicenter of Holiness as the Seat of Justice

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**A Foolproof System of Jurisprudence**

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**Aware of the Slippery Slope from Zenith to Nadir**

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**Seven as Spiritual Recharge**

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## The Corollary Between the High Court And Its Location

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1. The High Court of Israel: 71 judges convened in the Chamber of Cut Stone adjacent to the sanctuary.
2. Each community had a Lower court of 23 judges.
3. Both could render judgments regarding the death penalty and monetary penalties.
4. The laws pertaining to the court are near the portion of the altar: the High Court must convene adjacent to the sanctuary.
5. If the High Court vacates its location the Lower Courts can't render capital crimes.
6. Ramchal: Every living species is endowed with a Nefesh, a life source, that is totally physical.
7. The Human's intellect is also rooted in his Nefesh.
8. One's ability to process spiritual information, i.e. the Torah, is based on Divine assistance.
9. To come upon the truth of Torah is a spiritual endowment.
10. We supplicate G-d three times a day "It should... to rebuild the Temple.... and give us our share in your Torah."
11. There is a direct corollary between the rebuilding of the Temple and receiving one's share in Torah.
12. The High Court convened alongside the sanctuary to receive the Divine assistance that is necessary to render a truthful verdict.

## Supreme Intelligence & Renown Kept in Check

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1. The High Court must convene on the Temple Mount alongside the sanctuary.
2. Testimony of witnesses to be admissible in court must be heard directly from the witnesses.
3. Members of the High Court were proficient in seventy languages.
4. They were fully versed in the entire Torah.
5. Gemara: "The Torah cannot be acquired or retained only by a person who is humble."
6. How could the Members of the Sanhedrin, with their superior intelligence and renown, remain humble?
7. Rabbinic fences are not applicable on the Temple Mount.
8. A fence is promulgated by the Rabbis to protect the Torah from being violated.
9. The transgression only comes about due to a lack of cognizance.
10. On the Temple Mount one always felt the presence of G-d, and reverence & fear; so no need for fences.
11. The Temple Mount was the location for the Sanhedrin to convene to maintain their humility.

## Mediation Is Not Surrender

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1. The 10 Commandments: "You should not have designs on all that is your fellow's."
2. Sforno: The portion of the Court adjudicating between two defendants determines ownership and claim rights.
3. To maintain harmony in a community one must respect one another's ownership rights.
4. Midrash: A Torah Sage establishes justice in the land, and the one who removes himself from communal responsibility causes destruction.
5. Gemara: It is a mitzvah for the court to encourage mediation between two defendants.
6. If the context of the adjudication is justice, meaning innocent or guilty, the one who is found guilty believes he was wronged.
7. If mediation was agreed upon, each defendant leaves satisfied at some level.
8. This process addresses the issue to not have designs on what one's fellow possesses.
9. Ethics of Our Fathers: "Who is the rich man? The one who is satisfied with his lot."
10. Chofetz Chaim: If one is satisfied with what is "truly his", he is truly rich.

## Weekly Torah Commentary Series: Mishpatim



### Establishing Moshe as the Ultimate Prophet

The *Torah* states, (G-d said to *Moshe*), “They (the Jewish people) will believe in you forever.” Meaning, there will be no prophet that will be able to ever contradict the prophecy of *Moshe*. *Rambam* writes in the thirteen tenets of Jewish belief, “I believe with complete faith that the prophecy of *Moshe* our teacher, peace be upon him was true and that he was the father of the prophets – both those who preceded him and those who followed him.” Why is *Moshe* considered to be the greatest prophet to ever live and the father of all the prophets?

*Sforno* explains that the *Torah* tells us that *Moshe*’s prophecy was at the level of “face to face” with G-d, unlike all other prophets. *Moshe*’s prophecy came to him in an awake state and not in a sleep state. The Jewish people had believed that it is impossible for one to receive a direct communication from G-d in

an awake state while one’s physicality is functioning. Because of the intensity of the communication, one would not be able to survive. *Moshe*, being completely spiritualized, including his physicality, was able to prophesize in an awake state. However, this was not something the Jewish people could fathom.

At Sinai, the Jewish people heard the first two commandments directly from G-d at a level of “face to face” although they were not qualified to do so. The only reason G-d allowed them to have such a spiritual experience was so that they should appreciate the level of prophecy of *Moshe*. Because of this, they subsequently asked *Moshe* to receive the *Torah* on their behalf so that they should not die, due to the overwhelming intensity of the communication. Thus, G-d established *Moshe* as the father of all prophets.

By elevating the Jewish people for the moment, to be able to understand and appreciate *Moshe*’s level of prophecy, G-d established that “they will believe

in *Moshe* forever” and thus the authenticity of *Torah* would go unquestioned until the end of time. The word of *Moshe* is synonymous with the Word of G-d.

*Sforno* writes, “*Moshe* was concerned that even after it was established that the Jewish people would believe in him forever, there was something about their perspective that troubled him. They had said, ‘Everything that G-d will tell us, we will do’ Why did they not say, ‘We will definitely do everything that G-d will tell us?’ He was concerned that the Jewish may have understood that the ultimate communication that came to *Moshe* was from an angel and not from G-d Himself. If this were so, if they were to deviate even to the slightest degree (as much as a hairbreadth) the angel would be exacting and not merciful with them. As it states regarding the sin of the golden calf. G-d said, ‘I will send My angel and he will not tolerate any deviation.’ Therefore, the Jewish people said that they would be willing to adhere to everything that they had heard only if it were from G-d Himself and not an angel.”

The *Gemara* in Tractate *Taanis* tells us that there are three keys that were never given over to an agent. The key for bringing rain/livelihood, the ability for a woman to conceive and bear a child, and the key for the resurrection of the dead. Why were these three keys not given over to an agent, angel? *Chofetz Chaim* explains that since an angel is more exacting than G-d Himself and does not have within his ability to invoke the Attribute of Mercy, the human being would not be able to survive if the key for rain/livelihood were given to an angel. The only reason man is able to continue to exist and thrive is because of G-d’s Mercy.

As we say in the *Amidah*, “G-d sustains the living with Kindness...” If the key for a woman to be able to conceive were given to an angel, women would not be able to conceive and bear children because an angel would not allow the pregnancy come to term. Since man is prone to fail, the angel would not allow this imperfect being to come into the world. In fact the *Gemara* in Tractate *Ervin* tells us that the House of *Hillel* and *Shami* concluded that it would have been better that man would not have been created, rather than be created (because most fail).

We say in the *Amidah* that G-d resurrects the dead with “abundant mercy.” If the key for resurrection would be given to an angel no one would be sufficiently

meritorious to be resurrected. Therefore, since G-d displays His Attribute of Mercy towards mankind, these keys remain with Him. The Jewish people understood this principle at the time of the receiving of the *Torah* and thus agreed to accept it if it were from G-d, who evaluates and judges mankind within the context of Mercy and not exactness. Thus, G-d revealed to the Jewish people that He was communicating directly to *Moshe* and not through an angel.

## Being Cognizant of One’s Vulnerabilities

In the beginning of the Portion of *Mishpatim*, the *Torah* states the laws pertaining to the Hebrew slave. The *Torah* tells us of the Jew who stole and did not have the means to compensate the one from whom he had stolen. This individual is sold into slavery for six years in order to make financial restitution to the person who he had victimized. During the six-year period of servitude, the master may provide the slave with a Canaanite woman so that he will breed children on his behalf. Under normal circumstances, a Canaanite woman is not permitted to a Jew; however, to a Hebrew slave she is permitted. According to Jewish law, the Canaanite woman provided by the master is not considered to be the slave’s wife nor are the children consider to be his because the mother is not Jewish. They are thus all chattels of the master.

The *Torah* states that if after six years, when the Jewish slave is meant to be freed, he goes to the court and says, “I love my master, my wife (a Canaanite maidservant) and my children. I do not want to go free,” he is to be taken before the court and the master will bore a hole with an awl in the cartilage of his right ear at the doorpost. The verse states, “...and he shall serve him (the master) forever (until the Jubilee year).” Why does the *Torah* choose to discuss the laws that pertain to the Hebrew slave immediately following Sinai, when the Jewish people had reached the pinnacle of their spirituality when they had declared “*Naaseh v’nishma* (we will do and we will listen)?” One would think that after ascending to such spiritual heights at Sinai, the *Torah* should discuss laws that would address the advanced spirituality of the Jew, rather than the laws pertaining to one who is referred to as a “Hebrew slave.”

*Rabbeinu Bachya* explains that this Jew is referred to as a “Hebrew” rather than an “Isrealite” because by transgressing the commandment against stealing, he

demonstrated that he did not advance beyond the level of pre-Sinai. The only reason he violated the law of stealing is because he did not fully internalize what he had heard at the time of the giving of the *Torah*.

The *Torah* tells us that after witnessing the greatest miracles that had ever had taken place in the history of creation at the splitting of the Sea, the Jewish people had suffered a great spiritual decline. They had asked *Moshe* if G-d was in their midst or not. As a result of their spiritual regression, they were vulnerable to the attack of *Amalek*. This indicated that regardless of what spiritual heights one may attain, one can regress and fall to the lowest level of spirituality.

The *Torah* tells us that on the second day of Passover the *Omer* offering was brought. This offering was meant to permit the new grain for personal consumption. This offering was comprised of barley flour. On the festival of *Shavuos*, the day on which the *Torah* was given to the Jewish people, the communal offering that was brought was comprised of two loaves of wheat bread. This permitted the new grain to be brought in the Temple as meal offerings. What is the significance of the *Omer* offering being made of barley flour and the two loaves of bread brought on *Shavuos* being made of wheat flour?

The *Mishna* in Tractate *Sotah* tells us that the meal offering (*Mincha*) that is brought by the suspected adulteress was made of barley flour. It explains, "Since her behavior was similar to that of an animal (by sequestering herself with a man other than her husband), the material make-up of her meal offering is the grain used as animal fodder (which is barley)." The majority of barley grain is used for animal consumption. In contrast, the *Gemara* in Tractate *Huryos* tells us that wheat grain is primarily for used for human consumption. *Maharal* of Prague explains the symbolism of the barley meal offering and the wheat meal offering.

*Maharal* of Prague explains that when the Jewish people left Egypt they were devoid of spirituality. They were at the point of spiritual extinction, which is the 49th level of spiritual contamination. At that point, the classification of the Jewish people was the equivalent of the animal that has no relevance to spirituality and is totally physical. Therefore, the *Torah* chooses the ingredient of barley for the *Omer* offering to signify the spiritual level of the Jewish people at that moment.

Fifty days later at Sinai when the *Torah* was given to the Jewish people, they had reached the pinnacle of their spirituality. At that moment they had achieved the classification of "adam (man)" whose objective and function in creation is to achieve spiritual perfection. As it states, "You (the Jewish people) are called 'adam (man)' but they (the nations of the world) are not called 'adam'." Adam was the ultimate spiritualized being that was created by G-d Himself. After the Jewish people accepted the *Torah*, their status no longer was the equivalent of the animal, but rather, they reflected the characteristic of Adam (pre-sin of the Tree of Knowledge). In order to signify their advanced spiritual level at the time of the giving of the *Torah* at Sinai, the *Torah* tell us that the communal offering must be comprised of wheat flour, which is primarily for human consumption.

According to Jewish law, all meal offerings are prepared in an unleavened state, *matzah*; however, the loaves that are offered on *Shavuos* need to be leavened, *chometz*. This seems contradictory since *chometz* (leaven) represents the evil inclination and desire. One would think that at the time of the giving of the *Torah* on *Shavuos*, the meal offering should be unleavened, since it is a time of the greatest spiritual achievement.

The lesson to be learned, is that although one may reach the pinnacle of spirituality, one is still vulnerable and susceptible to the evil inclination. One cannot forget that although man has the ability to reach the greatest spiritual heights, he is also prone to failure. Therefore, although the Jewish people reached their spiritual pinnacle at Sinai, the *Torah* discusses the laws of the Hebrew slave, to remind us that man must be cognizant of his own vulnerabilities that he can fall to the depths of sin regardless of his spiritual advancement.

## **Joy, the Setting for the Divine Presence**

The *Torah* states at the time of the giving of the *Torah* at Sinai, "*Moshe, Aaron, Nadav and Avihu*, and seventy of the elders of Israel ascended. They saw the G-d of Israel...they gazed at G-d, yet they ate and drank." *Rashi* cites *Chazal* who explain, "*Nadav, Avihu*, and the seventy elders gazed directly upon the Divine Presence, which was considered to be inappropriate. Because of this lack of reverence, they deserved to die.

However, because G-d did not want to disrupt the joy of the Jewish people when they received the *Torah*, He waited to take the lives of *Nadav* and *Avihu* at the time of the inauguration of the *Mishkan*. On the eighth day of the erection of the *Mishkan*, when it assumed a permanent status, *Nadav* and *Avihu* were struck down by G-d. However, the seventy elders, had died at a later time in the fire that had consumed the edge of the camp of Israel when the rabble had begun to seek out complaints because they desired meat. G-d's Wrath flared up against them, and His fire consumed the edge of the camp. The edge of the camp is alluding to the elders, who had disrespectfully gazed upon the Divine Presence with a lack of sensitivity. As it states, "They ate and drank..."

The *Torah* tells us that when *Moshe* was tending the flocks of *Yisro* beyond the desert, he had seen a burning bush. After approaching it, the *Torah* states, "I am the G-d of your father, the G-d of *Avraham*...*Moshe* hid his face for he was afraid to gaze upon G-d." *Moshe* did not gaze upon the Divine Presence due to his humility and reverence for G-d. The *Gemara* in Tractate *Berachos* tells us that because he did not gaze upon the Divine Presence, he merited to be endowed with a level of prophecy that was greater than any other prophet (face to face). In contrast, *Nadav*, *Avihu* and the seventy elders did not have a sufficient level of reverence for G-d and thus gazed upon His Presence.

The *Gemara* in Tractate *Megillah* tells us that the level of joy that G-d had at the time of the inauguration of the *Mishkan* was the equivalent of the joy that He had at the time of Creation. Just as at the time of Creation, G-d's Presence entered into existence, so too after the *Mishkan* assumed a permanent status, did His Presence enter into it. The *Mishkan* was a microcosm of Creation. Why was G-d not concerned that the death of *Nadav* and *Avihu* would detract from the joy of the inauguration of the *Mishkan*? Why was He only concerned with disrupting the joy at the time of the giving of the *Torah* at Sinai?

The *Torah* states in the Portion of *Yisro* regarding the mountain upon which the *Torah* was given, "Whoever should touch the mountain shall surely die..." *Sforno* explains, "They will be destroyed if they approach G-d to see...(If they were to be destroyed) the tragedy of the contamination of their corpses will intermingle with the joy of G-d and it will bring mourning upon their

relatives. Because of this grief, the Divine Presence will not dwell upon them. Therefore, it was not permitted for the Jewish people to touch the mountain at the time when the Divine Presence descended upon it."

The *Torah* tells us that after the Jewish people were condemned to wander the desert for forty years due to the sin of the spies, the Jews were in a state of melancholy. During this time, the Divine Presence did not dwell upon the Jewish people because of their grief. We see that joy is a pre-requisite for the Divine Presence to dwell upon an individual. At Sinai, the Jewish people needed to cleave to G-d in order to become His people to receive the *Torah*. If their level of joy was to be undermined or intermingled with any level of grief, they would not be qualified to receive the *Torah*. It was only because of their joyous state that they were able to become the nation of G-d.

The inauguration of the *Mishkan* occurred after the Jewish people had become G-d's chosen people and had secured their relationship with Him. *Chazal* compare the Sinai event to a marriage. The setting needed to be such, so that the bride and groom could cleave to one another and become one. In contrast, during the time of the inauguration of the *Mishkan*, a diminished level of joy of the Jewish people was not something that would affect G-d's entering into the *Mishkan*. The *Gemara* in Tractate *Megillah* discusses the level of joy of G-d and not the Jewish people at the time of the inauguration of the *Mishkan*. Although the Jewish people grieved and mourned the deaths of *Nadav* and *Avihu* their deaths did not detract from G-d's joy, but to the contrary it demonstrated His indiscriminate level of Justice, that even the nearly perfect are deserving of punishment for the slightest infraction.

The *Torah* states regarding the death of *Nadav* and *Avihu*, "A fire came forth from G-d and consumed them, and they died before *Hashem*. *Moshe* said to *Aaron*: Of this did *Hashem* speak, saying, 'I will be sanctified through those who are nearest to Me, thus I will be honored before the entire people.'" Although *Nadav* and *Avihu* were devoutly righteous and had not sinned their entire life, because they had failed in this one area, they were taken by G-d to demonstrate His exacting Justice. As King Solomon writes in Proverbs, "A King through justice establishes the land." Therefore, G-d's joy at the time of the inauguration of the *Mishkan* was not diminished due to the deaths of *Nadav* and *Avihu*.

## The Innate Worth of Every Jew

The *Torah* tells us that if one possesses an ox that has the status of a “goring ox” and it kills an individual, the ox must be stoned to death and the owner must pay an atonement for his negligence. The owner must pay the financial worth of the Jew who was killed by the ox. Since it is an atonement for the owner of the ox, it must reflect the financial worth of the victim. However if a Canaanite slave is killed, the amount paid is not to provide atonement to the owner of the ox but rather to reinstate the innate value of the slave.

Although a Canaanite slave is not a Jew, he is obligated to adhere to all the mitzvos that a woman is obligated to observe. If a “goring ox” were to kill a Canaanite slave, the owner of the ox must pay the master whose slave was killed thirty silver coins and the ox is stoned to death. Why if a Jew is killed by an ox, the owner must pay the full material value of the individual and if the ox had killed a Canaanite slave he is only obligated to pay thirty silver coins?

*Sforno* explains, “If a Canaanite slave is killed by a goading ox, one must pay thirty silver coins to his master, because it is the innate value of a woman. This is because the *Gemara* in Tractate *Chagigah* tells us that a Canaanite slave is obligated to observe the same mitzvos as a woman.” The *Torah* states that if one says, “My innate value is upon me (*eirki alei*)” then he must pay his innate value to the Temple. The innate value of an individual depends upon if one is male or female and also age. The innate value of a man is fifty silver coins and the innate value of a woman is thirty silver coins.

Although regarding one’s material qualifications he is worth millions on the market, his “innate” value is fifty silver coins, based on the *Torah*’s assessment of the innate value of a male Jew. What is this value based upon? It is not based on one’s productivity or capability, but rather one’s innate spiritual make up. Thus, fifty silver coins reflects the spiritual make up of a male and thirty silver coins reflects the spiritual make up of a woman, regardless of one’s market value. Since the Canaanite slave has the same mitzvah obligation of a woman, regardless of his market value, one must only pay thirty silver coins to his master if he were killed by the goading ox. This is based on the spiritual loss to the world, which is the equivalent of a woman.

Although a Jew may invest his life in attaining great financial success, we see from the *Torah* that his innate value is only based on his spirituality. *Chofetz Chaim* lived in Radin and was revered as the most devoutly pious individual of the generation. The city of Radin, in which he lived, was a mere village with unpaved roads and hovels. A *Torah* Sage once said regarding the city of Radin, that if one looked at a map of Europe he would see large black circles, which identified the cities of Paris, London and Berlin. However, if one would attempt to locate the village of Radin on the map, one would need a magnifying glass to see it only as a speck. This *Torah* personality had said that this may be true of the earthly map; however, on the heavenly map, the circle, which identifies the city of Radin, occupies most of the map of Europe while its prominent cities do not even appear. This highlights the fact that value and prominence is not based upon its physical dimension but rather its innate spiritual significance.

The innate value of a Jew is based on his spirituality. Thus, one must introspect and reflect upon his behavior and continuously strive to advance his mitzvah performance and *Torah* study. Regardless of the millions of dollars one may accumulate, his true innate value is only based on his spirituality.

## Yisro’s Relevance to Truth (from Yisro)

The *Gemara* in Tractate *Sanhedrin* states, “There were three advisors to Pharaoh. Who were they? *Bilaam*, *Eyov*, and *Yisro*. *Bilaam* was the one who advised Pharaoh to enslave the Jewish people to bring upon them bondage and suffering. Because of this, *Bilaam* was ultimately killed. *Eyov*, who remained silent, was faced with great travails and suffering. *Yisro*, who fled (in protest because he could not tolerate the injustice that was going to be brought upon an innocent people) merited to have his descendants sit in the chamber of the cut stone (to be members of the *Sanhedrin Gedolah* (High Court of Israel)).” What was the measure for measure that *Yisro* merited due to his fleeing, because protested the injustice that was going to be brought upon the Jewish people?

*Chazal* tell us that Pharaoh was a tenacious and hard-hearted king who was the monarch of the most advanced civilization in the world. The *Torah* tells us that Pharaoh saw that the Jewish people

were proliferating at an alarming rate, and was thus concerned that they would overtake the country. The Jewish people would become so numerous, that they posed a threat to Egypt because they would join with their enemies to drive them out. Pharaoh asked his advisors what should be done.

*Bilaam* recommended that the Jewish people should be enslaved in order to contain them. Upon hearing *Bilaam's* suggestion, *Eyov* remained silent and *Yisro* fled in protest because he could not tolerate such an injustice. It is important to note that when *Yisro* decided to flee in protest, it was not only that he did not want to have any part of this injustice, but he was actually severing relationships with the most powerful individuals in existence. By deciding to go against the will of Pharaoh who was the most powerful monarch in the world, *Yisro* was effectively cutting himself off from all global leaders.

*Yisro* was willing to sacrifice and forfeit everything of value for the sake of truth. Regardless of the consequences, *Yisro* fled Egypt in protest and cut himself off from the world because he would not compromise his standard of truth to any degree. *Torah* itself is the ultimate truth, because it is the Word of G-d. Since *Yisro* was willing to sacrifice for truth, he merited that his grandchildren should merit to be attached to *Torah* at the most advanced level. They were thus qualified to be members of the *Sanhedrin Gedolah* who were the most advanced *Torah* sages who sat in the Temple in the chamber of cut stone in close proximity of the Divine Presence (the Sanctuary).

The entire world heard about the splitting of the Sea and the battle of *Amalek*; however, it was only *Yisro* who chose to abandon his glory in *Midian* and join the Jewish people in the desert. He was the only one who was able to grasp and appreciate the truth of these events to the degree that he was motivated to abandon all of his prominence and accomplishments for the sake of truth, the *Torah* itself. Although the rest of the world was aware of the splitting of the Sea and the battle against *Amalek*, they did not have the capacity or interest to attach themselves to truth.

*Yisro's* fleeing Egypt in protest over the decree of bondage gave him the merit to have the capacity to appreciate the splitting of the Sea and the battle with *Amalek*. He was able to see truth at a more acute and advanced level. Therefore, his descendants merited to be members of the *Sanhedrin* and sit in the chamber of cut stone. It was not because *Yisro* had fled from Egypt that he merited this, but rather it was because his fleeing precipitated his ultimate joining of the Jewish people to stand at Sinai due to his characteristic of truth.



**Yad Avraham Institute**