

THROUGH JUSTICE... THE WORLD IS SECURE

YadAvNow.com Weekly Audio Series: Mishpatim

Rabbi Yosef Kalatsky

Yisro's Quest for Truth: Referring to Hashem with the Attribute of Justice

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Convening the High Court

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These Rational Laws Were Also Communicated at Sinai

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Hourly Video: V'Eileh Hamishpatim - Eved Ivri

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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.

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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.

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Weekly Torah Commentary Series: Mishpatim



Seeing Things in Their Proper Perspective

Torah: After *Yisro* had gone into the desert to become part of the Jewish people, *Moshe* had shared with him in detail, every aspect of what had transpired from the time of the exodus until that moment. He had told *Yisro* how G-d had rescued the Jewish people from the Egyptians through revealed miracles.

Torah: “*Yisro* rejoiced over all the good that *Hashem* had done for Israel, that He had rescued them from the hand of Egypt...” It would seem that the basis for *Yisro*’s joy was considered to be appropriate because he had the capacity to appreciate and internalize what G-d had done on behalf of the Jewish people. He had saved the oppressed from their masters.

Sforno: The *Torah* is communicating something that is slightly critical of *Yisro*’s perception and response to what had taken place. “When *Yisro* had heard how

the Egyptians were destroyed, he did not rejoice as one who is zealous over the honor that is afforded to his Maker. As it states in Psalms, ‘The righteous will rejoice when they see the vengeance of G-d being meted out.’ But rather *Yisro* rejoiced over the benefits of the Jewish people as one who is pained by the tears of the one who is victimized.” Upon hearing of the destruction of the Egyptians, who defied G-d, *Yisro* should have rejoiced over the fact that Divine Justice had taken place.

Gemara in Tractate *Sanhedrin*: *Yisro* was one of the advisors to Pharaoh. When he had heard that Pharaoh was going to institute bondage upon the Jewish people, *Yisro* fled Egypt in protest because he could not tolerate that level of injustice. He could not remain and watch the evil being perpetrated against the Jewish people. *Yisro* was sympathetic to the plight of the Jewish people from the beginning of their bondage.

Since the beginning, *Yisro* internalized the pain of the Jew. When he was informed by *Moshe* how G-d had saved them from the hand of Pharaoh and the Egyptians he was thus relieved that the Jewish people were finally free of their oppression. This was the basis for *Yisro's* rejoicing. *Yisro*, being the special individual that he was, should have risen above his humanistic feelings and internalized the situation as G-d meting our Divine Justice.

Torah: There is a positive commandment to give charity to one who is in need. Thus, when one gives charity it is because G-d commanded him to do so. Although one may be naturally inclined to be sensitive to the one who is in need and consequently want to respond to satisfy his need, one must nevertheless suppress his emotion and act only because G-d commanded him to do so. The fulfillment of G-d's dictate should motivate for one's action rather than one acting upon one's emotion.

Avinu Malkeinu: "Our Father, Our King, avenge before our eyes the spilled blood of Your servants." We are supplicating G-d that we want to witness the destruction of our enemies. It is not because the nature of the Jew is to be (G-d forbid) bloodthirsty and seeking revenge, but rather we pray that those who have victimized the Jewish people throughout history should be eliminated only because G-d's Divine Justice is being served. We will thus be the one's to witness the glorification of G-d.

Torah: G-d said, "My Throne is not complete until the Amalekites are obliterated from under the heavens." The reason the Amalekites need to be destroyed is not because they are the enemies of the Jewish people and have attempted to destroy them throughout history, but rather, because they do not allow G-d's Glory to be fully established. Therefore, His Throne is not securely in place. *Yisro* focused on the peripheral benefit that was given to the Jewish people rather than witnessing G-d's vengeance being administered. Thus, he had fallen short of his potential.

Internalizing Truth

Torah: "One who strikes a man and causes him to die, shall surely be put to death. But if one who had not lain in ambush and G-d had caused it to come to his hand, I shall provide a place to which he shall flee." One is liable to be put to death if one commits murder

deliberately; however, if one takes a life inadvertently, he must flee to one of the cities of refuge that are mentioned in the *Torah*.

Rashi citing the *Gemara* in Tractate *Makkos*: The verse is referring to two individuals who committed murder. One killed deliberately and one killed inadvertently; however, there were no witnesses in either case. Because their actions cannot be known to the court, both individuals remain free. They could behave as if there was no culpability for their actions. Both of them, in truth, are in need of atonement. G-d orchestrates events in order to bring about what is necessary.

Gemara: "How does G-d bring about justice? We see from the ancient allegory, from evil emanates evil. What is the ancient allegory? G-d Himself Who preceded existence states, 'From evil shall emanate evil.' How does G-d mete out justice in this situation? G-d causes that these two individuals meet in an inn and share a room together. The deliberate murder chooses to sleep on the lower bunk and the inadvertent murder chooses the upper bunk. When the inadvertent murder was climbing the ladder to get to his bunk, he fell upon the deliberate murder on the lower bunk and killed him. This event is witnessed by qualified witnesses, thus causing the inadvertent murder to flee to a city of refuge. This was initially required for him to go for the sake of atonement. The deliberate murderer died to, thus receiving his proper punishment. Justice was thus meted out."

What is the significance of this verse which alludes to the predicament of these individuals? It is to teach us that although one may have alluded to the justice of the earthly court, one cannot escape Divine Justice. G-d will ultimately mete out when each individual deserves. As it states, "G-d had caused it to come to his hand."

Mishna in *Ethics of our Fathers*: One should pray for the welfare of government because if it were not for the fear of government, people would swallow one another "alive." Meaning, regardless of ethical, moral, and level of sophistication of society without the fear of government, a state of anarchy would develop to the point that people would become predators against one another. How is it possible that individuals with an understanding of values and proper behavior could fall to a level of barbarians?

A human being's behavior is determined by his understanding of good and evil. Although conceptually one understands that there is acceptable and unacceptable behavior; however, there is no action that cannot be although it may be unconscionable. One recognizes the illegality or criminality of an action when it is identified as such within the context of accountability.

In order to appreciate and internalize what is forbidden, one must be cognizant of the liability for that infraction. However, if there is no context for the application of accountability, it remains an abstract concept with no relevance to one's behavior. Therefore, as wrong as something may be, it could be justified. Therefore, the *Torah* teaches us regarding the two individuals who committed murder that although the court is unaware of their crime, G-d will orchestrate a setting in which Justice will be meted out. It brings to focus the reality of the implementation of accountability.

The fear of government is crucial to every society, in order to function and thrive because it is only through it that people could understand what is proper behavior. However, human law does not fully dictate how a Jew must live his life. If these laws that pertain the Jew are not under the governance of the court, then how is the Jew to internalize the laws that apply exclusively to him? The dictates of the *Torah* are more encompassing than the civil laws that govern secular society. It is only the fear of heaven that will allow the Jew to internalize and quantify his obligations as a Jew.

If one sees the Hand of G-d in one's life then one can more easily live in accordance with the *Torah* because he will appreciate the truth of existence. Only through the study of *Torah* can one truly appreciate the profundity of its truths. As King Solomon states in Proverbs, "*Neir mitzvah v'Torah ohr* – the *mitzvah* is fuel and the *Torah* is the illuminator." The *Torah* gives the Jew the ability to see what is proper and what is unacceptable.

Tempering One's Ego Through the Fear of G-d

Rashi citing *Chazal*: "Why does the *Torah* juxtapose the Portion of *Mishpatim* (which begins with the laws pertaining to the rabbinic court of Israel /*Sanhedrin*) to the Portion of the building of the Altar? It is to teach us that the High Court of Israel (*Sanhedrin*

Gedolah) needed to be placed adjacent to the Altar (the Sanctuary of the Temple). Meaning, that the *Sanhedrin* should convene in one of the chambers of the Temple that was located alongside the Sanctuary. This location was known as the Chamber of Cut Stone (*Lishkas HaGazit*). What is the significance of the *Sanhedrin* being located adjacent to the Sanctuary? Why must the location of the Divine Presence be associated with the High Court of Israel?

One could say that the *Sanhedrin Gedolah*, which was comprised of seventy-one judges, needed to be associated with the Divine Presence because it adjudicated issues that pertained to capital punishment, thus affording them with the necessary level of clarity. However, we see that the High Court was not the only court qualified to issue the death penalty. The lower courts comprised of twenty-three judges, which existed in every community, was qualified to issue the death penalty without being located adjacent to the Sanctuary.

Torah: If there was a dispute among the lower courts, regarding a *Torah* law or perspective, they would ascend to the High Court that was located on the Temple Mount in order to elucidate and resolve the matter. The verse states, "*Torah* goes forth from Zion... (*Ki me Tzion teitzei Torah*). Meaning, the source of clarity regarding the *Torah* emanates from the location of the Divine Presence, which is the Sanctuary located in the Temple. Therefore, one needs to go to the location of the *Sanhedrin Gedolah*, who possess that special level of clarity. The law states that if the *Sanhedrin Gedolah* is not in session in the Chamber of Cut Stone, the lower courts are not permitted to adjudicate cases involving the death penalty. We see from this that the clarity that the lower courts receive in order to be able to issue such rulings emanates from the High Court's relationship and proximity to G-d.

King David in Psalms: "The prerequisite (or) beginning of wisdom is the fear of G-d (*Reishis chachmah yiras Hashem*)" King David is stating that without the "fear of G-d" one could possess a level of genius that is unequaled, yet, simultaneously has no understanding of truth. He processes existence based on his own inner conflicts of interest. However, if one's intellect and knowledge is predicated on the fear of G-d, he will see the world within the context of G-d's perspective, which is in fact reality. If one truly fears G-d, then he

will be negated, thus allowing him to see truth. His conflicts of interest will be removed.

Gemara in Tractate Sanhedrin: The Judges who were qualified to sit on the *Sanhedrin* were required to understand seventy languages because they needed to hear the testimony directly from the witnesses without any intermediary. The *Sanhedrin* was composed of Judges that were not only proficient in the entire *Torah* but also many branches of knowledge because they were directly or indirectly related to their qualification to be able to render decisions. Although one is not permitted to study the laws of witchcraft, the judges of the *Sanhedrin* were permitted to be fully versed in all these areas in order to adjudicate those cases properly. The judges who qualified for the *Sanhedrin* possessed a level of genius and understanding that we are not able to comprehend.

Every person, especially one who is endowed with an exceptional level of genius is subject to ego. If one is not sufficiently humble, his ability to process truth becomes seriously impaired. The only way one can be truly humbled is to sense the presence of G-d. As King David writes in Psalms, the prerequisite of wisdom is the fear of G-d. Without the fear of G-d there can be no wisdom.

Rambam: Aristotle was one of the greatest geniuses that ever lived. However, because his genius was completely subjected by his ego, he did not come upon the truth of G-d. If one's genius is tempered and directed as a result of one's fear of G-d then that individual will come upon truth. This is the reason the *Sanhedrin* was located within the proximity of the Divine Presence. By being in the presence of G-d the judges of the *Sanhedrin* would remain humble, despite their dimension of person. This humility brought to them clarity in order to be able to render all levels of judgment. In addition, it was through them that the lower courts received Divine Assistance to be able to do the same. *Moshe* because he was the most humble person who ever lived was qualified to be the conduit of the ultimate truth, which is the *Torah* itself.

The Cost Factor that is Necessary to Acquire Spirituality

Torah: "And these are the ordinances that you shall place before them: If you acquire a Jewish slave (*eved*

ivri), he shall work for six years; and in the seventh he shall go free, for no charge (*chinum*)."

Ohr HaChaim HaKadosh: This verse can be explained on an allusionary level. He writes, "The human being is a composite of the physical and the spiritual. Just as the slave is acquired and subjugated by his master, so too must the physicality of man be controlled and subjugated by his spirituality. The Portion begins, "And these are the ordinances that you shall place before them..." to indicate that one must be continuously cognizant of the struggle to subordinate the physical to the spiritual. This is the objective of life."

Ohr HaChaim HaKadosh: "Why does the *Torah* refer to the slave as '*eved ivri* (Hebrew slave)'? It is because the word '*ivri*' is derived from the word '*oveir* (passing)', which means transient. The physicality of man is only temporary...As the verse states in Psalms, 'Life is similar, to a passing shadow'...One may live for sixty years and when he enters into the seventh (ten year period), he will pass on. The slave works for six years for his master and in the seventh year he goes free. As it states in Psalms, 'The dead are free.'

"The verse continues, 'he (the slave) shall go free, for no charge (*chinum*)' This alludes to the fact that when one passes away he leaves this world through '*chinum*.' What is the meaning of '*chinum*'? It is referring to the angel of death and his entourage, as they are referred to by the *Zohar*. They have no intrinsic value whatsoever. (The angel of death, satan, and the evil inclination are of the same power which has no eternal value (*chinum*). And therefore they have no dominance over a *mitzvah* which one performs through expending great amounts of money. As you also find, anything that represents spiritual impurity is available without effort or payment (*chinum*). This is not the case with the performance of a *mitzvah* that requires a great level of effort and financial outlay."

Yisod v'Shores ha'Avodah: Regarding *Rosh Hashanah* and *Yom Kippur*, it is important for one to purchase the honors, which the days afford the individual, although it may entail great expenditures. He cites the *Zohar* that when one demonstrates his esteeming/valuing a *mitzvah* through purchasing it despite the financial cost, it brings about great merit. Simply one could say, that one's merit is a reflection to what degree he esteems and values the *mitzvah*. However, based

on the *Zohar* cited by *Ohr HaChaim HaKadosh* we can understand this on a more profound level. The forces of evil such as the angel of death, satan, and evil inclination are false and have no substance. They are all of the same power. They are '*chinum*' because they have no eternal value.

Torah: During the Covenant between the parts, G-d had instructed *Avraham* to take several species of animals to be severed into two parts, each of which had a specific representation. One of the species that he had taken was '*Gozal* (young dove)'.

Midrash: '*Gozal*' is referring to Esav/Edomites because they 'deceive (*Gozal*) mankind.' Esav and Edomites, which represent the evil inclination/satan/physicality continuously deceive mankind into believing what is not real. When one demonstrates his level of esteem and value for a *mitzvah*, it is not subject to satan and his entourage, who are classified as "*chinam*." The forces of evil cannot have any effect on a *mitzvah* that one performs with great expense (physical/financial/sacrifice).

Gemara in Tractate *Menachos*: The physical world was created with the spirituality of the Hebrew letter "*hey*". The letter "*hey*" is comprised of a horizontal line, which rests on a vertical line on its right side and vertical line on the left, which does not quite reach the horizontal line (its roof). There is a small opening on the left side of the letter between the left leg and the roof of the letter.

Gemara: The shape of the letter signifies the reality of physical existence. The wide-open space between the right and left leg alludes to the fact, that if one chooses the material and impurity, he can go into spiritual freefall without any hindrance. However, when one wants to repent and rehabilitate his spirituality he cannot return on the same path, but must return with difficulty through the small opening on the left of the letter "*hey*." Evil is abundant and available without any difficulty – '*chinum*'/free of charge/easy to acquire; however, spirituality and attaining purity is something for which one must sacrifice greatly in order to achieve it.

There is nothing in existence more precious than the *Torah* itself because it is the wisdom of G-d. In fact, G-d Himself refers to the *Torah* as "*Lekach Tov* (Good Commodity)". Its study is equivalent to all of the *mitzvos* combined.

Gemara in Tractate *Megillah*: "One who says, 'I have toiled (in *Torah*) and have come upon it,' should be believed. One who says, 'I have not toiled and I did come upon it,' is not to be believed." One can only come upon the truth of *Torah*, which is the ultimate, only through sacrifice, which is the toil and dedication to comprehend it. The only time one has relevance to the acquisition of *Torah*, which is the ultimate of value, is if one sacrifices sufficiently. This is because sacrifice is the antithesis of '*chinum* (no value)' which represents spiritual impurity and nothingness.

Gemara in Tractate *Berachos*: One cannot acquire the *Torah* unless he is willing to die for it (sacrifice). It is only when one is willing to compromise his own comforts for the sake of the acquisition of *Torah*, will he be able to acquire it.

Shaloh HaKadosh: One has a conjugal obligation to his wife on the night of her immersion in the *mikvah*. At the time of conception, the evil forces try to negatively impact upon the potential of the child that is meant to be conceived. This is because every Jewish child has the potential to bring about unfathomable levels of spirituality and holiness into existence. Therefore the evil forces attempt to impact negatively upon the future of the child at the moment of conception.

Man's natural inclination is to be physically drawn and attracted to his wife. However, the *Torah* prohibits one to have physical contact with her during the time of her impurity (menstrual cycle). Thus, one must go against his natural inclination by refraining. This is considered a sacrifice. In the merit of this restraint, G-d responds measure for measure by rewarding the individual by intervening and not allowing the evil forces to tamper with the conception of the child on the night of immersion. Similarly, the conjugal obligation of a *Torah* scholar is on *Shabbos*. Since the essence of *Shabbos* has a semblance of the spirituality of the World to Come, the negative forces cannot detract from the purity of the child that is meant to be conceived.

The Pervasive Truth of G-d

Torah: "Distance yourself from a false word..." One would think that the *Torah* should have stated, "do not speak a false word." What is the significance of distancing oneself from falsehood? One could say

that since a person is inclined and susceptible to speaking falsehood, one must take every precaution to distance himself from it.

Sforno: "One must remove himself from anything that will ultimately bring about falsehood. As the *Mishna* in *Pirkei Avos* (*Ethics of our Fathers*) tells us, a judge should interrogate a witness in a manner that obscures the true intent of his questions. This is because if the witness were to understand the intent of the questioner, he would consequently tell him what he wants to hear. This is what is communicated through the law, 'Distance yourself from a false word...' Thus, the *Torah* is teaching us that even if an individual does not speak falsehood, but engenders falsehood, he is in violation of this law.

Torah: "Do not execute the innocent or the righteous, for I shall not exonerate the wicked."

Rashi citing a *Gemara* in Tractate *Sanhedrin*: There are two scenarios. The first situation is when the court finds an individual guilty and subsequently new evidence arises that confirms his innocence. The court must admit the new evidence and overturn the guilty verdict. An innocent man/*tzaddik* cannot be punished. The second situation is when the court rules that the individual is innocent and subsequently new evidence is presented that demonstrates his guilt. The court is not permitted to retract its innocent verdict and he is not punished.

Chazal: "How is it possible that the *Torah* allows a guilty party to go free without punishment?" They answer, "G-d has many agents." Meaning, that although he will not be subject to the punishment of the court, ultimately Divine retribution will come upon him.

Gemara in Tractate *Shabbos*: "The signet of G-d is Truth." If the signet of G-d is Truth, then the court which has been charged to mete out G-d's justice must therefore reflect His Signet, Truth. How is this possible? G-d's judgment is perfect without inequity because He is the Omnipotent One. However, a human being, regardless of his dimension of person and proficiency in the subject matter, is nevertheless subject to error. If so, how does the *Torah* rely on man's judgment to render justice?

Gemara in Tractate *Sanhedrin* citing Psalms: "*Elokim netzav ba'adas keil* – G-d stands (associates Himself) with the congregation of G-d." Meaning, if the judges

of the rabbinic court meet the criteria of the *Torah*, establishing them as a credible court, then G-d will associate Himself in judgment to give them the necessary clarity so that they should not err. They come upon their verdict through Divine Assistance. It is through G-d's eyes that their decision is formulated. Thus, there is no concern that their decision is anything but truth.

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 issued by the earthly court, then there is no need for Divine Justice. However, if the court is corrupt and does not render proper decisions, then there will be Divine Justice, which is catastrophic and devastating. Justice is a necessity for existence. If the earthly court functions as the implementers of justice, they are acting as G-d's agents. Therefore Divine Justice is not necessary.

However if they are corrupt, they do not represent G-d and therefore G-d must implement His own Justice. If new evidence comes to light that will exonerate the person that was found guilty by a proper court, then their verdict must be overturned. This is because G-d, allowing new evidence to surface before the execution, is an indication that He is involved with the process of the court and does not want this individual to be put to death.

Based on the Attribute of Justice, there is no perfect person. If the Attribute of Justice would be in effect, this individual (as well as any other individual) would surely deserve to die. Therefore if G-d allowed the court to overturn their verdict, it is an indication that He wants the Attribute of Mercy to be implemented. This itself is an expression of G-d's Signet of Truth. The Attribute of Mercy is dictating that the defendant must be given another chance. Therefore the *Torah* states, "Do not execute the innocent..."

However, if new evidence were to be presented proving the guilt of the one who was found innocent by the court, they have no right to retract their decision of innocence. Although the individual is truly guilty, since the court had found him initially innocent, it would not reflect well on the court that acts as G-d's agent to put to death one who was perceived to be innocent. However, if in fact he is

truly guilty, justice will be meted out because G-d has many agents. Meaning, Divine Justice/retribution will ultimately come upon the individual.

Gemara in Tractate *Makkos*: Similarly, regarding two individuals, one of them had committed premeditated murder however it was not witnessed. Therefore he could not be prosecuted by the court. The other individual killed inadvertently and his action was not witnessed. Therefore he did not flee to a city of refuge as he was obligated to do.

Gemara: These two individuals met at an inn and shared a room for a night. The individual who had committed premeditated murder took the lower bunk and the inadvertent killer took the upper bunk. As the individual ascended the ladder to get to his bunk, he fell on the individual in the lower bunk and

killed him. This was witnessed. Consequently, Divine Justice was meted out. The murderer in the lower bunk received the death sentence that he deserved and the inadvertent killer now must flee to the city of refuge as initially he was obligated to do. As it states, "G-d has many agents."

Torah: Regarding the court, "Do not accept a bribe, for the bribe will blind those who see and corrupt words that are just."

Chazal: The judge who accepts a bribe will ultimately forget his *Torah* study. This is because *Torah* is the ultimate in Truth and receiving a bribe is the antithesis of that. Thus, he is the equivalent of a tainted receptacle that does not have the capacity to contain G-d's Wisdom, which is Truth.



Yad Avraham Institute