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## פרשת יתרו

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פרק יח פסוק יג

יג וַיְהִי מִמָּחָרֶת וַיֵּשֶׁב מֹשֶׁה לְשַׁפֵּט אֶת־הָעָם וַיַּעֲמֵד הָעָם עַל־מֹשֶׁה מִן־הַבֹּקֶר עַד־הָעֶרֶב:

רש"י

מִן הַבֹּקֶר עַד הָעֶרֶב: אֲפֹשֶׁר לֵאמֹר כִּן? אֵלֶּא כֹּל דַּיִן וְשֶׁדֵן דַּיִן אֲמַת לְאַמְתּוֹ אֲפִלּוּ שְׁעָה אַחַת מַעֲלָה עָלָיו הַפְּתוּב כְּאֵלּוּ עוֹסֵק בַּתּוֹרָה כָּל הַיּוֹם, וְכֵאלּוּ נַעֲשֶׂה שְׁתַּף לְהַקְדוּשׁ בְּרוּךְ הוּא בְּמַעֲשֵׂה בְּרֵאשִׁית שְׁנֵאֲמַר בּוֹ וַיְהִי־עֶרֶב וַיְהִי־בֹקֶר.

מושג

כָּל דַּיִן וְשֶׁדֵן דַּיִן אֲמַת לְאַמְתּוֹ אֲפִלּוּ שְׁעָה אַחַת מַעֲלָה עָלָיו הַפְּתוּב כְּאֵלּוּ נַעֲשֶׂה שְׁתַּף לְהַקְדוּשׁ בְּרוּךְ הוּא בְּמַעֲשֵׂה בְּרֵאשִׁית.

### Translation:

Every judge who judges with complete fairness even for a single hour, the Torah gives him credit as though he had become a partner to the Hashem in the creation of the world.

### Explanation:

It is clear to חז"ל that Moshe did not actually sit in judgement all day long as the text of the Torah seems to relate. Rather, the Torah's usage of the words *מבקר עד ערב* seeks to convey the message that one who judges fairly and truthfully is considered a partner to Hashem in the creation of the world. This message factors in to Yisro's words as his criticism of Moshe centered on the fact that the meting out of true justice is not merely an additional מצוה but rather it is the task on which the survival of the world depends. One who judges correctly is therefore considered as if he had partnered with G-d in creation, as his actions uphold all of creation. Thus, claimed Yisro, the task of sitting in judgement must be undertaken with undivided focus and cannot be combined with any other tasks. Since Moshe was best suited to be the teacher of Hashem's law to the people, as he would be able to illuminate the laws and to convey the passion and fire of Sinai to them, he could not hope to undertake the role of judge as well.

### Looking in the Pasuk:

חז"ל were bothered by the wording *מבקר עד הערב* which appears in our פסוק and is repeated in the following פסוק as well. Using these words, instead of simply saying *כל היום*, is an obvious parallel to creation. Furthermore, the fact that the Torah did not simply write *מערב עד בקר*, as is written by creation, and repeats the phrase, clearly conveys the sense that Moshe was extremely occupied, warranting Rashi's comment that the judge is rewarded not only as if he partnered with Hashem in creation, but also as if he learned Torah the entire day.

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## NOTES

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Rashi's commentary on this Pasuk, which is the source of our Musag, is extremely difficult to understand. Rashi begins by asking: Is it possible that Moshe really sat and judged the people the entire day? Rashi answers by saying that he only judged them for a short time, and that the wording מן הבוקר עד הערב is to be taken to mean that it was considered as if he toiled in Torah the entire day and partnered with Hashem in the creation of the world. Rashi's words are puzzling because if Moshe did not really sit and judge the people for an extended period of time, what bothered Yisro?

We could answer that Yisro was only bothered by the fact that Moshe judged alone<sup>1</sup>, and that the wording מן הבוקר עד הערב only came to teach the partner-in-creation lesson. However, this is highly unlikely. Firstly, if the Pasuk only wished to teach the above lesson it should have written מערב עד בקר as it says by creation, and not מן הבוקר עד הערב. Also, why is the wording מן הבוקר עד הערב repeated? And, finally, if there was indeed nothing that Moshe did that filled his entire day, why would the Torah use wording that is so misleading?

Rather, it is clear from the simple meaning of the text – which Rashi would most certainly follow – that Moshe sat for an extended time preoccupied with the people. If so, how can Rashi's commentary – that Moshe only judged for a short period of time – be understood?

Additionally difficult is Rashi's question of, "Is it possible to say thus (that Moshe judged the entire day)?" Why is it unthinkable that Moshe judged the entire day?

The answer to our second question is found, with slightly different approaches, in the גמרא and in the מדרש which are the sources for Rashi's commentary:

תנא להו רב חייא בר רב מדפתי: ויעמד העם על משה מן הבוקר עד הערב, וכי תעלה על דעתך שמשה יושב ודן כל היום כלו? תורתו מתי נעשית? אלא לומר לך כל דיין שדן דין אמת לאמיתו אפילו שעה אחת מעלה עליו הכתוב כאילו נעשה שותף להקדוש ברוך הוא במעשה בראשית. כתיב הכא ויעמד העם על משה מן הבוקר עד הערב, וכתיב התם ויהי ערב ויהי בקר יום אחד. (שבת י.)

מן הבוקר עד הערב. וכי מן הבוקר עד הערב היה משה דן את ישראל? והלא אין הדיינין דנין אלא עד זמן סעודה! ומה ת"ל מן הבוקר עד הערב? אלא מלמד שכל מי שמוציא דין אמת לאמתו מעלה עליו הכתוב כאלו היה שותף עם הקב"ה במעשה בראשית; כתיב הכא מן הבוקר עד הערב ובמעשה בראשית כתיב ויהי ערב ויהי בקר וגו'. (מכילתא)

The version found in the גמרא answers the question by stating that it is impossible that Moshe would sit and judge the people all day long as his Torah learning would suffer terribly. The מכילתא explains that it is not possible that Moshe judged all day long as judges only sit in court until the time for the morning meal (the 6<sup>th</sup> hour of the day).

However, the first question we asked on Rashi above now becomes a question on both the גמרא and the מדרש. If Moshe did not judge the people all day – according to the מכילתא only until the 6<sup>th</sup> hour of the day – what was Yisro's issue with Moshe's behavior?

Furthermore, while we have redirected our first question to Rashi's sources, a different problem arises with Rashi's commentary. Rashi, who always bases his commentary on the words of חז"ל, adds something into his commentary that is not mentioned in either of our sources. Rashi adds the words כאילו עוסק בתורה כל היום, an idea that he seems to have no source for whatsoever. And, not only does Rashi's addition not have any source, it seems to undermine the lesson itself. For the only possible source for Rashi would be the fact that the Torah says מערב עד בוקר, leading Rashi to wonder how it was possible that Moshe in truth only judged the people for a short time and yet the Torah reports that he judged from the morning until the night. Rashi thus concludes that one who judges for only a short time is considered to have immersed himself in learning for the entire day<sup>2</sup>.

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<sup>1</sup> As יתרו says in the following פסוק: למה אתה יושב לבדך

<sup>2</sup> One might ask: If we consider judging truthfully as if one immersed himself in Torah study the entire day, then why does the גמרא quoted above prove that Moshe most certainly did not judge all

But, if so, this would cancel out the lesson of being a partner to Hashem in creation, as the phrase *מן הבקר עד הערב* is now understood literally. In short, how can the words *מבקר עד ערב* teach that judging truthfully is considered both as if one learned all day and also as if one partnered with Hashem in the act of creation?

To the above we may answer that Rashi understood that the wording of *מבקר עד ערב* must include two different lessons. As we wrote at the beginning of the essay, it is not possible to conclude that the *פסוק* only came to teach the partner-in-creation lesson for the reasons stated above. Therefore, Rashi adds another lesson: that these words also come to teach that it is considered as if he learned Torah the entire day. And, it is equally not possible to conclude that the *פסוק* only came to teach the second lesson, for if so why is the wording *מן הבקר עד הערב* used<sup>3</sup> instead of the Torah simply saying *כל היום*. Thus, Rashi sees in the text itself the two lessons he records in his commentary.

Having clarified Rashi's words<sup>4</sup>, we can now turn our attention to the question we asked on Rashi's sources, the *גמרא* and the *מכילתא*, and try to understand what bothered Yisro, given the fact that Moshe only judged the people for a short time each day. Why did Yisro feel that Moshe's actions were so problematic?

In order to explain, it is important to note the commentary of the Ramban on the dialogue that takes place between Moshe and Yisro. The Ramban explains that in his answer to his father-in-law Moshe enumerated the roles that he was forced to undertake as the leader of the Jewish people. These roles are clearly described in *פסוק טו-טז*:

*טו ויאמר משה לחתנו כי יבא אלי העם לקרש אלהים: טז כי ייהיה להם דבר בא אלי*

This refers to Moshe's role as one who will pray for them when they are ill or assist them to find things they might have lost<sup>5</sup>.

*ושפטי בין איש ובין רעהו*

This refers to Moshe's role as one who will judge their disputes.

*והודעתי את חקי האלהים ואת תורתיו:*

This refers to Moshe's role as a teacher of Torah.

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day, for if so *תורתו מתי נעשית*? This does not seem to prove anything, for we could answer that he indeed did judge all day, but this is considered as if he immersed himself in Torah! Why would both the *גמרא* and the *מדרש* feel compelled to add in the issue of *שעה אחת*, seemingly convinced that Moshe did not judge the entire day?

We may answer this question by quoting the commentary of the *נצי"ב* in his *העמק דבר* in *פרשת אחרי* (יה:ה). He there seeks to explain the words of the *פסוק*: *אשר יעשה אתם האדם וחי בהם*. He explains that there is a difference between *לימוד התורה* and *עשיית התורה*. (This also explains the *תפילה* in which we say *ללמוד וללמד לשמור ולעשות ולקיים*, in which the words *לעשות* seem to be completely redundant). The *נצי"ב* explains that even if someone learns Torah he has not fulfilled his requirement *לעשות* until he has deeply understood its lessons. Only when his new and novel insight has resulted in a deeper understanding of his obligation to Hashem, only then has he indeed made the Torah his own - *לעשות* - and fulfilled this ultimate requirement. (According to the *נצי"ב* this is the meaning of learning *תורה לשמה*. To learn Torah for the sake of Torah itself, i.e. for the sake of understanding the Torah with my unique intellectual capabilities so that I may glean a deeper, personal, understanding of its lessons and how they guide my every action.)

This, explains the *נצי"ב*, is why the *גמרא* we have quoted says *מתי תורתו נעשית*. Moshe would certainly fulfill the requirement of learning Torah by judging truthfully, but, asks the *גמרא*, he would still need time to 'make' his Torah, therefore proving he could not have judged all day long.  
<sup>3</sup> The fact that in the following *פסוק* the wording is changed to *בקר עד ערב*, leaving out the *ה* which is more grammatically correct, surely is meant to draw our focus to the words *ערב* and *בקר* which are written in *בראשית*.

<sup>4</sup> To fully understand Rashi's intent see below and footnote 7.

<sup>5</sup> As we find that when *שמואל א ט:ט* sought out *שמואל* to assist him with his lost donkeys the *לדרוש אלקים נביא* uses the term *לדרוש אלקים נביא*.

But even so, what was so terrible about Moshe spending part of his day judging the people, part of his day acting as a spiritual guide and part of his day teaching?

I would like to offer two possibilities. The first can best be illustrated by asking a simple question. Why is it that one who judges even for a short time is considered as if he immersed himself in Torah study for the entire day? Is it some type of reward for agreeing to be a judge? I believe the answer is that being a judge, even just for a few hours each day, is something that totally occupies the thoughts of the judge for the entire day. Since the courts do not deal in the theoretical application of law, but rather in real life applications, where real people will suffer if one errs, it is simply not possible for one to 'leave the work at the office' and continue with other pursuits for the remainder of the day. One who judges, even for a short time, is thus excused from learning Torah in his 'free' time, as no such time exists. Rather, he falls under the category of one who truly wishes to learn Torah but simply cannot, and is credited as if he had studied<sup>6</sup>. Therefore, Yisro claimed that it was not tenable to try and fulfill all three roles listed above. The role of judge had to be delegated in order to free Moshe to fulfill the other roles<sup>7</sup>.

So that we would fully appreciate the incredible importance connected to the role of a judge – and thus understand why it could never be undertaken together with other communal responsibilities – the Torah writes *הבוקר עד הערב*, hinting to the lesson of our Musag. By comparing the meting out of justice to the creation of the world, *הז"ל* are teaching us an important lesson regarding the Torah's view of justice. This lesson is actually contained in the end of the first chapter of *פרקי אבות*:

רַבֵּן שְׁמַעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר, עַל שְׁלֹשָׁה דְבָרִים הָעוֹלָם קַיָּם, עַל הַדִּין וְעַל הָאֲמִתּוֹ וְעַל הַשְּׁלוֹם, שֶׁנֶּאֱמַר (זכריה ח) אֲמֵת וּמִשְׁפַּט שְׁלוֹם בְּשַׁעֲרֵיכֶם:

The *רבנינו יונה* which *הושן משפט* quotes in his introduction to his *טורים*<sup>8</sup>, explains that the concept of justice is the fundamental basis to the continued existence of the universe. He thus explains that our Musag echoes the teaching of the *משנה*:

הקב"ה ברא את העולם להיות קיים והרשעים שגוזלים והומסים מחריבין אותו במעשיהם, וכמו שמצינו בדור המבול שלא נחתם גזר דינם אלא על הגזל דכתיב כי מלאה הארץ חמס וכתוב בתריה (אחריו) והנני משחיתם את הארץ. נמצא שהדין המשבר זרועות רמות הרשעים ולוקח מידם טרף ומחזירו לבעלים מקיים העולם וגורם להשלים רצון הבורא יתברך שמו שבראו להיות קיים והרי כאילו נעשה שותף להקב"ה בבריאה.

The *טורים בעל הטורים* continues to describe how every leader of the Jewish people was lauded for ensuring that the society in which they lived was one based on justice for all. He concludes by adding:

וגם מלך המשיח שיגלה במהרה בימינו משבחו הפסוק בדבר משפט דכתיב ושפט בצדק דלים והוכיח במישור לענוי ארץ.

There was, however, another reason that Moshe could not adequately undertake all three roles. In truth it was not only the all-consuming role of judge that precluded the successful completion of the tasks, but there was an even more compelling reason for Yisro to criticize his son in law. The reason is contained in a peculiar phrase found in *פסוק כ*, where Yisro advises Moshe:

והזהרתה אתהם את החקים והתורות והודעת להם את הדרך ילכו בה ואת המצוה אשר יצונו:

Rov S.R. Hirsch finds the wording *והזהרת אתהם* (instead of *והזהרת אותם*) to be without parallel in all of Tanach. He writes:

This is the only occasion where *הזהיר* occurs with a double accusative. It is used either by itself as *והזהיר את העם* or as *והזהיר רשע מדרכו*, and in both cases it means to warn... On the other hand *זהר* quite definitely means light, luster, brightness and *הזהיר* to spread light, *והמשכילים יזהירו כוזהר הרקיע*. So *הזהיר* must mean to light up an object for somebody which

<sup>6</sup> However, this would not help him fulfill his obligation of *עשיית התורה*, only of *לימוד התורה*. (*ברכות ו.*)

<sup>7</sup> We now comprehend what Rashi was trying to convey when he added the issue of *בתורה* *עוסק* in *כאילו*, for this was to be the crux of Yisro's complaint.

<sup>8</sup> Rabbeinu Yaakov Ben Asher 1269-1340, authored the *ארבעה טורים* which was the forerunner of the *Shulchan Aruch*.

otherwise he would not have seen. Hence also in the double accusative, to cause an object to receive rays of light and to cause these rays to fall in the eyes of someone. So here it would mean: Cause the Law and the Teaching to shine clearly and brightly into their eyes and make them so important to them that they guard themselves against transgressing them.

Thus, one who truly wishes to teach must not merely convey the lessons but must illuminate them. He must teach them in a fashion whereby they will have an everlasting impact upon his students<sup>9</sup>. Yisro realized that this role was one that Moshe could best fulfill. He was the one who received the Torah directly from Hashem, and was thus best suited to become not only מקבל התורה but משה רבינו. He, more than any other, experienced the fire of Sinai, the fire of passion and illumination, in which Hashem gave the Torah to His people. He therefore must be the model of how Torah is to be taught for all time. This all-encompassing role, claimed יתרו, should never be compromised with any other obligation<sup>10</sup>, and most certainly not with the role of a judge.

We can now fully appreciate the criticism that יתרו levels at his son in law. To attempt to undertake both the role of teacher and judge, roles that ensure the survival of the Jewish people and indeed the survival of the entire world, would surely do injustice to both.

### Questions for Further Thought:

- A. Why do you think that it was only Yisro who noticed this issue? Why didn't G-d Himself or someone else inform Moshe of his mistake?
- B. Why do you think that it is justice that stands as the force that upholds the world?

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<sup>9</sup> I feel compelled to insert here a story I heard regarding a master Rebbe who was teaching a small group of five or six students. However, he taught the class with a thundering voice as if tens if not hundreds of students were present. When asked why the fiery passion was necessary, the Rebbe answered that he was not only teaching the five or six students in front of him but their children and their grandchildren as well. To have an impact that will last generations – והזהרת אותם – the lesson had to be taught with all the passion, depth and skill he could muster.

<sup>10</sup> All מהנבים should take heed of Rov Hirsch's words, for in them is contained the essence of what makes a teacher truly successful.