



THROUGH JUSTICE... THE WORLD IS SECURE

YadAvNow.com Weekly Audio Series: Mishpatim

Rabbi Yosef Kalatsky

And the World Quaked

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These Laws Are As Divine As the Original From Sinai

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The Immutability that Necessitates a Jewish Court

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Because We Are Not Truly Aware of Our Vulnerabilities

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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.

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



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: '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 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. He explains this point with an allegory. It is analogous to a situation in which prisoners had tunneled out 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 him 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 recluse 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: There was an incident involving *Rav Assi*. 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 *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.

Chazal: *Korach* was truly wise, but 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.

Deliberation, The Cause of Clarity

Mishna in Ethics of our Fathers: “Be deliberate in judgment...” When one sits in judgment, must be meticulous in all aspects relating to the testimony and evidence that was presented before the court. One must be deliberate and not rush to judgment.

Torah: “And these are the ordinances (judgments) that you shall place before them...”

Baal HaTurim citing the *Gemara* in Tractate *Sanhedrin*: “We learn from juxtaposition of building the Altar

that one must be deliberate in judgment.’ The *Torah* juxtaposes this verse with the previous portion that states, ‘You shall not ascend My Altar on steps...’ The connotation of the word ‘ascend’ is something that is done quickly. Therefore, the juxtaposition teaches us that one should be deliberate and methodical in judgment and not be hasty in his adjudication.”

Mishna in Ethics of our Fathers: If a *Torah* scholar inadvertently sins it is considered as if it is deliberate. Why is this so? One who is immersed in *Torah* study understands that the first thought that enters one’s mind is not necessarily correct. One’s thoughts must be analyzed and evaluated from many vantage points to determine if these thoughts are cogent and correct.

The *Torah* scholar, because of his knowledge and intellectual training, has the capacity to reflect upon his position to decide if it is truthful. However, if he were to inadvertently sin because he did not take sufficient time to reflect upon his understanding, it is therefore considered that he sinned deliberately. If one has the capacity to make the proper decision if he were to deliberate sufficiently, why would he choose not to do so? If one is not sufficiently humble his ego will dictate that it is not necessary to ponder on his understanding. His sense of self will convince him that because of his master of *Torah*, he is qualified to make a quick decision.

Torah: When the Jewish people were told that they were going to be redeemed from Egypt they ceased to work. When Pharaoh became aware of this he withdrew their straw subsidies. Despite the fact that they needed to gather their own straw, their quota of bricks remained the same. The *Torah* states, “The foreman of the Children of Israel came and cried out to Pharaoh saying, ‘Why do you do this to your servants?’ He said, ‘You are lazy! Lazy! Therefore you say, ‘Let us go...’”

Pharaoh intensified the labor of the Jewish people after they complained because he understood that it was only because they had time to reflect upon their predicament, that they chose to behave defiantly. By intensifying their workload it would cause them to not have a moment to reflect because they would be preoccupied of maintaining their quota of bricks.

Ramchal in Path of the Just: One of the ploys of the evil inclination to ensnare the individual in sin is to cause him to be fully occupied continuously so that he should have no time to think. He thus has no time to evaluate the

ramifications of what he is about to do. Consequently, the individual falls prey to sin. If one were to have time to withdraw for a moment and reflect sufficiently upon what he is about to do, he would not come to sin.

Chazal: There is a principle, “The actions and experiences of the Patriarchs are a sign for the children.” Meaning, the actions of the Patriarchs set in motion and establish future events that the Jewish people will experience.

Torah: Yaakov had sent flocks and herds of animals as a gift to his brother Esav in order to appease him. “He said to his servants, ‘Pass on ahead of me and leave a space between flock and flock.’” What was the symbolism of leaving a space between each flock that was being sent to Esav?

Midrash: Yaakov was supplicating G-d by saying, “In the future when You will bring great suffering upon the Jewish people, I ask of You that You should allow a respite for them between one incident of suffering before bringing upon them the following suffering. This is so that they could have a respite.” Why would G-d not be inclined to allow for such a respite between sufferings? Why did Yaakov need to beseech Him for this respite?

Mishna in Tractate *Sotah*: G-d responds to one’s behavior based on the principle of “measure for measure.” Since the basis for sinning is because one does not pause and reflect sufficiently upon what he is about to do, he deserves to be punished in a similar manner- with suffering that comes one after the other without pause. Therefore, Yaakov needed to beseech G-d that despite the cause of their sin, He should give the Jewish people a respite from the suffering before bringing upon them the next wave.

Gemara in a number of locations: “I created the Evil Inclination and the *Torah* as its antidote.” The *Torah* has the innate ability to illuminate the individual and thus incapacitate the evil inclination. The *Torah* provides this level of clarity to the individual to be able to make proper decisions – either to be active or refrain. The reason for this is that at Sinai the spiritual contamination that the Jewish people possessed as a result of the sin of Adam was vaporized due to their exposure to G-d at Sinai. This was in conjunction with the giving of the *Torah* at Sinai. The clarity that is provided by the study of *Torah* is the equivalent of realizing that the sin is the equivalent of fire that can destroy and therefore one will not approach it. The study of the *Torah* is a replication of the Sinai experience that provides clarity to the Jew.

Torah: “Moshe sat in judgment of the people from the morning to the evening ...”

Rashi citing the *Gemara* in Tractate *Sanhedrin*: “Is it possible to say that Moshe sat from the morning until the evening in judgment? Rather it is to say that if a judge renders a truthful decision, even for a moment, G-d values that judgment as if he studied *Torah* the entire day.” Although the judge did not study *Torah* the entire day, it is valued as such because as a result of being deliberate in judgment and rendering a truthful judgment it is valued as if he studied *Torah* the entire day. Why is this so?

By being deliberate in judgment one merits clarity and Divine Assistance. Thus, his methodical and deliberate judgment is considered as if he was engaged in truth. Since *Torah* is truth in the absolute sense, G-d values the judge’s adjudication as if he were engaged in *Torah* the entire day.

The First Commandment, the Central Theme of Judaism (From *Yisro*)

Torah: Regarding the first commandment, “I am Hashem, your G-d Who has taken you out of the land of Egypt, from the house of bondage.”

Rashi: The words “Who has taken you out of the land of Egypt...” can mean, “It was worthwhile that I (G-d) took you (the Jewish people) out of the land of Egypt so that you should be indebted to Me.”

Sifsei Chachamim explaining *Rashi*’s commentary: “Why did G-d identify Himself as the One who took the Jewish people out of Egypt and not as the One who created the heavens and the earth? It is to teach us that it was worthwhile bringing about all of the miracles of Egypt so that the Jewish people could be His subjects. Thus, they will be bound and indebted to Him.”

Torah: “*Bereishis bara Elokeem ais Hashemayim v’ais haaretz* – In the beginning of G-d created the heaven and the earth...”

Rashi citing *Chazal*: “The word ‘*Bereishis*’ should be interpreted to mean ‘It is for the sake of ‘*reishis* (the choicest)’ that G-d created existence, which is for the sake of *Torah* itself that is referred to as ‘*reishis*.’ The word ‘*Bereishis*’ also alludes to the Jewish people who are referred to and classified as ‘*reishis*’...” The purpose of Creation is to facilitate the fulfillment of the *Torah*. In

addition, G-d also created existence for the sake of the Jewish people, because they are the only people who have relevance to the spirituality of the *Torah*.

If the Jewish people would not have been taken out of Egypt, with revealed miracles and come to Sinai to receive the *Torah*, Creation would have not met its objective. G-d would have ceased to Will existence. It was thus worthwhile for G-d to alter nature to bring about the ten plagues and the splitting of the Sea, so that the Jewish people should be indebted to Him to be His subjects to receive the *Torah* at Sinai. Why was it important for the Jewish people to be redeemed from Egypt to become His people? G-d could have punished the Egyptians for their unconscionable behavior towards the Jewish people.

Gemara in Tractate *Chagigah*: If there was an individual who is a half-Canaanite slave and half-free man (a Canaanite slave who was owned by two Jewish masters and subsequently was emancipation by one of them) he is not obligated to ascend to the Temple Mount on the Festival. Although the half that was emancipated is considered to be a fully-obligated Jew, he is nevertheless absolved from the *mitzvah* of ascending the Temple Mount on the Festival. He does not need to bring the necessary offerings such as the festival offering and the burnt offering.

Torah: Purpose to ascend the Temple mount is to “see the countenance of the Master *Hashem*.”

Gemara: The reason the half free/half Canaanite slave has no obligation regarding this particular *mitzvah* is because the verse states, “one must come before the Master *Hashem*.” Indicating that it is only the individual who has one master and not two masters who is obligated. Since the half-free man is still the chattel of a mortal master he truly does cannot acknowledge G-d as The Master. Therefore, he is exempt from the *mitzvah* of visiting the Temple Mount on the festival.

If the objective of leaving Egypt was to become G-d’s people at Sinai through the receiving of the *Torah*, then Pharaoh and the Egyptians needed to be destroyed through revealed miracles, which demonstrated G-d’s Mastership over all existence. It was only after the master of the Jewish people was destroyed did they have the capacity to assume G-d as their Master. G-d thus said in the first commandment, “I am *Hashem*, your G-d Who has taken you out of the land of Egypt.” All that had transpired with the destruction of Egypt was necessary to facilitate the objective of Creation, which was for the Jewish people to accept G-d as their Master.

Mishna in Tractate *Sanhedrin*: “Why was man created as an individual being (without a counterpart as all other living species)? It was so that he should say, ‘For me the world was created.’” By recognizing that the universe was brought about to address the needs of a single individual, one will understand his innate value and appreciate the unlimited responsibility that is incumbent upon him. It was necessary to create an entire universe to facilitate his spiritual objective. Thus, it was worthwhile for G-d to take the Jewish people out of Egypt and bring them to Sinai as His people. It was only through this process could Creation meet its purpose.

If a Jew reflects upon the first commandment, he will comprehend the implication of the first commandment, through which G-d communicates the profound value of the Jewish people, he will be able to focus upon the objective of his life and address his own potential.



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