

There's the truth, and there's the real Truth – Parshat Shoftim

written by Refael Kramer
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We like to judge things according to how we feel in our hearts, and over time details can emerge that make our decisions appear to be ridiculous. If we were judges in either a rabbinical or secular court, how would we be able to sleep at night knowing we might have misjudged a case? This is the topic of this week's discourse.

This week's Torah portion is called *parshat "Shoftim,"* which means "Judges." The *parsha* opens with a reference to the necessity of establishing a just judicial system: "You shall

set up judges and law enforcement officials for yourself in all your cities...and they shall judge the people with righteous judgment. You shall not pervert justice; you shall not show favoritism, and you shall not take a bribe, for bribery blinds the eyes of the wise and perverts the words of the *tzaddikim* (righteous)" (Deuteronomy 16:18-19).

This is one of the most essential things in the world: a fair system of justice that will allow human beings to live honestly and with an honest and true conception of justice. But the world today is fed up with the legal system. Court cases get distorted either by the judges themselves, or by the lawyers who manage to pervert the hearts of the judges. Sometimes it is the media that has managed to pervert the heart or the opinion of the judge, and sometimes it influences both of them. What can we say: judges are also human beings. All of this has caused many of us to lose faith in the judicial system.

The root of the problem is in the court's famous statement: "Everything is fair," (meaning that everything can be decided fairly according to their system of justice). Their arrogance and confidence in their power to decide any case according to their own understanding is what stands in their way. How can one truly know where the truth lies? After all, lies can be very misleading and appear to be the truth. How many times have innocent people been convicted? How many times have people who truly deserved to be behind bars been acquitted?! Even if we were to say that sometimes the judges do manage to reach a true decision through the system of jurisprudence, still, who can say if they have succeeded in implementing a true judgment given the exact circumstances and details of the case itself?

As opposed to the secular legal system, the Torah's legal system places the responsibility entirely on the shoulders of the *dayanim* (rabbinical judges). It is not for nothing that Moses stated: "I cannot bear this burden of you all alone"

(Deuteronomy 1:9), and King Solomon stated: “For who can judge this great people of Yours?” (Kings I, 3:9). How is it possible that Moses, who brought the Nation of Israel out of Egypt, split the Red Sea, etc., and Solomon, the King who was the wisest of all men and who decided the most famous case of judgment in the world, “the law of Solomon,” could make such statements? The answer is revealed in Rashi’s commentary: “This is what Solomon meant: The judges of this people are not like the judges of nations who practice idolatry, for if [one of the judges of other nations] passes judgment and sentences a person to death, to lashes, or to strangulation, or perverts judgment or extracts money from the defendant unjustly, it is of no consequence to them; but for me, if I cause a person to pay unjustly, I am liable with my life, as it is said (Proverbs 22:23), “And He robs the life of those who rob them” (Rashi on Deuteronomy 1:9).

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Rashi harshly criticizes the judicial systems that do not operate according to the Torah: “for if [one of the judges of other nations] passes judgment and sentences a person to death, to lashes, or to strangulation, or perverts judgment and extracts money from the defendant unjustly, it is of no consequence to them.” At face value, this seems a bit extreme. Even though their systems aren’t infallible, do the judges answer to no one? Can a judge in America, in England, or in any upright country make whatever judgment he wants without having to give an accounting of how he came to his decision? So, what is the intention of Rashi when he writes, “it is of no consequence to them”?

The answer is that the secular court system claims to be a just legal system, but as long as there is a mitigating reference that “Everything is fair,” their arrogance and

confidence that truth and justice can always be determined by their rules and decisions and not by what in truth really needs to be, makes it impossible to prevent distortion. For if the system will become aware that they made a mistake, "it is of no consequence to them." The system will only concern itself with justifying their decisions and not with looking for the truth, because that is their supreme value. Only in a legal system which operates according to the Torah and approaches monetary cases with the responsibly and seriousness as if it were dealing with life and death issues is there a chance that their judgments will be true.

But even when dealing with the Torah's legal system, these same risks exist. *Dayanim* (rabbinical judges) can err in their understanding the circumstances of the case before them and can rule according to Torah law which is actually incorrect—finding the guilty party innocent or the innocent party guilty. There is only one way of reaching a truly just decision. To this end, we will bring an idea that Rabbi Nachman teaches regarding another matter which sheds light on the topic at hand.

Rebbe Nachman explains that when a person starts to pray, sometimes darkness and evil thoughts surround him on all sides, and he is unable to pray. The advice is to concentrate on the truth, the ultimate truth. Say the words of the prayer sincerely. For example, say the words "G-d has saved" in truth. The truth is the light of G-d Himself, and the main yearning of G-d is solely for the truth. When a person is worthy of achieving the truth, G-d dwells with him and illuminates the path for him how to escape the darkness and so he will be able to speak the words in truth and to pray. Prayer is an expression of faith. We pray because we believe that there is a Creator Who can renew everything as he pleases, even if it seems that in the natural course of things, there is no way to change the actual situation. Through prayer everything can be changed" (*Likutei Moharan* I,

9).

Similarly, when two litigants come to court, the chances are that at least one of them is lying and is not making honest and truthful claims. When there is a defect in faith, then faith needs to be corrected at its root, for the whole purpose of having a judgment is not just to clarify this specific case that happened here and now before our eyes. The role of the *beit din* (religious court) in making a verdict is to correct the problem at its root, so that this person whose faith has been damaged will internalize the fact that until now his behavior was incorrect. And from here and henceforth he will straighten his ways and conduct his life according to the principles of true faith. To do this, the *dayan* is required to strive to reveal what the truth is, without any self-considerations or concern for honor, fame, flattery, or any other benefit he could have. When the *dayan* focuses only on truth, *HaKadosh Baruch Hu* will enlighten him so that he will be able to make the efforts required for him to ascertain the truth and to render a true judgment.



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This is the meaning of the verse, "G-d stands in the congregation of the Almighty" (Psalms 82:1). This is how the legal system of the Torah is conducted when it operates as it should. *HaKadosh Baruch Hu* Himself is present in the *beit din* when the truth is to be found there because He always longs for the truth, and when the truth is there, G-d Himself will shine forth and reveal the Truth from within the darkness, and then the *dayan* will be able to decide where the truth lies and give an absolutely true judgment.

This is the explanation of that which our sages said in praise of upright *dayanim*: "Every *dayan* who judges a case absolutely truthfully is like a partner to the Creator in the act of creating the world" (Shabbat 10a). They emphasized the words "absolutely truthfully" because unfortunately, it is possible to judge a case faithfully and according to the Torah, and yet the decision ends up being erroneous because one of the litigants was lying. An "absolutely truthful" judgment is only when the *dayan* strives to focus solely on the truth, for the sake of Truth itself.

The *Parapot l'Chochma* (Rabbi Nachman from Tulchin), in his commentary on *Likutei Moharan* I, 117, relates a wonderful story that happened to Rabbi Nachman during his trip to the Land of Israel. He was in Tiberias at a mitzvah celebration with the greatest rabbis of the generation who had immigrated to the Land of Israel with the famous Chassidic group of students of the Baal Shem Tov (led by the holy Rabbi Menachem Mendel of Vitebsk, Rabbi Avraham of Kalisk and the holy rabbi of Shipotovka, who were all buried in the ancient cemetery in Tiberias). Those present raised a Talmudic question: When a financial doubt arises as to whom a "*mana*" (type of coin) belongs which was given as a deposit, the only answer is to wait until Elijah the prophet comes and gives testimony about whose coin it is. However, those present asked, even if Elijah the prophet would come and reveal to us who is the true

owner, how can the case be decided according to him, since he is only a single witness, for according to the Torah, a decision cannot be made other than through the testimony of two witnesses as it is stated: "One witness shall not rise up against any person for any iniquity or for any sin, but only through the mouth of two witnesses...shall the matter be confirmed" (Deuteronomy 19:15).

Those present had no answer to the question, and there was silence among those present. But they understood that Rabbi Nachman knew the answer and begged him to reveal the answer to them. Rabbi Nachman replied: "It is brought that Elijah the Prophet does not come but to distance us from lies and bring us closer to the truth." This means, Rabbi Nachman explained, that when Elijah the Prophet comes and reveals to the world the trait of truth, distancing us from the trait of falsehood, the litigant himself will come to despise falsehood, and he will confess to the truth. And the confession of a litigant is equivalent to one hundred witnesses (Kiddushin 65b), and thus there will be a truthful ruling.

When the prophet Elijah comes, the truth will be revealed in a way that the person himself will strive for the truth. Until then, this task is entrusted to the *dayan*. In the end, even if the rulings are sometimes painful and severe, the end result brings peace. Just as Rabban Shimon ben Gamaliel used to say, "On three things does the world stand: on justice, on truth and on peace, as it is said: 'Execute the judgment of truth and peace in your gates' (Zechariah 8:16)." (*Pirkei Avot*, 1:18).

(Based on *Likutei Halachot*, *Dayanim* 1 & 2, and *Hilchot Shlichut V'Harshaah* 2)