



NEFESH SHIMSHON

DIVREI TORAH ON THE WEEKLY PARSHA AND HOLIDAYS FROM THE TEACHINGS OF RABBEINU SHIMSHON DOVID PINCUS ZT"l

ישראל בן רחל נחמה ויעקב בן רחל נחמה. MAY THEY GROW TO BE TALMIDEI CHACHAMIM AND OVDEI HASHEM.

PEARLS OF WISDOM FROM THE PARSHAH

Hashem Loves Justice

ואלה המשפטים אשר תשים לפניך: (שמות כא, א)

These are the judicial laws that you shall place before them. (*Shemos* 21:1)

Parshas Mishpatim deals with one of the most important subjects in the Torah, which is monetary laws. They are in the category of *bein adam l'chaveiro*.

Some people think you need to ask a *Rav* or a *Posek* only in *Halachic* areas such as the *kashrus* of foods, the laws of *Shabbos*, how to conduct a wedding or a funeral. But when you have a disagreement with someone over a monetary matter, or you are unsure as to your financial obligations, you can decide it yourself or consult a lawyer.

This is so wrong.

Just like you can't get to the truth in other areas of Torah without the detailed *halachos* that *Hashem* gave us, so it is in monetary matters. We can't know what is right just from intuition or personal judgment, or by following civil law, or by paying a lawyer who knows how to play the system. This will only lead to *gezel* and other

forms of unjust gain.

– “Justice belongs to G-d.”¹ True judgment comes from *Hashem*, and He gave it to us in the form of *dinei Hatorah*. You won't find true judgment anywhere else, as it says, לא עשה כן – “He did not do so with other nations; He did not grant them knowledge of judicial laws.”²

We could compare *dinei mamonos* to *hilchos Shabbos*. Just like you need to consult a *Rav* regarding any and all issues that might arise regarding proper *Shabbos* observance, since they are so complex, so it is with *dinei mamonos*. In almost every matter, *daas Torah* is needed to decide what is permitted and what is not.

1 *Devarim* 1:17.

2 *Tehillim* 147:20.

An everyday example: you go into the grocery store and pick up an item and inadvertently damage it. Do you need to notify the storekeeper and pay for it?

How punctual do you have to be when you go to work? What can you take home with you from the office? Can you make personal phone calls during work hours, and for how long?

Let's say the apartment building has a leaky roof. Who needs to pay for it? And what if a water pipe needs to be replaced? And where can you hang laundry out to dry?

Only a qualified *Posek* can properly resolve questions like these.

It says *אני ה' אוהב משפט* – “I, *Hashem*, love justice.”³

Hashem loves justice and He loves people who do everything according to the judicial laws of the Torah. You can recognize people like this. They are careful not to cause even minimal damage to others. They always pay their debts on time. Whenever there is a difference of opinion, they consult *daas Torah*.

This brings the *Ge'ulah*, as it says: *ציון במשפט* – “Zion will be redeemed through justice, and those who return to her through benevolent judgment.”⁴ ●

3 *Yeshayahu* 61:8.

4 *Ibid* 1:27.

Don't Get Carried Away

פִּי תִרְאֶה חֲמֹר שֹׁנֵאֵךְ רֹבֵץ תַּחַת מְשָׁאוֹ וְחִדְלָתָּ מֵעֹזֵב לוֹ עֹזֵב תֵּעֹזֵב עִמּוֹ: (שמות כג, ה)

If you see the donkey of someone you hate crouching under its burden, you shall not desist from helping him; you shall surely help with him. (*Shemos* 23:5)

Who is this “someone you hate”? The *Gemara* raises this question,¹ as we are not permitted to hate a fellow Jew, because it says *לא תשנא את אחיך בלבבך* – “You shall not hate your brother in your heart.”²

The *Gemara* answers that the “someone you hate” is actually a Jew whom you are allowed to hate because you saw him secretly commit severe sins. He knows very well that what he is doing is forbidden by the Torah. But you can't bring testimony against him in *beis din*, because you are the only one who saw it, and two witnesses are required for testimony,

1 *Pesachim* 113b.

2 *Vayikra* 19:17.

לעידוֹי נשמות

מוה"ד משה בן אליעזר המבורגר זצ"ל

ומוה"ד ברוך זאב בן נפתלי קדאוש זצ"ל

גדבת נכדיהם ~ עטרת זקנים בני בנים והתפארת בנים אבותם

[so this is not a way by which you can get him to stop sinning].

And you are unable to bring him to *teshuvah*.

You are permitted to hate this kind of a *rasha*.

Nevertheless, you must come to his aid in his time of need. You need to help him get his donkey back up on its feet, if it collapsed under its load.

Regarding this, the *Gemara* discusses a case where you come upon two donkeys. One belongs to your friend. His donkey collapsed under its load. The other donkey belongs to someone you hate because he is a *rasha*. His donkey needs to be loaded up. You can help only one of them.

Which one should you help?

Your friend's donkey is suffering, so there is an addition *mitzvah* here of *tzaar baalei chayim*, but the *Gemara* still says to help the one you hate, in order to bend your *yetzer hara*.³

But *Tosafos* has a *kasheh*.⁴ Why should you “bend your *yetzer hara*” towards helping this person? As we explained, you saw this person commit severe *aveiros*, so you are in fact permitted to hate him, and it is a *mitzvah* to hate him. Why should you bend yourself away from hating him?

Tosafos answers as follows:

Since he hates this person, this person hates him in return, as it says כַּמִּים הַפְּנִים הַפְּנִים – “Just as water reflects a person's face, so people's hearts reflect one another.”⁵ They will thereby come to absolute hatred, thus he should bend his *yetzer*.⁶

3 *Bava Metzia* 32b.

4 *Pesachim* *ibid*.

5 *Mishlei* 27:19.

6 *Pesachim* *ibid*.

Let's understand this. Reuven hates Shimon because Shimon does *aveiros* knowingly. Shimon naturally senses that he is hated by Reuven, so he hates Reuven in return. This now causes Reuven to hate Shimon for an additional reason, which is that Shimon hates him. Reuven thus ends up feeling an additional hatred which is not a *mitzvah*. So the Torah commands him in the first place not to feel even the permitted hatred, but rather to bend his *yetzer*, so he won't come to the additional, forbidden hatred.

Here we see an amazing thing. Even the way we relate to deliberate sinners needs to be exact to a tee. There is a certain extent to which we are permitted to hate him. And if we go past the limit, as hatred naturally arouses more hatred, we come to the prohibition of לא תשנא את אחיך בלבבך – “You shall not hate your brother in your heart.” For this reason, we need to uproot the hatred from our heart.

We need a lot of *chizuk* in this area. There is a tendency to assume that we can just go ahead and totally hate, without any further restriction or reservation, a person about whom we have found what “seems” to us a justified reason for hatred. However, the *parshah* teaches us three rules regarding this.

1. First we need to ask *Gedolei Torah* if this is indeed a valid reason to hate them.

2. Even if it is, we are still obligated by the Torah to help them as much as possible, and offering them help takes precedence over helping our own friends.

3. In a situation where hatred is permitted, it is permitted only to a very specific degree, that is, only according to the extent of the sin that was committed. If we feel additional hatred, it is no different from hating any other good Jew.

This is really something to think about. ●

וְאֵלֶּה הַמִּשְׁפָּטִים אֲשֶׁר תָּשִׂים לִפְנֵיהֶם: (שמות כא, א)

And these are the judicial regulations that you shall place before them. (*Shemos* 23:5)
“Before them” – And not before idol worshippers. Even if you know that they judge a certain case the same as Jewish law would, do not bring it to their courts, because someone who brings Jewish cases before the non-Jews is thereby desecrating *Hashem* and honoring the name of the idols to cause them praise. (*Rashi*)

The Mishpatim are for Jews

All Torah laws pertaining to monetary matters are called *mishpatim*, judicial regulations. There is something special about the judicial regulations of the Jewish people that does not exist in the laws of the non-Jews. The *Midrash* has a wonderful allegory about this:

This may be compared to a king who had many children, and he loved the littlest one the most all. And he had a certain orchard that he loved more than anything else he had, so he gave the orchard that he loved to his little child that he loved.

Similarly, *Hakadosh Baruch Hu* said: Out of all the nations, I love the Jewish nation, as it says **יִשְׂרָאֵל וְאֶהְבֵּהוּ** – “Yisrael is a young lad, and I loved him.”¹ And it says **כִּי אוֹהֵב מִשְׁפָּט** – “I Hashem love judicial laws.”² Thus Hashem gave the judicial laws to the Jewish people.³

Hashem loves the Jewish people, and that is why He gave them His beloved *mishpatim*. The non-Jews do not have the same set of laws, as it says, **לֹא עָשָׂה כֵן לְכָל גּוֹי מִשְׁפָּטִים בַּל יָדְעוּם** – “He did not do so with other nations; He did not grant them knowledge of judicial laws.”⁴

The Rambam further highlights the special quality of Jewish judicial proceedings:

The *Shechinah* is with every proper Jewish court of law. Therefore, the judges must sit in fear and awe, enrobed, with seriousness.⁵

The *Shechinah* is present in the place where justice is administered, where the *dayyanim* assemble, as it says, **אֱלֹקִים נֹצֵב בְּעֵדֶת אֵל** – “G-d stands in the assembly of the judges.”⁶ They must enwrap themselves in a dignified outer garment, in honor of the *Shechinah*.

Let’s try to understand what is so special about the judicial regulations of the Torah, such that they belong only to the Jewish people and not to other nations. And let’s try to understand why *Hakadosh Baruch Hu* needs to be present in the place where justice is administered.

Tzedek and Mishpat

There are two Hebrew terms associated with legal judgment: *tzedek* and *mishpat*. Let’s understand the difference between them.

In early Torah sources we actually find five terms that are used in connection with the concept of justice: **מִשְׁפָּט, רַחֲמִים, הוֹי-הוּ, תַּפְאֲרַת, אִמֶּת**.

But first we will explain *tzedek*. Imagine a person drove a car in a life-endangering manner, and *beis din* saw a need to punish him and make him pay a

1 *Hoshea* 11:1.

2 *Yeshayahu* 61:8.

3 *Yalkut Shimoni, Shoftim* 907.

4 *Tehillim* 147:20.

5 *Mishneh Torah, Hilchos Sanhedrin* 3:7.

6 *Tehillim* 82:1.

monetary fine.⁷ If the case would be judged according to the principle of צדק, not of משפט, there would be no need for a judge. They would just feed all the data pertaining to the case into a computer, and it would automatically output the legal ruling. This is צדק.

By contrast, משפט means that the judge takes into account the circumstances of the case. Similarly, if the offending driver could explain to the judge why he went through a red light, that would make a difference. Maybe he was on his way to the hospital and could not stop, or some similar explanation. This is משפט.

The next term we need to explain is רחמים. The judge takes into account various appeals to compassion related to the case. Let's say the offending driver makes a plea that, while it is true that he went through a red light, he has seven children, and he earns such-and-such a month, and if he pays the full fine, he and his family will not have anything to eat this month. The fine of \$1000 was set for people with an average income, not for the poor. On this basis, the defendant makes an appeal to rachamim, to mercy.

As for הוי-ה: This Name of Hashem means that He was, is and will be. Although the Divine Name that especially refers to judgment is אלקים, the concept of judgment itself is הוי-ה. Why? Because in order to render true משפט, one needs to take into account the past, the present and the future. In order to do צדק, this is not necessary. But to do משפט, the judge needs to know the past of the offender, for instance, his upbringing. And he needs to know the present, for instance, the feelings that the offender has; maybe he is embarrassed by his deed. And he needs to know the future, for instance, how the proposed punishment will affect him and his family. Will it rehabilitate him, or perhaps drive him to even greater crimes?

תפארת derives from the root פאר, which denotes beauty. What is beauty? If we take twelve yellow roses and bunch them all together, it is not yet a beautiful bouquet. But if to these roses we mix in some little white flowers and a few other flowers and leaves of various colors, it becomes a beautiful bouquet. Because

beauty is when there are various hues together.

So it is with judgment. It is beautiful, it is תפארת, because the judge, when he pronounces the judgment of the defendant, takes into account a variety of details.

As regards אמת, it begins with *alef*, the first letter of the *alef beis*. Its middle letter is *mem*. This is also the middle letter of the *alef beis*. And its last letter is *tav*, which is the last letter of the *alef beis*. This indicates that judgment encompasses the entire Torah, which is written with the twenty-two letters of the *alef beis*.

This is why the Torah commands us ואלה המשפטים אשר תשים לפניהם – “And these are the judicial regulations that you shall place before them.” The *mishpatim* are for Jews and not for others, because the judgment of Hashem is special and the non-Jews don't understand this. The Torah plumbs to the depth of judgment. Everything is *mishpat*; it is not mere *tzedek*.

And right after the opening verse of ואלה המשפטים אשר תשים לפניהם, the Torah goes into details: כי תקנה עבד עברי – “If you buy a Hebrew slave.” The law stated is that he shall work for six years and no longer, and the *Gemara* details very special *halachos* pertaining to an *eved ivri*, such as, “Whoever buys a Hebrew slave is buying a master for himself,”⁸ and so forth.

Who becomes an *eved ivri*? A Jew has a family, and he can't support them, so he sells himself as a slave. Therefore, the one who employs him as a Hebrew slave must do *mishpat*. He needs to take into account the feelings of the slave, the fact that he has a wife and children, etc.

Here's another example.

A person steals a farm animal in the middle of the night, and is caught. He pays double what he stole. But if he steals the same animal in the middle of the day, in plain sight, and he is caught, he will pay only the actual value of the animal and no more.

Why?

⁷ See the Rambam's commentary on *Mishnah Sanhedrin* ch. 24.

⁸ *Kiddushin* 20a.

Because someone who steals in the middle of the night is denying *Hashem*. He doesn't want to be seen stealing. So he does it at night, when people can't see him. But he is thereby denying that *Hashem* sees him. This is why he needs to pay double.

And if the thief sells the animal, or slaughters it, the law applying to him depends. If it is a sheep or goat, he pays four times its value, and if it is a cow or ox, he pays five times its value.

Why?

Because to steal a sheep or goat, he needs to carry it on his shoulders, and he suffered that disgrace; he thus already received a portion of the punishment due to him.

This is *mishpat*.

How can a human being do *mishpat*? How can he take into account the past, present and future, if he doesn't know everything?

"I *Hashem* love *mishpat*." *Mishpat* truly belongs to *Hashem*. A human being can't do true *mishpat*. So when three *dayanim* sit to administer justice, "G-d stands in the assembly of the judges." The *Shechinah* is present there. *Hakadosh Baruch Hu* participates in the judgment and makes sure that the payment goes to whom it is truly due.

There are judicial laws in the Torah that may be judged only by *dayanim* who have *semichah*. And we no longer have *semichah* in its proper sense. So these laws may not be judged in *beis din* today. *Semichah* means that a Rav authorizes and ordains the person to be a Rav, and that Rav received *semichah* from his Rav, all the way back to Moshe Rabbeinu. True *mishpat* exists only when the judge is connected to *Hakadosh Baruch Hu*, as it is written: **כי המשפט הוא לאלקים** – "Judgment belongs to G-d."

Before You Decide...

We are all judges of a sort, all day long. We judge ourselves, our family. The question is if we are doing *tzedek* or *mishpat*.

Father comes home, and Mother tells him, "Yankeleh played with a ball next to the window, even though I warned him several times not to play there, and in the end he broke the window. Since then (two hours have passed) he is hiding under his bed out of fear.

Father could do *tzedek*. The child broke the window, and he will be punished for it. However, Father is a judge, not a computer. First of all, if the child is under the bed for two hours already, he already got part of the punishment due him, and there is a reason to show mercy. Second, Father needs to hear all the circumstances surrounding the breaking of the window. Third, if Father hits him now, the child is likely to learn from this to hit his brothers and sisters, and if Father doesn't hit him, it is likely that the child will learn that he can do whatever he wants in the world and get away with it.

Father will take all these considerations into account when he comes to punish the child.

And sometimes a person "judges" Heaven's deeds, so to speak. He experiences all kinds of difficulties, and come to the conclusion that "*Hashem* hates me." Something unpleasant happens at home, and he has complaints: *Hashem*, I *davened* this morning! I said *Tehillim*! Why did this happen?!

But before a person "passes judgment," he should stop for a moment and think. To Whom is he speaking? The world is so full of beauty, *Hashem* granted me life, I have a family, *Hashem* had such *chesed* on me, I learn Torah, I *daven* and recite *berachos*. I am blessed to be a Jew!

Every time we make decisions, we turn into judges, and there is only one way to arrive at a decision that is *emes* and *tiferes* and *tzedek*. We need to make *Hakadosh Baruch Hu* a partner in the decision. We need to accustom ourselves to make decisions only when "I believe with perfect faith that *Hakadosh Baruch Hu* creates and runs all that is created." Whatever happens, we need to stop for a moment and think: How does *Hashem* view it? ●