

# Zera Shimshon

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## Chapter XVII: Yitro (Ex. 18:1–20:23)

### Essay 7. Strict justice or compromise

In this parshah, Jethro recognizes that Moses is adjudicating disputes all day long, and counsels him to delegate these judgments to others.

**שַׁבָּת** פָּרַק קמא רב אמאי ורב אסי הוו יתבי וגרסי ביני עמודי. וכל שעתא ושעתא הוו טפחי אעיברא דדשא ואמרי: אי איכא דאית ליה דינא, ליעול וליתי ע"כ. המאמר צריך ביאור, אמאי הווי יתבי ביני עמודי, ואמאי כל "שעתא ושעתא" דוקא "הוו טפחי" וכו', ואמאי "אי איכא דאית ליה דינא" וכו'.

Tractate **Shabbat**, first chapter (10a): **“Rav Ami and Rav Asi would sit and study between the pillars [beneath the study hall], and each and every hour they would knock on the bolt of the door and say: If there is [someone] who [has a case that] requires judgment, let him enter and come [before us].” This sentence requires clarification.**

Question 1: **Why were they sitting between the pillars?**

Question 2: **Also, why “each and every hour”?**

Question 3: **Also, why “if there is [someone] who [has a case that] requires judgment”?**

ואיתא בפרק קמא דסנהדרין ופסק גם כן בשלחן ערוך חושן משפט (סימן ג') דשנים שדנו אין דיניהם דין אלא אם כן קבלום עליהם בעלי דינין. והנה רב אמאי ורב אסי הוו מקרו דיני דארעא דישראל כדמוכח בסוף פרק קמא דסנהדרין, ומשום הכי היו דנים יחידים בלא איצטרופי שלישי בהדיהו, דדילמא לא הוו משפחי דדמי להו, והוּוּ מִדְקָדְקֵי כְּנֻקְיֵי הַדַּעַת שְׁבִירוּשָׁלַיִם, שְׁלֹא הָיוּ יוֹשְׁבֵימָהּ וְכוּ' אֲלֵא אִם כֵּן יוֹדְעִים מִי יוֹשֵׁב עִמָּהֶם. וְכֵדִי שִׁתְקִימוּ דִינֵיהֶם הֵיךְ צָרִיךְ שִׁיבְאוּ בְּעֵלֵי דִינִים וַיְבָרְרוּ אוֹתָם לָהֶם לְדִינֵיהֶם, שְׁאִינָם יְכוּלִים לְדוֹן בְּכַפְיָהּ מִפְּנֵי שָׂהֶם שָׁנִים.

**It is brought in the first chapter of tractate Sanhedrin (6a) and also the Shulchan Aruch, Choshen Mishpat rules (siman 3, se'if 2) that regarding two who judge, instead of the customary three, their judgment is not a valid judgment, unless the litigants had accepted to abide by them. Here, Rabbi Ami and Rav Asi were called judges of the Land of Israel, as proven at the end of the first chapter of tractate Sanhedrin (17b). Because of this, they judged independently, without the participation of a third between them, for perhaps they couldn't find someone similar to them in the breadth of their knowledge. For they judged like the scrupulous people of Jerusalem, who wouldn't sit in judgment unless they knew who was**

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sitting with them.<sup>1</sup> In order for their judgments to be upheld, the litigants need to come and accept them as the judges, for they are not able to judge them against their will, because they are only two judges instead of three.

ולפי זה היו אומרים אי איכא דאית ליה דינא, ליעול ולימי, אי איכא מאן דבטי למיברר לו לדייני ליעול ולימי. והווי יתבי ביני עמודי לומר פי הם עמודי ההוראה עמודי העולם, על שלשה דברים העולם עומד על הדיו וכו', או על האמת דהיינו פשרה, דפשרה בשנים. וזהו ביני עמודי, תרי עמודי דין ופשרה, והווי טפחי כל שעתא ושעתא כדבסמוד על כל דיון שדן דין אמת לאמיתו, אפילו שעה אחת וכו'.

Answer 3: **According to this, they would say, “If there is [someone] who [has a case that] requires judgment,”** meaning, **if there is someone who wants to accept us as judges, let him enter and come** before us.

Answer 1: **They would sit between the pillars** as if to say that they were **pillars of decision-making**, i.e., justice, and thus **pillars of the world**. “As Rabban Shimon ben Gamaliel used to say: **on three things does the world stand: on justice, on truth, and on peace.**”<sup>2</sup> Or alternatively, they were “**pillars of truth,**” **this is compromise, for compromise may be decided by two judges.**<sup>3</sup> That is, a Beit Din can rule on the basis of justice [*din*] [דין], a strict application of the halacha, finding 100% for one party or the other, or a Beit Din can rule on the basis of compromise [*peshara*] [פשרה]. They were indicating to the litigants that they could choose whether they wanted a ruling based upon strict justice, or upon compromise (“truth”). [The Gemara and the Shulchan Aruch strongly advocate that a Beit Din pursue compromise between the parties, rather than strict justice.] **This is** the meaning of “**between the pillars,**” **the two pillars of judgment and compromise.**

Answer 2: **They would knock each and every hour, as in the adjoining** section to our Gemara, it says that **every judge who judges a true judgment faithfully, even if** he sits in judgment **only one hour,** it is as though he became a partner to the Holy One, Blessed be He.<sup>4</sup> Thus, by knocking each and every hour, Rav Ami and Rav Asi were letting potential litigants know that they were willing to serve as judges who could offer a true judgment, whether it be a strict justice, or truth (compromise).

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<sup>1</sup> Sanhedrin 23a.

<sup>2</sup> Pirkei Avot 1:18.

<sup>3</sup> Sanhedrin 5b.

<sup>4</sup> Shabbat 10a.