

# Zera Shimshon

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

Essay 8. A judge must seek true judgment

**שַׁבָּת** פָּרָק קמ"א תנ"י רב חייא בר רב מדפתי "ויצמד העם על-משה [מן-הבקר עד-הערב]" וכו' וכי תעלה על דעתך וכו' אלא כל דין שדן דין אמת לאמיתו, אפילו שעה אחת, מעלה עליו הכתוב כאילו נעשה שותף להקב"ה במעשה בראשית וכו'. יש לנדקדק מהו "לאמיתו", ומה ענין זה לזה.

In the **first chapter** of tractate **Shabbat**:

**Rav Chiyya bar Rav of Difti taught:** “The next day, Moses sat as a judge among the people, **while the people stood about Moses [from the morning until evening].**”<sup>1</sup> **Does it enter your mind** that Moses would sit and judge all day long? [If so], when was his Torah [study] accomplished? **Rather**, [surely the verse is coming] to tell you: **Any judge who renders a judgment per his truth, even if [he sits in judgment only] one hour, the verse ascribes to him as if he became a partner to the Holy One, Blessed be He, in the act of Creation [as by means of a true judgment he upholds the world].**

- Shabbat 10a

**We need to check what is** the meaning of “**per his truth**” [לאמיתו] [*la'amito*], **and what this rendering of judgment has to do with that** Creation of the world.

ואיתא באלה הדברים רבה אמר ר' ראובן חותמו של הקב"ה אמת, ולמה אמת, אמ"ת יש בו ג' אותיות, אל"ף ראשון של אותיות, מם אמצעית, תי"ו סוף, לומר "אני ראשון ואני אחרון ומבלעדי אין אלהים". "והוא באחד ומי ושיבנו", אמר ריש לקיש שהקב"ה דן וחותם לעצמו וכו' עכ"ל. ואף המדרש הזה צריך ביאור מאי קא משמע לן.

**It is brought in Deut. Rabbah [1:10]:**

**Rabbi Reuven said: The seal of the Holy One, Blessed be He, is truth** [אמת] [*emet*]. **Why [is the word] “*emet*” [used]? There are three letters within [the word]: *Aleph* [א], the first of the letters of the alphabet, *mem* [מ], the middle**

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<sup>1</sup> Ex. 18:13.

of the letters of the alphabet, and *tav* [ת], the last of them. This means: “I am the First, and I am the Last, and besides Me, there is no other G-d.”<sup>2</sup>

[Regarding the verse:] “He is one; who can dissuade Him?”<sup>3</sup> Reish Lakish said that the Holy One, Blessed be He, judged and sealed [judgment] by Himself.

- Deut. Rabbah 1:10

**Even this Midrash requires explanation as to what it means for us.**

וגיש לומר שְׁבֵא לְרִמּוֹז שְׁדֵיין אֶחָד צָרִיף לְטַעוֹן לְזֶה וּלְזֶה וְאַחַר כֵּן לְהַכְרִיעַ. וְלָכֵן אֶל"ף הוּא רֵאשׁוֹן כְּלוֹמַר שְׁטוּעֵן תַּחֲלָה וּפְתִיחַ לְזִכּוֹת, וְתִי"ו סוֹפֵן שֶׁל אוֹתִיּוֹת שְׁטוּעֵן לְחֻבָּה, וּמ"ם אֲמִצְעִית כְּמוֹ אִם יִהְיֶה שֵׁם שְׁלוֹשָׁה, שְׁאֶחָד מִזֶּכֶה וְאֶחָד מִסְּיָב וְאֶחָד מִכְרִיעַ בְּנִתִּים, אֲנִי רֵאשׁוֹן לְזִכּוֹת וְאֲנִי אַחֲרוֹן לְסְיָב וּמִבְּלַעְדֵי אֵין אֱלֹהִים לְהַכְרִיעַ בְּהַכְרַעַת טוֹבָה, דְּלַעִיל מִיַּיִנָּה כְּתִיב "הַזְכִּירְנִי נִשְׁפָּטָה יָחֵד" וְכוּ'. וְאַחַר כֵּן "אֲנִי רֵאשׁוֹן וְאֲנִי אַחֲרוֹן", וְאִם כֵּן כָּל הַדָּן דִּין אֶמֶת לְאַמִּיתוֹ אֶפְיָלוֹ שְׁעָה אַחַת כְּלוֹמַר שֶׁהוּא דֵיין יְחִידִי וְדוֹן בְּעֶצְמוֹ טַעֲנוֹת הַזִּכּוֹת וְהַחֻבָּה וְאַחַר כֵּן מִכְרִיעַ בִּיַּיִנָּה, כְּרָמֵז מֵלֵת אֶמֶת מִמֵּדַת קוֹנּוֹ יֵשׁ בּוֹ. וְסִיִּים הַכְּתוּב "וּמִבְּלַעְדֵי אֵין אֱלֹהִים", הָא שׁוֹתֵף עִמּוֹ אִתָּא, וְזֶהוּ כְּאִילוֹ נִעְשָׂה שׁוֹתֵף וְכוּ'. וְאָמַר בְּמַעֲשֵׂה בְּרֵאשִׁית, מִשׁוּם דְּסוֹפֵי תְבוֹת שֶׁל בְּרֵאשִׁית בְּרָא אֱלֹהִים הוּא אֶמֶת.

**It can be said that this comes to hint that when there is only one judge, he needs to advocate for this position and for that alternate position, and afterward to decide.**

Therefore, *aleph* is the first, as if to say that [G-d] advocates first on behalf of a person and begins with an inclination toward an acquittal, and *tav* is the end of the letters, that He then advocates for a conviction. *Mem* is in the middle, for balance. This is as if there would be there three judges and one argues for acquittal of the accused, and one rules him liable, and one decides between them. Thus, the seal of G-d being *emet* hints at: “I am the First”—to acquit, and “I am the Last”—to rule liable, “and besides Me there is no other G-d”—to render a good ruling. For before that verse it is written, “Help me remember! Let us join in judgment,”<sup>4</sup> then afterward it is written, “I am the first and I am the last.”

If so, everyone who renders a judgment per his truth, even if he sits in judgment for only one hour, it as if to say that he is a single judge, and he judges by himself the arguments for exemption and liability and afterward decides between them. This is like what is hinted by the word *emet*, that he has his Creator’s trait in [his judgment].

The verse concludes, “and besides Me there is no other G-d.” But there is a partner with Him, as the Gemara says, “the verse ascribes to him as if he became a partner to the Holy One, Blessed be He.” And it is said, “in the act of Creation [*Bereishit*] [בְּרֵאשִׁית],” because the ending letters of the first three letters of the Torah, “In the beginning, G-d created,” [*Bereisheet barah Elohim*] [בְּרֵאשִׁית בְּרָא אֱלֹהִים], viz, *aleph*, *mem*, and *tav*, are the letters that form the word *emet*. A judge who follows G-d’s method of judging man helps to uphold justice in the world that G-d has created, so it is as though he has become His partner.

<sup>2</sup> Isaiah 44:6.

<sup>3</sup> Job 23:13.

<sup>4</sup> Isaiah 43:26.

**וְעוֹד יֵשׁ לוֹמֵר** דְּלַפְעָמִים מִצַּד הַדִּין הוּא פְטוֹר וְהֵבֵא לְצִאֵת יְדֵי שְׁמַיִם חַיִּיב. וְתַבְעֵי לִיה נְמִי בְּבֵא לְצִאֵת יְדֵי שְׁמַיִם, כְּדֹאִיתָא בְּפֶרֶק ג' דְּמִצְיָעָא (דָּרָף ל"ז ע"א) וְעֵי"ש בְּתוֹסְפוֹת, וְנִזְהוּ דֵּן דִּין אֲמַת דְּהֵיבֵנוּ הַדִּין כְּמוֹ שֶׁהוּא, וְ"לְאֲמִיתוּ" רְצָה לוֹמֵר בְּבֵא לְצִאֵת יְדֵי שְׁמַיִם. אִי נְמִי כִּהְיָא דְאֲמַרִּינוּ הֵתָם בְּמִצְיָעָא וְכֵן הוּא בִּשְׁלֵחֵן עָרוּף חֲשׂוֹן מִשְׁפָּט (סִימָן ש' סְעִיף א') שְׁנַיִם שֶׁהִפְקִידוּ אֶצֶל אֶחָד זֶה מְנָה וְזֶה מְאִתִּים וְכָל אֶחָד אוֹמֵר שְׁלֵי מְאִתִּים, יִתֵּן מְאִתִּים לְזֶה וּמְאִתִּים לְזֶה וְיִפְסִיד מְנָה מִבֵּיתוֹ מִפְּנֵי שֶׁשָּׁשַׁע שֶׁהָנָה לִיה לְמִידָק. וְאִי אֲנָהוּ לֹא תַבְעֵי לִיה כֹּל אֶחָד בְּבֵרִיא אִם בָּא לְצִאֵת יְדֵי שְׁמַיִם חַיִּיב אֶבֶל בְּדִינֵי אָדָם פְּטוֹר עכ"ל.

**It can be said that sometimes from the side of the law he is exempt, but one who comes to fulfill his obligation from the side of Heaven is liable. This is so where one claims he's coming to fulfill his obligation to Heaven, as is brought in the 3<sup>rd</sup> chapter of Bava Metziah (page 37a), and see there in the Tosafot.** Bava Metziah speaks of two men who are claiming money robbed from them. The accused acknowledges stealing money, but doesn't know which was the victim. According to the letter of the law, he is only obligated to pay the actual victim, but in order to fulfill his obligation to Heaven, and not knowing which was the victim, he needs to pay both of them. **This is the meaning of judging the law truthfully, which is the law as it is, and "per his truth" means he's coming to fulfill his obligation to Heaven.**

**Alternatively, [a case] is discussed there in Bava Metziah, and thus in the Shulchan Aruch, Choshen Mishpat, siman 300, se'if 1, that two deposited money with one person. He says this depositor gave a *manah*, i.e., 100 *zuz*, and this other depositor gave 200 *zuz*. But each of the two says the 200 *zuz* is mine. Per the letter of the law, he is obligated to give 200 *zuz* to this one and 200 *zuz* to that one. He will lose a *manah* from his household, because he was required to be careful and keep records as to who left what. If [the depositors] hadn't [expressly] claimed [200 *zuz* instead of only 100 *zuz*], i.e., they had forgotten how much they had deposited, then per the law of man he would be exempt from paying each more than 100 *zuz*, but if he wanted to fulfill his obligation to Heaven, he'd be liable to pay each 200 *zuz*.**

וְהַתּוֹסְפוֹת כְּתִבּוּ שֶׁם בְּפֶרֶק קָמָא דְשִׁבְתָּהּ עַל הַהֵיא דְדֵּן דִּין אֲמַת "לְאֲמִיתוּ", לְאֲפּוֹקֵי דִין מְרוּמָה עכ"ל. וְכַוּוֹנֵת דְּבִרְיָהֶם שֶׁהַדִּין מְחַוִּיב לְדוֹן עַל פִּי הָאֲמַת שֶׁנִּתְאַמְתָּ לּוֹ, וְנִזְהוּ "לְאֲמִיתוּ", וְלֹא עַל פִּי הַטְעָנוֹת שֶׁל בְּעֲלֵי דִינָיִם אִם הֵן מְכַחֲשׁוֹת הָאֲמַת, כְּמוֹ שֶׁקָּתַב סֵפֶר מְאִירַת עֵינַיִם בְּחֲשׂוֹן מִשְׁפָּט (סִימָן ט"ו ס"ק ט"ו), וְאִם אֵינּוּ בְּרוּר לּוֹ הָאֲמַת יִסְלַק עֲצָמוֹ מִן הַדִּין הַהוּא, כְּמוֹ שֶׁכְּתוּב בִּשְׁלֵחֵן עָרוּף שֶׁם (סְעִיף ג') וְעֵי"ש.

**The Tosafot wrote there in the first chapter of tractate Shabbat (10a) on the fact that he rendered true judgment "per his truth": "This is as opposed to a case where the judgment is twisted." The meaning of their words is that the judge is obligated to render judgment on the truth as it appears to him. That is the meaning of "per his truth," and not according to the claims of the litigants, if they deny the truth, as written by the author of the *Sefer Me'irat Einaim* on Choshen Mishpat (siman 15, se'if katan 15).<sup>5</sup> If the truth is not clear to him, he**

<sup>5</sup> Joshua Falk (1555–1614), "the Sma," Polish author of the *Drisha* and *Prisha* commentaries on the Arba'ah Turim, as well as *Sefer Me'irat Enayim* on the Shulchan Aruch.

shall remove himself from that case, as it is written in Shelan Aruch there (se'if 3), and see there.

אָמנם בַּגְדוֹן זֶה שָׁל מְנָה מְאֵתִים, אָף עַל פִּי שְׁבֻדָּאֵי יֵשׁ בּוֹ רַמְאוֹת אֶפְלוּ הָכִי יְכוֹל הַדְּבִין לְדוֹן וְלַסְיִיב הַנִּפְקָד לִימֵן וְכוּ' שְׁמִי מְנִים לְזֶה וְשְׁמִי מְנִים לְזֶה אָף עַל פִּי שְׁהוּא דִּין מְרוּמָה, מְשׁוּם דְּאִיבְעֵי לִיהּ לְמִידָק, וְזֶהוּ "לְאַמִּיתוּ", הוּא הָיָה לוֹ לְהִיּוֹת גְּזֵהר מְדִין מְרוּמָה וּמְדִלָּא גְּזֵהר שְׁמַע מִינָה דְּלָא קְפִיד, וּמְשׁוּם הָכִי סְיִיב לְשָׁלֵם לְפִי הָאָמֶת שְׁבַר לּוֹ.

**It is true that in this judgment of a *manah* vs. two *manahs*, even though certainly there is cheating involved on the part of one of the claimants, even so, the judge is able to rule this way and to obligate the custodian of the funds to give etc., two *manahs* to this one and two *manahs* to this one, even though this is a twisted judgment. This is because [the custodian] was obligated to be cautious and keep records as to who gave him what. This is the meaning of “per his truth,” per the truth of the custodian, for he had to be cautious of falling victim to a twisted judgment. Because he was not careful, we hear from this that he was not strict to protect himself. Because of this, he must pay according to the truth that was clear to him. I.e., after the fact, even he will recognize that he failed to be careful and that he’s stuck with the judgment.**

וְאִם תֹּאמַר הֵיכָא רְמִיזָא שְׁעָה אַחַת בְּפִסּוּק, דְּקָאָמַר כָּל דְּבִין שְׁדָן אֶפְילוּ שְׁעָה אַחַת. וְיֵשׁ לוֹמַר שְׁהָה"א ד"הבְּקָר" מִיּוֹתְרָת, דְּדִי הָיָה לוֹמַר "מִן־בְּקָר עַד־הָעֶרֶב", אֶלָּא וְדָאֵי בָּא לְהַשְׁמִיעֵנוּ שְׁלֵא הָיָה יוֹשֵׁב כָּל הַבְּקָר, אֶלָּא תַחֲלַת "הַבְּקָר" דְּהִינּוּ כְּשִׁיעוֹר שְׁמַעְלוֹת הַשְּׁחַר עַד הַגֶּץ הַסְּמָה, וְאִינָה רַק שְׁעָה אַחַת בְּקִירוֹב, וְאָף הָה"א ד"הבְּקָר" מְשַׁמַּע הָכִי, דְּהִינּוּ ה' מִלִּין בְּקָר, שְׁאָמְרוּ ו"ל מַעְלוֹת הַשְּׁחַר עַד הַגֶּץ הַסְּמָה תְּמִשָּׁה מִלִּין.

Returning to the original Gemara, **one might say, where is the hint to one hour in the verse**, “Moses sat as a judge among the people, while the people stood about Moses from the morning until evening,” **regarding every judge who judges even one hour truthfully. It can be said that the *heh* [ה] [“the”] of *ha’boker* [הַבְּקָר] [“the morning”] is superfluous, that it was enough to say, “from morning to evening.” Rather, certainly it came to inform us that [Moses] was not sitting the entire morning, rather only from the beginning of “the morning.” This is the amount of time from the dawn until sunrise, only about one hour.**

**The *heh* of “the morning” also means thus, the 5 *mils* of the morning, as the letter *heh* has the Gematria value of five, for [the rabbis] of blessed memory said, “from dawn until sunrise [one can walk a distance of] five *mil*.”<sup>6</sup>**

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<sup>6</sup> Pesachim 94a.