

The Parameters of Choice & G-d's Love for His Children

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Eliminating Distortion Via The Arbiters of Truth

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1. The Rabbinic courts present their query to the High Court of Israel when they have an irresolvable halachic issue.
2. Once The High Court offers clarification or rules on the issue all courts are bound to their ruling.
3. One is forbidden to deviate from the ruling.
4. Even If their ruling seems to be preposterous all are bound.
5. Rambam in Laws Of Repentance: As there is illness of the body there is illness of the soul.
6. The Prophet before the destruction of the First Temple says, "They refer to light as darkness and darkness as light."
7. Their understanding of truth was totally distorted.
8. The High Court of Israel is referred to as the eyes of the people.
9. Malbim: When G-d created Man, He situated the eyes on the highest part of the body to maximize on his ability to see.
10. The Sages of the Jewish people are likened to the eyes of the people.
11. They see and perceive what the ordinary person does not.
12. If they tell you that your left is your right, it is only due to your distortion of truth that you see it as your left.

Unswerving, Despite Life's Vicissitudes

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1. There is a Positive Commandment to be wholly faithful with G-d.
2. The nations seek out soothsayers and other mediums to know future events.
3. Gemara: A Jew must bless G-d whether he experiences good fortune or the contrary.
4. Ramchal: G-d created man to be a beneficiary of the ultimate good.
5. If one is able to internalize this reality, one will be able to weather the storms of life.
6. One will be fully trusting, not needing to know what tomorrow will bring.
7. G-d gave us prophets to inform and guide us in our lives.
8. Today, we no longer have prophets; we are guided and directed by the Torah itself.

Weekly Torah Commentary Series: Shoftim



The Parameters of Choice & G-d's Love for His Children

Truth, the Standard to Which the Jew is Held

Torah: “Judges and officers shall you appoint in all your cities...” There is a positive commandment for every community to appoint a court to adjudicate the law and enforcement officers in order to implement the law.

Midrash Tanchumah citing King David in Psalms: “‘He relates His Word to Yaakov, His statutes and judgments to Israel He did not do so for any other nation, such judgments- they know not of them.’ How is it possible that the nations of the world are unaware of the laws pertaining to adjudication when one of the Seven Noahide Laws is to establish a judicial system? They are aware of the laws, but they have no relevance to the specific meticulous process to establish the law (*dikdukei hadin*). For example, we had learned that when *Ben Zakai* would interrogate witnesses, to establish their credibility, if the incident had taken

place under a fig tree he would ask the witnesses, ‘What was the length of the stems of the figs at the scene of the crime?’”

Midrash: “This level of precision and interrogation has no relevance to the non-Jew. A non-Jew can be put to death through the testimony of a single witness in a court that is comprised of a single judge. He can be found guilty even if he had not been forewarned. This is not so when rendering a judgment that pertains to a Jew. If it is a monetary issue, a Jew must be tried before a court of three qualified judges. If it is a capital case, he must be tried before a court of twenty-three qualified judges. Two witnesses, who have been properly interrogated by the judges, must testify against him ...The judges must interrogate the witnesses by asking them a minimum of seven questions to establish fact beyond any doubt.”

Despite the fact that the verdict of the non-Jewish court may be identical to the verdict that would have

been rendered by the Jewish court, the criteria that must be met to mete out the verdict of the Jewish court has no relevance to the non-Jewish court. If in fact the verdicts of the Jewish and non-Jewish court are identical, why is the Jew not permitted to go to the secular court?

Torah in Mishpatim: “You must present it before them (a Jewish court),” inferring “and not before a secular court.” If a Jew is able to present his case before a Jewish court and chooses to come before a secular court it is considered a desecration of G-d’s Name. Although the nations are commanded to establish a judicial system which may have the same laws as the *Torah* prescribes, nevertheless, the Jew is not permitted to have a non-Jewish court preside over his case. In order for the Jewish court to adjudicate a case, there must be a minimum of two qualified witnesses. These witnesses must be interrogated by asking them a minimum of seven questions to establish their truthfulness. Each witness is interrogated separately to assure that there is no discrepancy between their testimonies.

King David in Psalms: “....(The non-Jew) is unaware of the laws (that were given to the Jewish people.” Meaning, the need to establish the veracity of fact that is required by the Jewish court has no relevance to the process of the secular court. Why does the *Torah* require such a great level of scrutiny to establish truth, beyond any doubt, regarding monetary or capital cases? Why does process of verification not apply to the non-Jew?

The Jewish people were taken to be G-d’s Chosen people at Sinai. They are therefore held to a standard that reflects His signet.

Gemara in Tractate *Shabbos*: The “signet of G-d is truth.” The *Torah* that was given to the Jewish people at Sinai represents truth at the most absolute level.

King Solomon in Proverbs: “Acquire Truth (*Torah*) and do not sell it.”

The Jewish people only have relevance to G-d if they do not compromise G-d’s standard of truth. Therefore, the adjudication of the court, whether it is monetary or capital, must meet G-d’s standard of truth. Even if the ruling of the secular court should be identical to the verdict of the Jewish

court, the Jew is not permitted to have the secular court adjudicate his case. The verdict is not what is relevant but rather it is the standard of the process through which the verdict is rendered. This is the reason the *Gemara* in Tractate *Shabbos* tells us that one of the reasons the Jewish people were exiled from Israel was because they had compromised the truth through corrupt courts.

Sacrifice, the Means of Acquisition

Torah: Regarding establishing a judicial system in every community, “Judges and officers you shall appoint for yourself in all your cities.” The *Torah* could have stated, “Judges and officers shall you appoint in all your cities.” What is the significance of the expression “for yourself?”

Midrash: “The words ‘for yourself’ teach us that the judicial system of the Jewish people identifies with *Moshe*. Justice is one of three areas for which *Moshe* had sacrificed. *Moshe* had sacrificed himself for the sake of *Torah*. As it states, ‘He was with G-d (in heaven) for forty days and forty nights...Bread, I did not eat and water I did not drink.’ Since he sacrificed for the acquisition of the *Torah*, It identifies with him, as it is written, ‘You should remember the *Torah* of *Moshe* My servant.’ *Moshe* understood that because he needed to ascend to heaven, his physicality would be compromised and diminished. Despite his deprivation, he was willing to sacrifice himself for the sake of the *Torah*.”

Yalkut: *Moshe* said to the Jewish people, “Just as I sacrificed my fat and blood for the sake of the acquisition of *Torah*, so too must you give up of your physicality if you wish to acquire it.”

Midrash: “In addition, *Moshe* sacrificed himself for the sake of the Jewish people. As it states (after the sin of the Golden Calf), ‘If You (G-d) will not carry their sin You should obliterate my name from Your book (the *Torah*).’ Thus, the Jewish people identify as *Moshe*’s people, as it states, ‘Go down because your people have become corrupted.’ The judicial system is identified with *Moshe* because he sacrificed himself for the sake of justice. As it states, ‘He had killed the Egyptian and buried him in the sand.’”

When *Moshe* had come out of the palace in Egypt he had witnessed an Egyptian beating a Jew after the

Jew had become aware that the Egyptian had defiled his wife. Witnessing this injustice, *Moshe* killed the Egyptian and buried him in the sand without considering the ramifications and consequences of his decision. *Moshe* acting as a judge rendered the decision to kill the Egyptian put his life into jeopardy.

Torah: “(*Dasan* and *Aviram* had said) Who appointed you as a dignitary, a ruler, and a judge over us?” *Moshe* understood that as a result of this statement that it had become known to Pharaoh that he had killed the Egyptian. He thus needed to flee from Egypt and disassociate himself from the Jewish people for an extended period of time. He had to become a fugitive. It was because for of his sacrifice for justice that the appointment of judges identifies with him.

Because *Moshe* sacrificed for the *Torah* he acquired it at the most advanced level. Had he not sacrificed and negated himself for its sake, his capacity for its acquisition would have been limited. Thus, the *Torah* that was transmitted through *Moshe* to the Jewish people was at the most advanced level. This is true also regarding the killing of the Egyptian. Because *Moshe* sacrificed for the sake of true justice, the qualified judges within the context of a rabbinic court merit Divine Assistance to be able to render a truthful verdict.

Gemara in Tractate *Shabbos*: Throughout the ages the Jewish people sacrificed their lives for the sake of circumcision. It is because of this great sacrifice that circumcision is a *mitzvah* that will remain intact with the Jewish people until the end of time. Despite how alienated a Jew may be from his heritage he will remain committed to have his child circumcised. Because of the degree of sacrifice that was done for the sake of circumcision, the Jewish people will merit special Divine Assistance to be able to adhere to this *mitzvah*.

Based on the principle that is mentioned in the *Midrash* regarding *Moshe*, seemingly if any Jew chooses to take the initiative and is willing to sacrifice for his spirituality, that *mitzvah* will identify with him. We find this concept regarding the study of *Torah*. King David in Psalms refers to the *Torah* as “G-d’s *Torah*”; however, after one engages in its study, he refers to It as “his *Torah* (the one who had studied it).”

Gemara in Tractate *Avodah Zorah*: This is to indicate that once the individual takes the initiative to acquire Its knowledge, G-d identifies the *Torah* with that individual. The *Gemara* therefore tells us that if a *Torah* sage chooses to waive his honor, he is permitted to do so because the *Torah* (which is the basis for his honor) is his.

Gemara in Tractate *Yomah*: A *Torah* sage whose study of *Torah* is not consistent with his behavior as a Jew, regardless of his degree of knowledge is not considered a *Torah* sage. Meaning, in order for one to be classified as a true *Torah* sage his inner commitment and feelings should be consistent with his outer demeanor and presence. A *Torah* sage is not merely a repository of information. He must be genuine and sincere in his service of G-d in every aspect of his life. In order for one to achieve this level, one must be willing to sacrifice and negate himself for the sake of G-d and His *Torah*.

The Result is Only a Reflection of the Quality of the Process

Torah: “Judges and officers shall you appoint in all your cities...”

Midrash: “A judge must be strong-armed/empowered (*baali zeroah*) which means fortified in good deeds. As it states, ‘*Moshe* chose men who were strong in *Torah*, good deeds, and fortitude (*anshei chayil*).’” Initially, the *Midrash* identifies a qualified judge as being one who is “strong-armed/ empowered (*baali zeroah*)” because he is fortified in good deeds. The judge’s profoundness and status is determined by his *mitzvah* accomplishments and not his *Torah* study. However, in explaining the criteria used by *Moshe* to select qualified judges, the *Torah* refers to them as being “*anshei chayil*”- those who are accomplished in *Torah*, good deeds, and fortitude. If “*baali zeroah*” and “*anshei chayil*” are on in of the same, why initially is the individual quantified by his good deeds alone and later by his study of *Torah* in addition to the *mitzvos* (*anshei chayil*)?

Gemara in Tractate *Kiddushin*: “Great is the study of *Torah* because it brings to actualization.” For one to actualize the *mitzvos* it must be predicated on the study of *Torah*. However, factually one is able to perform *mitzvos* even if he had not studied the *Torah*. If so, what is the meaning of the *Gemara*?

Rambam in Laws of the Study of Torah: “The study of *Torah* brings to the actualization of *mitzvos*, but the performance of *mitzvos* do not bring to the actualization of *Torah* study.” When one studies *Torah* it touches upon every one of the *mitzvos*; however, when one performs a *mitzvah*, the action is limited and isolated to the *mitzvah* that is performed. It does not touch upon the *Torah* in its entirety. Thus when the *Gemara* states, “Great is the study of *Torah* because it brings to actualization” it does not mean a specific *mitzvah*, but rather, the study of *Torah* impacts upon the totality of one’s spirituality that has relevance to all 613 *mitzvos*. This is based upon the principle, “The study of the *Torah* is the equivalent of all the *mitzvos* combined.”

Gemara in a number of locations: “I (*Hashem*) created the evil inclination and the *Torah* as its antidote.” The study of *Torah* is the only mechanism through which one can subdue and neutralize the evil inclination.

Ohr HaChaim HaKadosh: The *Torah* only acts as an antidote against the evil inclination when it is studied for its own sake (*I’shma*) and not when it is studied with an ulterior motive. When one studies the *Torah* with an ulterior motive other than the study of *Torah* for its own sake, because the subjective intent of the individual emanates from the evil inclination itself, that *Torah* study cannot incapacitate the evil inclination.

Therefore, this *Torah* study does not contain the spiritual element of purity to act as an antidote against the evil inclination. The quality of *Torah* study that brings to the actualization of *mitzvos* will determine the quality of the *mitzvos*. This is because the level of purity of study will determine the degree of Divine Assistance one merits to be able to perform the *mitzvos* in a more perfect manner. The judges needed to be “*baali zeroah*” which pertains to their profound accomplishments in *mitzvos*.

When the *Midrash* identifies the qualification of “*anshei chayil*” which was the prerequisite for *Moshe*’s choice to be qualified to be a judge, in addition to good deeds the study of *Torah* is mentioned. This is only because the quality of *Torah* study will determine the quality and profoundness of the good deeds. For example, when one observes *Torah* sages engaged in their service of G-d, one is able to appreciate the fact that it is only because of the purity of their *Torah*

study, that they are able to perform at this level. Thus, the term “strong-armed” which is profound accomplishment in *mitzvah* observance is the result of what had preceded it, which is qualitative *Torah* study, *Torah I’shma*.

Gauging and Guaranteeing One’s Spirituality

King David in Psalms: “One thing I asked of *Hashem*, that shall I seek: That I dwell in the House of *Hashem* all the days of my life; to behold the sweetness of *Hashem* and to contemplate His Sanctuary...” As a young man, King David was a humble shepherd who tended to his flock. He later killed Goliath the giant, which was miraculous. As a result of this achievement, he was taken to be the son in law of *Shaul*, the king of Israel. Eventually, he himself became the King of Israel. As king, David conquered the Land and drove out the nations that occupied it.

Chofetz Chaim: What King David is actually saying in Psalms is that his perspective of life never wavered or changed. As a humble shepherd with no renown, King David’s aspiration was to dwell in the House of G-d. One would think that after killing Goliath the giant and consequently assuming great degree of renown, King David’s perspective of aspiration would have changed. Nevertheless he states in that context, “My only desire is to dwell in the House of G-d.” Even after becoming the son in law of the king, he did not change his perspective of life. One would think that after ascending to be the king of Israel, because of the power that he attained, it would cause his perspective to wane and be distracted. King David states that it was not so.

It is understood that King David was unique in his spirituality and G-d-given qualities. How does the average Jew achieve as much as an iota of perspective similar to that of King David- without being distracted by the successes and failures of life?

Torah: “(When *Moshe* addressed the Jewish people he said), “What is *Hashem* asking of you? To fear Him, to keep his Statutes...”

Chofetz Chaim: Before any Jew chooses to make a decision regarding anything pertaining to his life, he must ask himself “What is *Hashem* asking of me?” Meaning, will this action or decision conform with

G-d's Will/the *Torah*? Every decision, regardless of how mundane it may be, must be evaluated based on its relevance to one's spiritual growth. One can only assume an objective position when asking the question "Does this decision conform with G-d's Will?" By subjecting one's decision-making process to this question, it will cause an evaluation and scrutiny that will guarantee that the result will be in conformance with the *Torah*. King David lived his entire life, regardless of his station, asking, "What does G-d want from me?" It was because of this approach that he was not distracted from his spiritual objective of being intimately involved with G-d.

The Limitation of Choice

Torah: "Judges and officers shall you appoint in all your cities..." The *Torah* is telling us that there is a Positive Commandment that every community must have a court of qualified judges and law enforcers to carry out their decisions.

Mishna in Tractate *Sanhedrin*: If a community is comprised of as few as 120 Jews it must establish for itself a court.

Torah in *Re'eh*: If one adheres to the dictates of the *Torah* he is blessed. However, if one were to transgress, then he is cursed. It is not sufficient for one to understand the value of observing the *Torah* that he will be worthy of blessing and the one who violates it will be deserving of punishment to ensure its observance. Rather, the *Torah* prescribes that a judicial and enforcement system must be established in every Jewish community.

Without one's understanding that there is culpability and recourse for transgressing, one would tend to do as he pleases and not live as a proper Jew. There are many levels of corporal punishment that the court is empowered to implement when the *Torah* is violated. The most severe level of punishment is the death penalty (this can be implemented on many levels based on the level of transgression).

Certain crimes carry the death penalty through stoning, burning, execution by the sword or strangulation. There are also instances of violations that are of lesser liability that require 39 lashes to be

administered. This is when a negative commandment is transgressed. In addition, there are legislative punishments that are promulgated by the *Rabbis* as fences to protect the *Torah*.

G-d created man with a specific purpose and objective to perfect himself through making proper choices. Man was therefore endowed with an intellect to be able to choose between good and evil. Because it is within the power of man to choose between right and wrong, he is deserving of reward when he succeeds and is culpable of punishment if he fails. If one chooses to adhere to the dictates of the *Torah* he perfects and advances his spirituality. However, if one were to choose to follow his evil inclination, he would be fully culpable, consequently his spirituality would be diminished.

Rambam in *Laws of Repentance*: "It is not like those fools who say that one's status as righteous or evil is predetermined. One is fully deserving or culpable because one has the ability to choose to do right or perpetrate evil."

Gemara in Tractate *Berachos*: "All is predestined (at the time of conception) except for the fear of *Heaven*." Meaning, the decision to become a *tzaddik* or *rasha* is completely within the purview of the individual. If the primary purpose of man is to function within a context of being able to continuously choose between right and wrong, one would think that establishing such a supervisory judicial and law enforcement system of judges and enforcers, would greatly limit one's free choice to transgress. Understanding and appreciating the severe consequences of one's behavior, which bring about corporal punishment, no rational person would consider violating the law.

For example, if one were to be forewarned and deliberately eats a small measure (volume of an olive) of *non-kosher* meat, he would be subject to thirty-nine lashes. In order for one to recover from this experience one may need many years to recuperate from the physical effects of being whipped by the court. In addition, there are many other areas that the *Torah* does not address but are nevertheless governed by Rabbinic enactments which also result in severe consequences if violated. If this is the infrastructure of the judicial system within every Jewish community, that is comprised of as few as 120 individuals, how does one truly exercise his freedom of choice?

The Jewish people at Sinai became G-d's Chosen and Holy people. They are classified as "the Kingly and Priestly Nation of G-d." Because of their elevated and advanced spiritual status, G-d does not allow the Jew to choose to function only as an intellectual being. In addition, the *Torah* does not want the Jew to have a choice to forfeit his spiritual persona and sensitivity towards the spiritual through extreme levels of transgression. For example, if one should eat non-Kosher species/food, it desensitizes him to spirituality.

Rambam: "The ingestion of *non-Kosher* species causes the Jew become corrupt and have a revulsion to spirituality." In order for the Jew to function within a proper context to advance himself, he must maintain a minimal level of spiritual sensitivity. This can only be attained if the Jew retains and maintains his spiritual profile through the observance of the *Torah*. Without a judicial system and a law enforcement body, this would not be possible.

The context of choice in which G-d wants the Jew to perform is on a qualitative level. When one observes the *Shabbos*, in what context does he do so? Is it because one longs to cull from the holiness and spirituality of the day, through its observances? Or, is it because one observes the *Shabbos* for his own reasons, which may not be for the sake of the

mitzvah itself?

By establishing a setting for the Jew to function within the parameters that the *Torah* prescribes, it enables one to make choices either to advance to a higher spiritual plane or to remain on the most simple level (such as performing a *mitzvah* with an ulterior motive). G-d does not want the Jew to have a choice to live as an intellectual animal, without having a sense for his own spirituality. This is because the Jewish people are His chosen and His children.

Exile is a consequence of the Jewish people violating and transgressing the *Torah*. Existing in a state of exile, the spiritual infrastructure, which is provided by the *Torah*, no longer exists. The Jew is engulfed by influences that cause him to make choices between retaining the spiritual persona of a Jew or forfeiting it through one's choice to imitate the nations of the world. As a result of exile, the range of the Jew's choice has broadened and therefore it causes one more difficulty to sense one's own spirituality. However, if one, despite the overwhelming challenges of the world's influences succeeds, then his correct choice will have infinitely increased in value. Thus, the Jew will be advanced to another spiritual plateau.



Yad Avraham Institute