

## Unit 6 – Mishpatim Section

### Lesson 29 – Branches of Government - 16:18 – 18:22

#### Objective:

Students should be able to locate the laws relating to the four branches of leadership, understand how these laws are one of the Torah's innovations still applicable today, and explain the main features of each group.

#### Activity:

A. Before expanding on the five commandments called Mishpatim (6-10), Moshe first introduces the requirement to appoint judges and explains what their duties are. The first step towards maintaining a law abiding civil society is to establish courts. This is so basic that it is even one of the מצוות בני נח. The discussion of judges is interrupted by a couple of laws about Avodah Zarah. Once Moshe discusses judges, he continues on a tangent to speak about the other leadership groups: kings, prophets and priests. These chapters can also be seen as another expansion of the fifth commandment. Just as one must honor parental authorities so too they must respect their leaders. This section therefore acts as a good transition from the Hukim section to the Mishpatim section.

In pairs, students should read through this section and prepare an outline defining where discussion of each leadership group begins and ends. When they are done, write the outline on the board.

|               |         |                   |             |
|---------------|---------|-------------------|-------------|
| 16:18 – 17:13 | Judges  | except 16:21-17:7 | Avodah Zara |
| 17:14 – 17:20 | Kings   |                   |             |
| 18:1 – 18:8   | Kohanim |                   |             |
| 18:9 – 18:22  | Nevi'im |                   |             |

There are a number of key words that reappear within these sections. These phrases serve to link each paragraph to the next. See highlighted words in the summary sheet. The word “from/within your brothers” (pink highlight) appears in the sections of the kings, Kohanim, and prophets but with a slight change. Anyone can be a kings or prophets as long as they are not foreigners (just as the U.S. president must be native born). Kohanim, however, can only be from the priestly family. The phrase in the Kohen section emphasizes this differentiation by explaining that Kohanim can not hold land “with their brothers.”

The phrase “God chose” (yellow) appears in sections of the judges, kings and kohanim but also with different meanings. For judges, it locates the supreme court at “the place which God will choose.” This links back to the theme of centralized worship that ran through the Hukim section. In the king section, God's choosing refers to the king himself. The Kohanim section uses both meanings: the kohanim are themselves chosen by God and they serve at the place chosen by God.

**Four Leadership Groups**

**Judges .1**

**טז:יח** (יח) ש' פטים וש' טרים תמון לך בקל שְׁעָרֶיךָ אֲשֶׁר יֵה נֶה אֶל הַיָּבֵיב ג' תו' לך לִשְׁבֹּטֶיךָ וְשָׁפְטוּ אֶת הָעָם מִשְׁפֵּט צְדָק:

(ט) ל' א' תִּשָּׂא מִשְׁפֵּט ל' א' תִּכֹּר פָּנִים וְל' א' תִּקַּח ש' חֵד פִּי הַשָּׁחַד וְעֹר עֵינֵי חֲכָמִים וְיִסְלַף דְּבָרֵי צְדִיקִים:

(כ) צָדֵק צְדָק תִּרְדֹּף לְמַעַן תִּתְּנֶה וְנִרְשַׁת אֶת הָאָרֶץ אֲשֶׁר יֵה נֶה אֶל הַיָּבֵיב ג' תו' לך:

(כא) ל' א' תִּשַׁע לְךָ אֲשֶׁרָה כֹּל עֵץ אֲצִיל מִזֶּבֶח יֵה נֶה אֶל הַיָּבֵיב אֲשֶׁר תַּעֲשֶׂה לְךָ:

(כב) וְל' א' תִּקִּים לְךָ מִצֵּבָה אֲשֶׁר שָׁנָא יֵה נֶה אֶל הַיָּבֵיב:

(יז:א) ל' א' תִּזְבַּח לִיָּה נֶה אֶל הַיָּבֵיב שׁוֹר וְשֶׂה אֲשֶׁר יִהְיֶה בּוֹ מוֹם כֹּל דָּבָר רָע פִּי תוֹעֵבָת יֵה נֶה אֶל הַיָּבֵיב הוֹא:

(ב) כִּי יִצְאָה בְּקִרְבְּךָ בְּאֶחָד שְׁעָרֶיךָ אֲשֶׁר יֵה נֶה אֶל הַיָּבֵיב ג' תו' לך אִישׁ אוֹ אִשָּׁה אֲשֶׁר יַעֲשֶׂה אֶת הַרְעָה בְּעֵינֵי יֵה נֶה אֶל הַיָּבֵיב לְעֵבֶר ר' בְּרִיתוֹ:

(ג) וְיִלְךְ וְיִעֲבֹד אֶל הַיָּם אַחֲרֵיהֶם וְיִשְׁתַּחֲוּוּ לָהֶם וְלִשְׁמֹשׁ אוֹ לְנִיחָן אוֹ לְכָל צִבָּא הַשָּׁמַיִם אֲשֶׁר ל' א' צִוִּיתִי:

(ד) וְהִגִּד לְךָ וְשָׁמַעְתָּ וְנִרְשַׁת הַיָּסֵב וְהִנֵּה אָמַת נְכוֹן הַדָּבָר נַעֲשֶׂתָה הַתּוֹעֵבָה הַזֹּאת בְּיִשְׂרָאֵל:

(ה) וְהוֹצֵאתָ אֶת הָאִישׁ הַהוּא אוֹ אֶת הָאִשָּׁה הַהוּא אֲשֶׁר עָשָׂה אֶת הַדָּבָר הַרְעָה הַזֹּאת אֶל שְׁעָרֶיךָ אֵת ה' אִישׁ אוֹ אֵת הָאִשָּׁה וְסִקְלָתָם בְּאֲבָנִים וְמָו:

(ו) עַל פִּי שְׁנַיִם עֵדִים אוֹ שְׁלֹשָׁה עֵדִים יוֹמַת הַמֵּת ל' א' יוֹמַת עַל פִּי עַד אֶחָד:

(ז) יָד הַעֲדוּמִים תִּהְיֶה בּוֹ כְּרָאשׁ נֶה לְהַמִּיתוֹ וְיָד כֹּל הָעָם בְּאֶחָד נֶה וּבְעֶרְתָּ הַרְעָה מִקִּרְבְּךָ:

(ח) כִּי יִפְלֹא מִמֶּךָ דָּבָר לְמִשְׁפָּט בִּין דָּם לְדָם בִּין דִּין לְדִין וּבִין נַגַע לְנַגַע דְּבָרֵי רִיב ת' בְּשִׁעְרֶיךָ וְקָמַת וְעָלִיתָ אֶל הַמִּקְוֶה אֲשֶׁר יִבְחַר יֵה נֶה אֶל הַיָּבֵיב בּוֹ:

(ט) וְבָאתָ אֶל הַכֹּהֵן הַגִּבּוֹר הַלְוִיִּם וְאֶל הַשֹּׁפֵט אֲשֶׁר יִהְיֶה בְּיָמֵינוּ הַהֵם וְנִרְשַׁת וְהִגִּידוּ לְךָ אֶת דְּבַר הַמִּשְׁפָּט:

(י) וְעָשִׂיתָ עַל פִּי הַדָּבָר אֲשֶׁר יִגִּידוּ לְךָ מִן הַמִּקְוֶה הַהוּא אֲשֶׁר יִבְחַר יֵה נֶה וְשָׁמַרְתָּ לַעֲשׂוֹת כֹּכ ל' אֲשֶׁר יִוְרֹךְ:

(יא) עַל פִּי הַתּוֹרָה אֲשֶׁר יִוְרֹךְ וְעַל הַמִּשְׁפָּט אֲשֶׁר י' אִמְרוּ לְךָ תַּעֲשֶׂה ל' א' תִּסּוֹר מִן הַדָּבָר אֲשֶׁר יִגִּידוּ לְךָ יָמִינוּ:

**יג:א** (א) וְהָאִישׁ אֲשֶׁר יַעֲשֶׂה כְּדוֹן לְבַלְתִּי שְׁמִי עַל אֶל הַכֹּהֵן מֵד לְשִׁרְתָּ שָׁם יֵה נֶה אֶל הַיָּבֵיב אוֹ אֶל הַשֹּׁפֵט וְמָת הָאִישׁ הַהוּא וּבְעֶרְתָּ הַרְעָה מִיִּשְׂרָאֵל:

(ב) וְכָל הָעָם יִשְׁמְעוּ וְיִרְאוּ וְל' א' יִידוּן עוֹד:

**Kings .2**

(ד) כִּי תִבֵּן אֶל הָאָרֶץ אֲשֶׁר יֵה נֶה אֶל הַיָּבֵיב ג' תו' לך וְיִרְשַׁתָּה וְיִשְׁבַתָּה בָּהּ וְאָמַרְתָּ אֲשִׁימָה עָלַי מֶלֶךְ כְּכֹל הַגּוֹיִם אֲשֶׁר סָבִיב תָּי:

(טו) שׁוֹם תִּשִּׂים עָלֶיךָ מֶלֶךְ אֲשֶׁר יִבְחַר יֵה נֶה אֶל הַיָּבֵיב בּוֹ מִקְרֹב אַחֲרֶיךָ תִּשִּׂים עָלֶיךָ מֶלֶךְ ל' א' תוּכַל לָמַת עָלֶיךָ אִישׁ נְכָרִי אֲשֶׁר ל' א' אֲחִירָה הוֹא:

(טז) כִּם ל' א' יִרְבֶּה לוֹ סוּסִים וְל' א' יִשִּׁיב אֶת הָעָם מִצְרִימָה לְמַעַן תִּרְבּוּת סוּס וְיֵה נֶה אֲמַר לָכֵם ל' א' ת' סָפוֹן לְשׁוֹב בְּדָרְךָ הַזֶּה עוֹד:

(יז) וְל' א' יִרְבֶּה לוֹ נָשִׁים וְל' א' סוּר לְקַבּוֹ וְקִסָּף וְנִזְבֵּב ל' א' יִרְבֶּה לוֹ מֵאֵד:

(יח) וְהָיָה כְּשִׁבְתוֹ עַל פֶּסַף מִמְּלַכְתּוֹ וְכָתַב לוֹ אֶת מִשְׁנֵה הַתּוֹרָה הַזֹּאת עַל סֵפֶר מִלְּפָנֵי הַכֹּהֵן הַלְוִיִּים:

(יט) וְהָיְתָה עִמּוֹ וְקָרָא בּוֹ כָּל יְמֵי חַיָּו לְמַעַן יִלְמַד וְיִרְאֶה אֶת יֵה נֶה אֶל הַיָּבֵיב הַיָּבֵיב לְשִׁמּוֹר אֶת כָּל דְּבָרֵי הַתּוֹרָה הַזֹּאת אֶת אֶת הַחֲקִים הָאֵלֶּה לַעֲשׂוֹת:

(כ) לְבַלְתִּי רוּם לְקַבּוֹ מֵאֲחֵיו לְבַלְתִּי סוּר מִן הַמִּצְוָה יָמִינוּ וְשָׁמֹ אֹלֵי לְמַעַן יִאָּרִיד יָמִים עַל מַמְלַכְתּוֹ הוּא וּבְנָיו בְּקִרְבֵּי יִשְׂרָאֵל:

**Kohanim .3**

(יח:א) ל' א' יִהְיֶה לְכֹהֵן הַלְוִיִּים כָּל שִׁבְטֵי לְוִי חֵלֶק וְנִחְלָה עִם יִשְׂרָאֵל אֲשִׁי יֵה נֶה וְנִחְלָתוּ י' אֶבְלָיו:

**L29 Perek 17-18 - Leadership Groups - Summary Sheet.doc**

B. This entire section lays out the leadership structure detailing the responsibilities of each branch. While in most other ancient societies the king had absolute rule, in Israel he is just one part of a bigger system. This allows for a system of checks and balances which is a most important principle of modern democracies. Another significant innovation is that Moshe presents the responsibilities of the leaders to all the people. In other ancient governments, as in modern totalitarian regimes, the conduct of the government is kept secret. The Torah presents a more democratic model where the public is knowledgeable about these laws and can therefore protest the abuses of the authority.

C.  
1. Judges

*Why is there a section about Avodah Zara in the middle of laws about judges?*

This section lists four kinds of Avodah Zarah. One may not place an Asherah tree near the altar (16:21), nor a stone pillar (22). One may not sacrifice an animal which has a blemish (17:1). One may not the heavenly bodies (2-3). If someone is reported to have committed one of these sins, then the courts must take action, investigate, and punish only on the testimony of two witnesses. This excludes two other possibilities: that we

leave it in God's hands to punish him, or that the public punishes the person themselves. This section is included within the judges section to teach us that the judges are responsible not only for civil law, as we would expect, but also for judging religious law. Investigation and proof requirements for religious offences must be as rigorous as those for criminal offences.

The next parasha explains that if a lower court can not decide a case then it goes to the supreme court in Jerusalem. Once Jerusalem becomes the center of worship it also becomes the seat of the judicial branch. Interestingly, the supreme court is made up of both judges and Kohanim (9). This central court decides laws for the entire nation thus ensuring a unified set of laws for all.

## 2. Kings

Pasuk 15 commands the nation to appoint a king. Rambam counts this as one of the 613 Mitzvot. See source 1.

### למנות מלך: לכתחילה או בדיעבד?

#### 1. ספר המצוות לרמב"ם מצות עשה קעג

והמצוה הקע"ג היא שצונו למנות עלינו מלך מישראל יקבץ כל אומתינו וינהיגנו. והוא אמרו ית' (שם יז) שום תשים עליך מלך.

#### 2. תוספתא מסכת סנהדרין פרק ד הלכה ה

A. ר' יהודה אומ' שלש מצוות נצטוו ישראל בביאתן לארץ נצטוו למנות להן מלך ולבנות להן בית הבחירה ולהכרית זרעו של עמלק אם כן למה נענשו בימי שמואל אלא לפי שהקדימו עליהן  
 B. ר' נהוראי אומ' לא נאמרה פרשה זו אלא מפני התרעומות שני ואמרת אשימה עלי מלך  
 C. ר' אלעזר ברי' יוסי אומ' זקנים שאלו כהלכה שני תנה לנו מלך לשפטינו אבל עמי הארץ חזרו וקילקלו שני והיינו גם אנחנו ככל הגוים ושפטנו מלכינו ויצ' לפי ונלחם וגומ':

A. Israel was commanded to implement three mizvot on their entry into the Land. They were commanded to appoint themselves a king, to build a sanctuary, and cut off the seed of Amalek. Such being the case why were they punished in the days of Samuel? Because their request was premature.

B. R. Nehorai said: This chapter was only recorded in anticipation of their future murmurings, as it is written: "and they shall say, I will set a king over me."

C. R. Eliezer son of R. Yose said: The elders' request was in order as it is written: "Give us a king to judge us," but the common people added an improper rider, as it is said: "That we may be also like other nations."

#### 3. Abarbanel

The Torah wishes to forecast how Bnei Yisrael would display their ingratitude for all the Divine help they had received, in facilitating their conquest and settlement of the land, by asking for a king. They did not make such a request because they stood in need of one, but simply to ape the practices of the surrounding nations. In fact, during the period of conquest and settling down, when it could be argued that a king was necessary to lead the people to battle and institute order, they did not make such a request. After they had settled down to an ordered existence, and a king was obviously no necessity, they asked for one reason only: "to be like all the nations that are about me." In such an event, God commanded that they should not elect a king as they wanted, but "you shall set over yourselves a king whom God shall choose." In short, the mizvah was merely a permissive one, not an absolute command. If you must have a king then this is how you must go about it...Once the people have given expression to this desire, unworthy as it is, it can be implemented, and, indeed must only be implemented, in the manner prescribed in the Torah, and in no other.

[L29 Perek 18 - Kings - Source Sheet.doc](#)

Students should now read 1 Samuel 8 in small groups.

Discuss the following questions:

*Why do the people want a king?*

*What is Shemuel's reaction? What is Hashem's reaction?*

*Why does Shemuel discourage it?*

*Does the story in Shemuel fit the commandment in Debarim?*

In fact, the tension between Debarim and Shemuel is already present within the first two pesukim of Debarim. While pasuk 15 sounds like an absolute command, pasuk 14 makes it a conditional and even adds a negative association with a request for a king. Is Israel supposed to be a monarchy as an ideal, as a simple reading of pasuk 15 would indicate, or is a king looked down upon as copying other nations and not relying on God, as pasuk 14 and Shemuel indicate?

This important question is the subject of a Tannaitic controversy in the Tosefta. See source 2.

According to the first and last opinions, Israel must have a king as an ideal. The problem in Shemuel was the time (they should have waited until after Shemuel died) or the way they asked for it (so that they can copy foreign nations). According to the middle opinion or R. Nehorai it would have been best never to have a king at all. Pasuk 14 anticipates the improper request Bnei Yisrael will make in the future. According to R. Nehorai it would be best if Israel never had a king but if they insist on it, then the king's powers must be greatly limited by the rules set forth in this section. Abarbanel expands on this point of view.

Discuss: *Do you think that modern Israel should be a monarchy? If so, how would it work? if not, what would be your ideal form of government?*

#### 4. Prophet

This section discusses the difference between sorcerers or false prophets and true prophets. People always want to know about the future and they turn to various channels to tap into the supernatural realm. Even today one can find fortune tellers, horoscopes, magicians, and witch doctors of various sorts. The Torah commands us to rid the land of Israel of all such people in the strongest possible terms. Why are we prohibited from using sorcery? There are two possibilities:

- a. Because sorcery works but Hashem does not want us to rely upon them but rather to have a more direct connection with Him.
- b. Because sorcery does not work and we should not do foolish things.

Have a discussion about what kinds of modern methods of fortune-telling might fall into this category and why they should be prohibited (psychic hotline, magazine horoscopes, astrology...).

Rambam has a very strong opinion about this issue.

### Rambam's View On Magic

**רמב"ם משנה תורה הלכות עבודת כוכבים פרק יא הלכה טז**  
ודברים האלו כולן דברי שקר וכזב הן והם שהטעו בהן עובדי כוכבים הקדמונים לגויי הארצות כדי שינהגו אחריהן, ואין ראוי לישראל שהם חכמים מחוכמים להמשך בהבלים אלו ולא להעלות על לב שיש תועלת בהן, שנאמר כי לא נחש ביעקב ולא קסם בישראל (במדבר כג:כג), ונאמר כי הגוים האלה אשר אתה יורש אותם אל מעוונותם ואל קוסמים ישמעו ואתה לא כן וגוי' (דברים יח: יד).  
כל המאמין בדברים האלו וכיוצא בהן ומחשב בלבו שהן אמת ודבר חכמה אבל התורה אסרתן אינן אלא מן הסכלים ומחסרי הדעת ובכלל הנשים והקטנים שאין דעתן שלימה, אבל בעלי החכמה ותמימי הדעת ידעו בראיות ברורות שכל אלו הדברים שאסרה תורה אינם דברי חכמה אלא תהו והבל שנמשכו בהן חסרי הדעת ונטשו כל דרכי האמת בגללן, ומפני זה אמרה תורה כשהזיירה על כל אלו ההבלים תמימים תהיה עם ה' אלהיך (דברים יח:יג).

Rambam, Misheh Torah, Laws of Idolatry 11:16

These practices are all lies and falsehoods. The ancient pagans used them to mislead the ignorant masses into being guided by them. It is not fitting for Jews, as people of intelligence and intellect, to continue to subscribe to these vanities and to imagine that there is any benefit in them as it is stated, "For there is no enchantment with Jacob, neither is there any divination with Israel." And it is stated, "Those nations that you are about to dispossess do indeed resort to soothsayers and augers; to you, however, Hashem your God has not assigned the like."

All who give credence to any of these things and imagine that they are true but only forbidden by the Torah, are nothing but fools and weak-minded, or belong to the category of women<sup>1</sup> and children whose understanding is imperfect. But scholars and enlightened thinkers are convinced that all these things prohibited by the Torah are not matters of wisdom, but mumbo-jumbo by which the gullible are misled, and for the sake of which they abandon always of truth. Therefore, the Torah, in admonishing to beware of these vanities, declares: You shall be whole-hearted with Hashem your God."

### רמב"ן דברים פרק יח

ועתה דע והבן בעיניי הכשפים, כי הבורא יתברך כאשר ברא הכל מאין עשה העליונים מנהיגי התחתונים אשר למטה מהן, ונתן כח הארץ וכל אשר עליה בכוכבים ובמזלות לפי הנהגתם ומבטם בהם כאשר הוא מנוסה בחכמת האיטגנינות, ועשה עוד על הכוכבים והמזלות מנהיגים מלאכים ושירים שהם נפש להם...

ורבים יתחסדו בנחשים לומר שאין בהם אמת כלל, כי מי יגיד לעורב ולעגור מה יהיה. ואנחנו לא נוכל להכחיש דברים יתפרסמו לעיני רואים. ורבותינו גם כן יודו בהם...

וכאשר כלל הכתוב המעוונות והקוסמים עם התועבות הנזכרות, חזר ופירש (בפסוק יד) הגוים האלה אשר אתה יורש אותם אל מעוונותם ואל קוסמים ישמעו כי חכמתם לדעת הבאות, ואתה לא כן נתן לך ה' אלהיך - יאמר הנה אסר לך השם המעשים האלה הנזכרים בעבור שהם תועבות לפניו ובגללם חוריש הגוים ההם מפניך.

<sup>1</sup> In those days women were not given any education.

### [L29 Perek 18 - Magic - Source Sheet.doc](#)

Instead of turning to magic, Hashem promises to send prophets to lead the nation. After Moshe dies, Hashem will raise up other prophets like Moshe (18:15,18). Christians and Muslims have used these pesukim to prove that God will send another prophet who will give a new set of laws like Moshe. However, this interpretation has two problems.

- They misinterpret the singular “נביא” to mean that there will be one specific prophet in the future who will give a new law like Moshe. However, singular nouns in Tanakh are often used collectively to refer to an entire group or series. Similarly, the singular noun מלך in 17:14-15 does not mean there will only be one king but rather it refers to the succession of all kings. Also, הלוי in 18:6 refers to any and all Levites.
- The pasuk later on says explicitly, “Never again did there arise in Israel a prophet like Moses – whom Hashem singled our face to face” (34:10). Therefore, when this chapter says Hashem will raise a prophet like Moshe, this is only meant in the sense that the future prophets will also be a spokesmen for Hashem, but not that they will be on the same level.