



THROUGH JUSTICE... THE WORLD IS SECURE

YadAvNow.com Weekly Video Series: Mishpatim

Rabbi Yosef Kalatsky

Weely Video: When Our Enemies Become Our Judges

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Why From The Summit To The Nadir?

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Identical Laws On Disparate Plains

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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.

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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.

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.

Weekly Torah Commentary Series: Mishpatim



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The Blast of the Shofar, Integral to the Sinai Event

Torah: At the time of the giving of the *Torah* at Sinai, no one was permitted to approach the mountain.

Rashi citing *Chazal*: It was the first time in history that G-d had brought the heavens to earth and the Heavenly Throne was hovering above the mountain. The mountain assumed such a level of holiness that no one was permitted to even touch it until “the sound of the *shofar* ceased.”

Chazal: “What *shofar* is this? It is the *shofar* of the ram... It was the *shofar* of the ram of *Yitzchak*, our Patriarch.”

Sifsei Chachamim (Commentary on *Rashi*): “How do we know that it was the *shofar* from the ram of the *Akeidah*? It is because it is referred to as ‘THE *shofar*.’ As it is written that at the end of time ‘the great *shofar*’

(it will blow and thus bring an end to all evil. The ingathering of all the exiles will occur).”

Ramban: “How could the sound of the *shofar* emanate from the ram of *Yitzchak* if the ram that was brought was a burnt offering, thus causing it to be completely consumed by fire?”

Rabbi Eliyahu Mizrahi (commentary on *Rashi*): “The horns of the ram were removed before it was brought as an offering at the *Akeidah*. Thus, the sound of the *shofar* at Sinai was from the ram of *Yitzchak*.” Why was it necessary that the *shofar* was that of the ram of *Yitzchak* at the time of the *Torah* at *Sinai*?

The test of the *Akeidah* was the most difficult of the ten tests that were presented to *Avraham* by G-d. Because *Avraham* had succeeded, the Jewish people until the end of time carry the merit of the *Akeidah*. This merit continuously silences the prosecution of *satan*.

Satan initially wanted to prevent the *Akeidah* at every opportunity because he understood that the sound of the shofar of the *Akeidah* would silence his prosecution until the end of time. On *Rosh Hashanah*, which is the day of judgment, during which G-d allows *satan* to prosecute, the only mechanism that can silence him is the blast of the shofar, which represents the merit of the *Akeidah*.

Gemara in Tractate *Shabbos*: At the time of the giving of the *Torah* at Sinai, *satan* became confused and asked G-d, "Where is the *Torah*?" *Satan* understood that the only way he could be incapacitated was through the *Torah*.

Gemara: "G-d created the evil inclination and the *Torah* as its antidote." Therefore, *satan* attempted in every way to prevent the *Torah* from being given to the Jewish people. *Satan* would come before G-d with a complaint that the Jewish people were not worthy of receiving the *Torah* because no spiritual record is perfect– thus disqualifying them from being eligible to receive the *Torah*.

It was therefore essential that from the time that heaven descended upon the earth that the sound of the shofar of the *Akeidah* commenced. It was to silence *satan* so that he should not be allowed to enter his prosecution. This is especially true when the most advanced level of spirituality is being introduced. The shofar that was heard at Sinai did not necessarily need to be the actual horn of the *Akeidah* but rather the sound that emanated was the sound of the shofar of the *Akeidah*.

Although the Patriarchs had studied and observed the *Torah* in its entirety before it was given at Sinai; nevertheless, the potency of *Torah* after Sinai assumed another dimension of value.

Gemara in Tractate *Kiddushin*: "Greater is the one who is obligated to perform than the one who is not obligated to perform." Before Sinai, although the holy Patriarchs observed the entire *Torah*, they were not commanded to do so. Thus the intrinsic value of their observance was not comparable to its dimension and value after Sinai.

Gemara in Tractate *Sotah*: "The *Torah* itself protects and saves one from the influences of evil inclination." *Satan* understood that because of the intensity of the *Torah* after Sinai, it would fully incapacitate him. He thus could not allow it to be given. G-d therefore

allowed the blast of the shofar of the *Akeidah* to confuse and silence him so that the Sinai event could take place unhindered.

Moshe's Degree of Relationship to Torah

Torah: "And these are the ordinances that you shall place before them...."

Rashi citing *Chazal*: "G-d said to *Moshe*, Do not even consider for a moment, that you will teach them the chapter or the law twice or three times, until the law is arranged and understood by them as it was taught and not make an effort to give them the reasoning that lies behind the law and its application. But rather, it should be presented to them as an 'arranged table' as one offers food that is fully prepared for immediate consumption. (Similarly, the *Torah* should be presented to them in such a manner that they should not need to toil to any degree to understand the law and its application.)"

If *Moshe* was the conduit through which the *Torah* was transmitted to the Jewish people, it would seem that he should not only teach the content of the *Torah* but also the reasoning and understanding behind the law so that it could be properly applied. Since there are no two situations that are identical, it is understood and obvious that *Moshe* must communicate the law to them as a 'set table' for them to be able to live properly in accordance with the *Torah*.

Chazal tell us that the generation of the desert that received the *Torah* at Sinai is referred to as "the generation of understanding (*dor daya*)." Since they were exposed to the Divine Presence at Sinai at the most advanced level, that they had prophesized in a wake state, which is a level of prophecy that no prophet, other than *Moshe* was able to attain, they were fully spiritualized. Their souls were impacted in the most profound manner to be able to process, comprehend, and fathom spirituality if they should apply themselves to comprehend it.

Gemara in Tractate *Megillah*: "One who says 'I have toiled (in *Torah*) and have come upon it' – should be believed...." One can only come upon the truth of *Torah*, which is the ultimate truth, only through sacrifice, which is the toil and dedication to comprehend it. Then one will merit the Divine Assistance to understand the *Torah*.

Because the generation of the desert that had received the *Torah* were so spiritualized, *Moshe* believed that it was sufficient to teach them the laws of the *Torah* two or three times in order for them to retain his teachings. Due to their dimension of spirituality they would merit clarity and thus not need to be taught the reasoning behind the laws because they would come upon it to their own application. G-d, nevertheless said to *Moshe* that it was necessary for him to present the *Torah* as a 'set table' like food for immediate consumption – complete understanding and fully elucidated.

Rambam in *The Fundamentals of Torah*: The basis of Jewish belief that *Moshe* is G-d's prophet is not based on the miracles that he performed. If one's belief is based solely on witnessing miracles, it is considered to be "inconclusive (*dofee*).” Thus is because one's belief could be questioned and contested by attributing the miracles that *Moshe* performed to sorcery. The basis for the veracity of *Moshe*'s classification as G-d's Prophet is based on the fact that the entire Jewish people witnessed G-d openly communicating to *Moshe*. Every Jew witnessed G-d saying to *Moshe*, "Say to them such and such." Therefore, all the words of *Moshe* are to be Word of G-d.

The basis for the Jewish people to know that the *Torah* is the Word of G-d, is that they had first-hand knowledge and were witnesses to G-d's communication with *Moshe*. He was designated as G-d's spokesman before the entire people. Thus, every word that *Moshe* would subsequently communicate in the Name of G-d, is the Word of G-d. If *Moshe* were to only present the law and not the reasoning behind then the understanding of the *Torah* would be based on each individual's application of the *Torah*. This would not be sufficient to establish the authenticity of *Torah* at every level as the Word of G-d. It therefore needed to be presented by *Moshe* as a 'set table' for immediate intellectual consumption in order for it to be established until the end of time as the Word of G-d. The *Torah* is established as the Word of G-d because *Moshe* initially established the breadth and depth of *Torah* at Sinai.

Midrash: Every prophet ever prophesized was only communicating what was already transmitted to *Moshe* at Sinai. Thus, the source of every prophecy was already determined by what was given to *Moshe*. We see that it is not only the oral law, which is G-d's elucidation of the *Torah* was given to *Moshe* to communicate to the Jewish people, but also every prophecy until the end

of time was also given through *Moshe*. Anything that relates to *Torah* is founded and determined through the *Torah* that was communicated to *Torah* at Sinai.

Chazal: Every *Torah* sage until the end of time who will come upon the truth of *Torah* in his day, he is only revealing what was communicated to *Moshe* at Sinai.

Behavior, an Indication of One's Capacity

Torah: There are two types of Hebrew slaves; one who is sold by the Court in order to repay the one who was victimized by the theft, and the other type of slave is one who voluntarily sells himself for financial consideration. During the six-years of slavery, the master may provide the slave with a Canaanite woman so that he can breed children on behalf of his master. According to Jewish law, the Canaanite woman provided by the master is not considered to be the slave's wife (because a Jew cannot marry a Canaanite slave) nor are the children consider to be his because the mother is not Jewish. They are thus all chattels of the master.

Torah: If after six years, when the Hebrew 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."

Rashi citing *Gemara* in Tractate *Kiddushin*: "Why did the *Torah* choose the ear to be pierced rather than any of the other limbs of the body? *Reb Yochanon ben Zakai* says, Although the ear heard at Sinai that one should not steal; nevertheless, this person stole. Thus, the ear must be pierced. The ear of the one who sold himself into slavery heard at Sinai G-d saying, 'The children of Israel are My subjects.' Nevertheless, this individual chose to acquire a (mortal) master for himself (to be a subject of a subject). Thus, his ear must be pierced."

If the ear of the individual needs to be pierced to indicate that it is defective because he had violated the precept of the *Torah*, why was it not pierced immediately after the theft takes place? Why is the ear of the individual who sells himself into slavery not immediately pierced when he initially acquires a master for himself, rather than waiting six years?

The essence of a Jew is considered to be good. Because of this innate goodness, he will have a positive intent and bring it to fruition. It is only as a result of distraction, which causes a lack of clarity, that the Jew sins. Therefore, the intent to sin is not sufficient to hold the Jew culpable if it is not brought to fruition.

Although the Jew initially stole or sold himself into slavery, in which case the negative intent was actualized, it nevertheless does not reflect upon his essence. However, after he has fulfilled his obligation as a slave, if he continues to remain in a state of servitude, which is unnecessary, it is a confirmation that the initial failing is not due to circumstance, but rather, it is attributed to a defect that lies within that individual. Therefore, the ear is pierced to indicate its state of defectiveness.

Rabbeinu Yonah in the Gates of Repentance: If one sins and has the opportunity to repent but does not, then the Wrath of G-d will intensify upon him. *Rabbeinu Yonah* explains this point with an allegory. It is analogous to a situation in which prisoners had tunneled of the prison and escaped to freedom. When the warden realized that the prisoners escaped, he inspected the prison. He came upon only one solitary prisoner who remained behind because he chose not to escape. When the warden realized what had occurred, he began shouting at the prisoner, "Why did you not escape?"

The warden began to beat the prisoner despite the fact that the prisoner had actually not violated any law by remaining behind. Why did the warden beat the seemingly innocent prisoner? It was because the warden realized that the only plausible reason that he did not escape was because he did not experience his incarceration as something painful and intolerable. Had this prisoner suffered as he was meant to, he could not have remained while the others fled. Therefore, the warden became infuriated and beat him so that the prisoner should understand that he is deserving to be in a state of punishment.

Identically, if the Jewish slave after six years of servitude and breeding slaves with a non-Jewish (Canaanite) woman, as an animal, how is it possible that he should say that he loves his predicament? It is only because he is truly a defective person. Therefore, the *Torah* tells us that his ear must be pierced to reflect this defect.

The Ramifications of One's Action and Inaction

Torah: "And these are the ordinances (*Mishpatim*) that you shall place before them..."

Midrash: "King Solomon writes in Proverbs, 'A King through justice establishes the land. But one who is as *terumah* (tithes) destroys the land.' The *Torah* sage who is proficient in every aspect of the *Torah* is the equivalent of a king. The justice that he brings about by engaging in *Torah* and adjudicating disputes establishes existence. However, if this individual chooses to act in a manner that is similar to *terumah* (tithes), which is stored in the corner of the house, he is the one who destroys existence.

This is the individual who despite his qualifications as a judge, chooses to remain uninvolved in the needs of his fellow and community. He is the one who says, 'Why should I be bothered or burdened by my community? Why should I be involved in resolving their legal disputes? Why should I heed their outcries? It is better for me to withdraw from my community and only immerse myself in *Torah* study.' This person is the one who destroys the world by not serving his community as a *Torah* Sage. Just as *terumah* remains in the corner of the house undisturbed until it is given and consumed by the *Kohen*, so too does this individual reclude himself from the community." Why is the *Torah* sage who chooses to only engage in *Torah* study and not with the issues of his community regarded as one who destroys existence?

Midrash: When *Rav Assi* was on his deathbed, his nephew entered and found him crying. *Rav Assi's* nephew asked him, "Why are you crying? Is there any area of *Torah* that you have not learned or have not taught? You have many disciples who sit before you. Why are you afraid? Is there any area of acts of kindness that you had not performed? And your greatest praise is that you distanced yourself from rendering judgments -- you did not involve yourself in litigation and judgments of *Torah*. You did not sully yourself with messy communal matters. What could be wrong?"

Rav Assi responded, "It is because of this failing (of not occupying myself with litigation and communal matters) that I am crying. Maybe I will face Heavenly Punishment over the fact that I could have rendered

judgments for Israel and abstained from doing so.” What is the culpability of the *Torah* sage, who although was fully engaged in the study of *Torah* and its dissemination and performance of *mitzvos*, but did not render judgments for his fellows?

Midrash: “If there is justice below, there is no need for justice from above. However if there is no justice below, then there will be justice from above.” Meaning, if justice is addressed by the earthly court, then there is no need for G-d to intercede and implement His Divine Justice. However, if man does not implement proper justice, then G-d will mete out His Justice, which is the equivalent of the destruction of the world.

When the Attribute of Justice is in force, it does not differentiate between the righteous and the evil because there is no individual who does not have a flawed record. If the earthly court implements justice as it is prescribed by the *Torah*, they are the guarantors of existence because G-d’s Attribute of Mercy will be in place. However, if the qualified judge, who is the *Torah* sage, chooses to withdraw from his responsibility, he contributes to the destruction of existence because his inaction is the cause of Divine Justice.

Chofetz Chaim in the introduction of his work *Chofetz Chaim* (based on the *Zohar*): When *satan* comes before G-d to bring prosecution upon the Jewish people, He silences him by saying, “I do not want to hear anything negative about My children.” However, if the Jewish people speak negatively and critically about one another (*lashon ha’rah*) *satan* comes before G-d and says, “If Your children are speaking negatively about one another how can You deny me the right to bring judgment against them?”

G-d then allows *satan* to bring prosecution upon the Jewish people. As a result of *lashon ha’rah* and other forbidden speech suffering, death, and destruction will come upon the world. Because of this, the *Zohar* writes that the one who initially spoke the *lashon ha’rah* is held culpable for all the destruction, death, and suffering that came about as a result of his negative speech. Similarly, the one who has the capacity to render judgment and chooses not to do so, will be held culpable for the consequence of Divine Justice that will be brought upon the world. This was the concern of *Rav Assi* for not rendering judgments for the Jewish people.

The Pitfalls that Lies in One’s Predicament

Torah: There is a positive commandment to lend money to one’s fellow.

Midrash citing a verse from Ecclesiastes: “I have seen a serious illness under the sun: wealth is hoarded to the detriment of its owners, or wealth is lost through some misfortune so that when they have children there is nothing left for them to inherit.” G-d tests everyone. Regarding the wealthy, if their hands are open to the needy, then they will be able to benefit from their possessions. The charity and kindness that they perform, its principle (reward) shall remain intact for the world to come. As it states, ‘Your righteousness shall go before you and the Glory of G-d shall gather you up...’

The needy are also tested. If they do not bolt from G-d because of their difficult situation in this world, G-d will give them reward in the world to come... *Eyov* suffered in this world and received his reward in multiples after his travails had past.... What about the wealthy individual who has an evil eye? He together with his wealth shall be destroyed... There is wealth that is retained by its owner that brings about good and there is wealth that is retained by its owner to his detriment. Who is an example of this? It is the wealth of *Korach*. He believed that he was worthy of honor because of his wealth; however, he and his family were lost forever.

The wealth of *Haman* is another example. He shared his glory with his family because he had wealth; however, (because he could not tolerate the fact that *Mordechai* would not bow to him he was not satisfied). He was ultimately hanged. There are examples of those whose wealth was to their benefit. *Yehoshafat* was wealthy and G-d came to his assistance. There is strength that is for the benefit the one who possesses it. Who is an example of this? King David. He was a powerful individual and a warrior. There are those whose strength was to their detriment. For example, Goliath who had great strength disgraced and blasphemed G-d and was ultimately destroyed.”

King Solomon in his great wisdom is teaching us that regardless of one’s endowment from G-d, it is presented in a context that one can utilize it for the good or for evil. If one uses his G-d-given endowment

in a manner that conforms with the Will of G-d, he will bring about a sanctification. Thus, he would have addressed his purpose in existence. King David who was endowed with strength and vigor, utilized his qualities for the sake of G-d to slay Goliath and conquer the Land. *Korach*, chose to utilize his wealth for evil, which was purely for self-interest. He was ultimately destroyed. Although *Chazal* tell us that he was truly wise, his eye misled him. Because he had seen through Divine vision that Samuel the Prophet would be his descendent, he was convinced that he was worthy of a more prestigious role among the Jewish people. It was his wealth that gave him this false sense of worthiness and entitlement. The negative influence of his wealth ultimately brought about his destruction.

Mishna in Ethics of our Fathers: "Who is the wealthy one? It is the one who is satisfied with his portion." The one who is satisfied with his portion understands that G-d grants each individual with a specific purpose and receives an endowment to facilitate that objective.

Only in that context will he succeed. Whether one succeeds or fails is dependent on one's choice. If one will understand and appreciate the value of his challenge, then he will not bolt from G-d. It is because he perceives the test as an opportunity to be a beneficiary of his accomplishments.

Mishna: "The greater the pain, the greater the reward." When one demonstrates his dedication to G-d, despite its difficulties, he is considered more worthy.

We see from the examples that are illustrated by the *Midrash* that two individuals who may receive the same classification of endowment; their choice, will determine if they will soar in their spirituality or will fail because they used their endowment to facilitate evil. As Goliath the giant who was endowed with great strength was vanquished because he vanquished G-d.

