

THROUGH JUSTICE... THE WORLD IS SECURE

Weekly Torah Video Series: Parshas Mishpatim

Rabbi Yosef Kalatsky

The Corollary Between the High Court & Its Location

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 & 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- 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 3 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

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 70 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 & renown, remain humble?
7. Rabbinic fences are not applicable on the Temple Mount.
8. A fence is promulgated by the Rabbis to protect the Torah from being violated.
9. The transgression only comes about due to a lack of cognizance.
10. On the Temple Mount one always felt the presence of G-d, and reverence & fear; so no need for fences.
11. The Temple Mount was the location for the Sanhedrin to convene to maintain their humility.

Mediation Is Not Surrender

1. The 10 Commandments: "You should not have designs on all that is your fellow's."
2. Seforno: The portion of the Court adjudicating between two defendants determines ownership & 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, & the one who removes himself from communal responsibility causes destruction.
5. Gemarah: 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. Chafetz Chaim: If one is satisfied with what is "Truly His", he is truly rich.

Weekly Torah Commentaries Series: Parshas Mishpatim



Being Cognizant of One's Potential for Failure

The Portion of Mishpatim begins, **“And these are the judgments that you shall place before them... (V’ele Ha’mishpatim...)”** Rashi cites Chazal who explain that the Portion begins with a connecting “vav (and)” to indicate that just as the laws stated in the previous portion were given at Sinai, so too the laws that are stated in the Portion of Mishpatim were also given at Sinai.

In the Portion of Mishpatim, which follows the giving of the Ten Commandments in the Portion of Yisro, the Torah discusses a person who was found guilty of stealing and was not able to reimburse the person that he had victimized. This individual is sold into slavery for the value of the theft.

The period of servitude is for six years. If he is married, the master is permitted to give him a Canaanite maidservant for the purpose of bearing children. The children that he fathers from the Canaanite maidservant belong to the master and are not considered his, but rather chattel of the master. Thus, the Jewish slave is reduced to a level of being a breeder of children as a consequence of his behavior as a thief.

At the time the Torah was given at Sinai, G-d communicated openly with the Jewish people. They had prophesized in a wake-state, face to face. At this time, they reached their pinnacle of spirituality.

**THROUGH JUSTICE...
THE WORLD IS SECURE**

One would think that immediately after the Sinai event the laws that were communicated to the Jewish people would have relevance to their advanced level of spirituality rather than something as lowly as being sold into slavery to repay a theft. Why does the Torah choose this to be the first law to be communicated to the Jewish people post Sinai?

The Torah tells us that on the second day of Passover, the Omer offering was brought. Unlike all other communal meal offerings, which are comprised of wheat flour, the meal offering of the Omer was comprised of barley flour.

Another meal offering that was comprised of barley flour is the offering that was brought by the suspected adulteress (*sotah*). As the Torah states in the Portion of Nasso, “The man shall bring his wife to the Kohen and he shall bring her offering...a tenth-ephah of barley flour.”

The Mishna in Tractate Sotah explains that the meal offering that is brought by the suspected adulteress was made of barley flour because, “Since her behavior was similar to that of an animal (by sequestering herself with a man other than her husband after defying his warning not to do so), the material make-up of her meal offering is the grain that is used as animal fodder (barley).”

If barely is a grain that is representative of animal fodder, why was it brought as the Omer offering, which comes after the Jewish people were redeemed from Egypt?

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

However, fifty days later at Sinai, when the Torah was given to the Jewish people, they had reached the pinnacle of their spirituality. At Sinai, they achieved the classification of "adam (man)," whose objective and function is to achieve spiritual perfection.

The Gemara in Tractate Yevomos cites a verse from Yechezkel, "You (the Jewish people) are called *adam* (man)..." The Gemara infers from this verse that in contrast, the nations of the world are not classified as "*adam*" (man).

Adam was the ultimate spiritualized being that was created by G-d Himself. After the Jewish people accepted the Torah, their status no longer was the equivalent of the animal, but rather, they reflected the characteristic of Adam. In order to signify their advanced spiritual level at the time of the giving of the Torah at Sinai, the Torah tells us that the communal offering must be comprised of wheat flour. On the festival of Shavuos, the day on which the Torah was given to the Jewish people, the communal offering that was brought was comprised of two loaves of wheat bread (*shte'i ha'lechem*).

The Gemara tells us that the bringing of the Omer offering permitted the new grain to be consumed by the masses, and the two loaves of bread brought on Shavuos permitted the new grain to be used as meal offerings in the Temple.

All meal offerings that were brought in the Temple were not leavened (*matzah*). The only two meal offerings that were leavened were the meal offering of the two loaves of wheat bread brought on Shavuos and the Todah offering (thanks offering).

Chazal tell us that the leavening process represents the evil inclination. One would think that the meal offering that is brought on Shavuos would be only *matzah* and not leavened.

The Maharal explains that the two loaves of bread on Shavuos signify the most advanced spiritual level of the Jewish people because they achieved the classification of "*adam*".

Being leavened and being comprised of wheat flour seems to be contradictory to the symbolism of the two loaves of bread. One would think that the wheat offering brought on Shavuos would not be spiritual tainted in any way and thus be of unleavened grain.

When the Jewish people accepted the Torah at Sinai, they unequivocally declared "**Naaseh V'nishma** – we will do and we will listen." The Gemara in Tractate Shabbos tells us that when G-d heard their declaration, He exclaimed, "Who revealed this secret to My children?"

They had spoken in the same manner as angels conduct themselves. The angels do the will of G-d without first hearing His Command. Thus, the Jewish people at Sinai were the equivalent of angels.

Despite their advanced spiritual level, forty days later they were vulnerable to the idolatrous sin of the Golden Calf. Although at the Sinai event, the Jewish people had reached their spiritual zenith, they still possessed the evil inclination which caused them to fail with the Golden Calf.

Chazal tell us, "One cannot be confident in himself until the day of his death." Regardless of one's spiritual achievements, as long as he is alive and possesses an evil inclination, he is always subject to spiritual failure. The presence of the evil inclination, despite one's spiritual advancement is represented by the leaven in the two loaves of wheat bread (*shte'i ha'lechem*) brought on Shavuos.

By juxtaposing the portion of the Jewish slave to the Sinai event, the Torah is teaching us that one should not become confident and complacent regarding his spiritual level. If one were not continuously aware of his inborn handicap, the evil inclination, one ultimately will fall victim to its machinations – even to become a thief. Therefore the first law that the Torah chooses to follow the Sinai event is the law pertaining to the Jew who is sold into slavery for stealing.

The Torah Sage's Involvement with the Generation

The Torah states, "And these are the ordinances (Mishpatim) that you shall place before them..." The Midrash explains, "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 recluses 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?

The Midrash cites 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."

In order for a society to function properly, it must have a legal system in which laws are promulgated and enforced. It is because of this legal system that the members of the society will know how to behave and for what they will be held culpable.

Identically within the spiritual realm, everything must function within an established infrastructure. If that system is breached and undermined, the world cannot continue.

Ramchal writes that everything in existence has a spiritual counterpart. When one sees something in the physical realm, it is only a reflection of what is in the spiritual realm.

For example, if there is deficiency in the physical realm it is a reflection of a malfunction in its spiritual counterpart. These deficiencies need to be addressed in order for existence to continue. It is the Torah sage who is responsible to address these spiritual deficiencies. If the Torah sage, who is the only one with the ability to address these matters, does not do so, he will be held culpable for all of the tragedy that will arise due to his inaction.

Chofetz Chaim writes that if Torah sages do not take time from their Torah study to assist other Jews in their return to Judaism, they will be held liable for the great tragedies that will result from these Jews not being brought back to the path of G-d. Although the Torah sages must compromise on their Torah study, they are responsible to address the spiritual issues of the generation.

The Torah states in the Portion of Nitzavim, "You are standing today, all of you, before Hashem, your G-d..." Moshe presented the Jewish people with the covenant of communal responsibility- the covenant of "areivus"- "kol Yisroel areivum ze la ze - every Jew is responsible for his fellow." This is a fundamental principle of Judaism. This means that every Jew is spiritually interconnected and intertwined with every other Jew.

Linking Oneself to G-d

The Torah states, "**And these are the ordinances (Mishpatim) that you shall place before them...**" Rashi cites Chazal, "What is the meaning of 'before them?' It is to allude to the fact that legal matters should be presented before the Jewish court and not before the court of the nations of the world. (Despite the fact that the law that has been legislated by the secular court may be identical to that of the Jewish court, one is not permitted to bring it before the secular court.)

One who brings his legal matters before the secular judges will bring about a desecration of G-d's name. It is considered as if one is actually esteeming and praising the deities of idol worshippers." Why is this so?

A non-Jew is bound by the seven Noachide laws. If the non-Jew adheres to the Noachide laws, he is considered to be, "one of the devoutly righteous of the nations of the world." This individual also merits a share in the world to come.

Rambam explains that if the non Jew adheres to the seven Noachide laws but does so because he believes that he is bound to them because G-d commanded Noach to observe them, then that gentile does not have a share in the world to come. Why is that so?

It is because the gentile must observe the seven Noachide laws because they were given to Moshe at Sinai along with the Torah that was given to the Jewish people. The basis for the Noachide to observe the seven laws is because the obligation to observe those laws was transmitted to Moshe at Sinai as part of the Torah as a whole.

However, if the Noachide observes the seven laws based upon the transmission to Noach, he is not classified as one of the "devoutly righteous of the nations of the world" and thus has no share in the world to come.

The Alter of Slabodka zt"l explains that when one observes Torah laws based upon the transmission that was given to Moshe at Sinai, his observance has relevance to the spiritual system of the Torah as a whole. However, if one were to observe these laws for humanitarian or any other reason, his behavior would be identical, but his spiritual accomplishment as a Noachide has no intrinsic value regarding his spiritual dimension. Thus, he has no share in the world to come.

A dictate that is rooted in the Torah has a spiritual innateness because it is part of the Divine Order that was transmitted at Sinai. The Jewish people are the only ones who have relevance to G-d on an infinite level. Therefore, every Jew has a share in the world to come if he should choose to address the opportunity. The gentile does not.

However, if the gentile should observe the laws which pertain to him due to their attachment to the tradition of the Jewish people, which is the Torah itself, it is through that spiritual linkage that the gentile has a share in the world to come.

The Torah depicts Noach as the devoutly righteous one of his generation and was chosen by G-d to be the savior of the world. There is no question that due to his spiritual accomplishment he has a share in the world to come. However, the laws that were transmitted to him have no relevance to the spiritual system that is known as the Torah. This is because Noach had pre-existed Sinai and there was no Jewish people who were designated to be G-d's holy people.

Therefore, if a Jew were to go before a secular court to adjudicate a matter, although it may be identical to a Torah law, it is as if he is denying G-d because the Torah itself is not related to the practical application of a particular law but rather it is a component of a spiritual system.

The Gemara in Tractate Yomah tells us that the Amidah (silent Prayer) was authored by the Men of the Great Assembly at the beginning of the Second Temple Period. The Gemara tells us that there were “Several prophets” among the Men of the Great Assembly.

Reb Chaim of Volozhin asks, “Why was it necessary to have prophets among those who had authored the text of the Amidah?” He explains that because the prophets have a profound understanding of the spiritual infrastructure of existence, they are able to choose specific words and phrases to be recited in the Amidah that would activate the spiritual forces that are necessary to address the needs of the Jewish people and the individual.

Although one’s understanding may be limited to the literal reading of the Amidah, when he recites these words that were chosen by the Men of the Great Assembly, he activates forces that are beyond his grasp and comprehension.

Reb Chaim of Volozhin states, and it is also written in the Mishna Brurah that if one were to pray at the level of a child and only feel that he is standing before the King of the Universe, his words would also activate these spiritual forces to no less a degree than the one who has the loftiest understanding and intent.

Similarly, the laws which are in the Torah may seem to be identical in their meaning and application to secular laws. However, because they are established as part of the Torah, which is G-d’s Dictate that was given to the Jewish people to become the Chosen, they have the ability to activate forces beyond the comprehension of man.

Behavior, an Indication of One’s Capacity

The Torah tells us that 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 considered to be his because the mother is not Jewish. They are thus all chattels of the master.

The Torah states that if after six years, when the 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 cites the 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 writes in the Gates of Repentance that 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 dug tunnels 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 deserves to be in a state of punishment.

Identically, 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.

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

At the beginning of the Portion of Mishpatim, Rashi cites Chazal who ask, “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). The Sanhedrin would 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 HaGazis).”

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.

The Torah tells us that 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).”** 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 writes 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 unequalled, 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.

The Gemara in Tractate Sanhedrin tells us that 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 who 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.

The Gemara tells us that 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 tells us that Aristotle was one of the greatest geniuses who 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 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. Because he was the most humble person who ever lived, Moshe was qualified to be the conduit of the ultimate truth, which is the Torah itself.

