

**Potomac Torah Study Center**  
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**NOTE: Devrei Torah presented weekly in Loving Memory of Rabbi Leonard S. Cahan z"l, Rabbi Emeritus of Congregation Har Shalom, who started me on my road to learning almost 50 years ago and was our family Rebbe and close friend until his recent untimely death.**

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**Devrei Torah are now Available for Download (normally by noon on Fridays) from [www.PotomacTorah.org](http://www.PotomacTorah.org). Thanks to Bill Landau for hosting the Devrei Torah.**

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Living and raising a family only 14 miles from the center of government for the United States puts us among attorneys, judges, and government enforcers every day. Shoftim focuses on the ideal of justice in Judaism, including the famous mandate: "Tzedek tzedek tirdof" – righteousness, righteousness shall you pursue" (16:20). Rabbi Marc Angel, in his outstanding Devar Torah below, summarizes the meaning beautifully:

**To be religious means to serve God and humanity in righteousness, compassion and goodness. To be religious means to be honest, kind and thoughtful. Anyone who lacks these qualities is not "religious," no matter how careful he/she is in ritual observance. A religious Jew should be called "shomer Torah umitzvot", with the understanding that this phrase includes all the ethical and moral laws as well as the ritual observances. (Emphasis added)**

As Rabbi Angel explains, a religious Jew is not only Shomer Shabbas (observing the ritual mitzvot) but must also be rigorous in observing the mitzvot of proper behavior toward others. Religious observance includes kindness to fellow humans and animals, including compassion and assistance for those in need.

As most Americans turn their attention to the upcoming elections, righteousness includes process as well as results. Ideally, political discussion should focus on the most effective and ethical methods of ensuring incentives for innovation, productive and ethical behavior, and growth in the economy. Government should also aim to protect property, ensure safety (of workers and consumers), and avoid undue harm to the environment. When political discussion consists of claiming that the other side consists of liars, thugs and crazy people, neither side is pursuing righteousness.

Rather than focusing on current politics, I would rather mention two distinguished immigrants to our America whose yahrzeits came in the past two weeks. Nat Lewin, one of the most distinguished attorneys and tzadikim of our generation, honored the memories of his parents, Peppy Sternheim Lewin, a"h (16 Av), and Rabbi Dr. Isaac Lewin, z"l (28 Av), with beautiful obituaries that he has permitted me to attach by E-mail this week.

Shortly after Kristallnacht, in fall 1939, Peppy Lewin realized that the Nazis were about to invade Poland and that they would immediately transport the Polish Jews. She therefore moved her family to Lithuania and devoted herself to finding a way to obtain visas. Since Peppy was raised in Amsterdam, and her mother and uncle were Dutch citizens, she contacted the Dutch Ambassador in Riga and finally learned that the Dutch West Indies did not require an entry visa. She had the Ambassador endorse the Polish passports of all her family members with an endorsement stating that the Dutch possessions in the Americas did not require a visa. She then traveled to visit the Japanese consul in Kovno (Chiune Sugihara), who issued each family member Japanese travel visas to travel to Japan en route to the Dutch West Indies. Peppy Lewin and family alerted other Jews of this strategy, and in a single month, Sugihara wrote 2139 transit visas for Jews seeking shelter from the Nazis. Since the transit visas covered families, Sugihara's visas enabled at least 6000 Jewish refugees to escape the Nazi death camps.

Rabbi Dr. Isaac Lewin, the eldest son of the renowned rabbi of Reisha (Rzeszow in Polish), had already published scholarly articles in Polish, Yiddish, and Ivrit in Poland. When the family reached Japan, Rabbi Lewin was able to emigrate to the United States immediately, because he was on lists that both Agudah and Chabad sent to the US government listing distinguished rabbi refugees. Once in America, Rabbi Lewin wrote numerous articles in Yiddish for the "Morgen Journal" telling of Hitler's death camps and urging all Jews and the US government to intervene and save Jews. After the war, Rabbi Lewin assisted in efforts to recover Jewish orphans who had been hidden among non-Jewish families during the war. He was active in the early days of the United Nations. For many years, he was a distinguished professor of Jewish History at Yeshiva University, wrote numerous responsa, and served as principal of YU's high schools for girls. He was also very active among the leaders of Agudah.

My brief summary hits a few of the highlights of the distinguished careers of Peppy and Rabbi Isaac Lewin, z"l. Their lives illustrate the true meaning of Shoftim. "To be religious means to serve God and humanity in righteousness, compassion and goodness. To be religious means to be honest, kind and thoughtful." Shomer Shabbat is only the beginning of the life of a fully religious Jew. Actively working to help fellow Jews and other humans is also important – and these efforts determine who leaves a lasting impact on the world.

My beloved Rebbe, Rabbi Leonard Cahan, z"l, emulated Peppy and Dr. Isaac Lewin, z"l. His lessons, especially in his Devrei Torah, normally focused on helping others as important aspects of the mitzvot of a Jew. When the Soviet government enforced a restriction against protests near an embassy, Rabbi Cahan organized a protest of Rabbis in front of the Embassy, was the first to be arrested, and refused to pay a \$50 fine, choosing instead a jail term of two weeks to publicize the situation for Soviet Jews. May the lives of these great Jews inspire us to make our marks, helping to improve our world.

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**Please daven for a Refuah Shlemah for Natan ben Pesel, Hershel Tzvi ben Chana, Eli ben Hanina, Yoram HaKohen ben Shoshana, Gedalya ben Sarah, Mordechai ben Chaya, Baruch Yitzhak ben Perl, David Leib HaKohen ben Sheina Reizel, Zev ben Sara Chaya, Uzi Yehuda ben Mirda Behla, HaRav Dovid Meir ben Chaya Tzippa; Eliav Yerachmiel ben Sara Dina, Amoz ben Tziviah, Reuven ben Masha, Moshe David ben Hannah, Meir ben Sara, Yitzhok Tzvi ben Yehudit Miriam, Yaakov Naphtali ben Michal Leah, Ramesh bat Heshmat, Rivka Chaya bat Leah, Zissel Bat Mazal, Chana Bracha bas Rochel Leah, Leah Fruma bat Musa Devorah, Hinda Behla bat Chaya Leah, Nechama bas Tikva Rachel, Miriam Chava bat Yachid, and Ruth bat Sarah, all of whom greatly need our prayers. Note: Beth Sholom has additional names, including coronavirus victims, on a Tehillim list.**

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Hannah & Alan

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### **Drasha: Parshas Shoftim: Action Impact** by Rabbi Mordechai Kamenetzky © 2019

[Please remember Mordechai ben Chaya for a Mishebarach!]

Parshas Shoftim discusses the laws of judges, witnesses, and the procedures of the court to punish sinners. The passuk tells us "The hand of the witnesses shall be first upon him to put him to death" (Devarim 17:7) Why does the Torah require the witnesses to carry out the death penalty?

The story of Yosef Mendelevich, the famous "refusenik" imprisoned in the Soviet Union, shook the Jewish world in the late 1970s and early 1980s. After his release from jail in 1981, he visited America to greet some of the people who worked tirelessly behind the scenes to secure his release. Rabbi Moshe Sherer, president of Agudath Israel of America, was among those whom he met.

After speaking with him a little, Rabbi Sherer noticed that Yosef seemed weak and tense, and asked him why. He told Rabbi Sherer that he realized the seemingly relaxed attitude which American Jews have towards the state of

Soviet Jewry, and he is going on a hunger strike to inspire and raise awareness as to the fate of his brethren. He hoped his brave actions will counteract the indifference of American Jews, while serving as a reminder of what is going on behind the Iron Curtain. Rabbi Sherer noted the nobility of his actions, but told him that a hunger strike is no simple matter, and he is taking him to Rav Moshe Feinstein to ask if he is allowed to do so.

Upon arriving at Rav Moshe's home, Rav Moshe immediately invited them into the kitchen. He instructed Yosef that a hunger strike has no basis in the Torah, and he should not continue, lest he endanger his health, and maybe even his life. To assure him that his ruling was correct, Rav Moshe poured Yosef a cup of juice and instructed his wife to prepare him some eggs. Rav Moshe then bestowed his blessings on Yosef, and assured him that he can have a positive influence on the entire Jewish population – and eat healthy as well!

My grandfather Rav Binyamin Kamenetzky zt"l explains. The Rambam tells us that a person is drawn towards the behavior of his peers and neighbors. "Therefore," the Rambam instructs, "A person should make sure to live amongst tzaddikim and spend time with them, to learn from their ways."

On the contrary, someone who witnessed the colossal sin of idolatry was tainted by that experience. He saw a grave transgression, and now that sin becomes more "doable" in his eyes. To combat that, says the Torah, he must act. By being the ones to eradicate the sinners, the witnesses will eliminate the immoral impression which the sin had on them at the time that they saw and experienced it.

For as much as a sight can have an impact, an action can combat it.

As we approach Rosh Hashana, let us all take necessary action to come closer to Hashem, and we will too, eliminate some of our transgressions and missteps.

Good Shabbos!

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## **Can We Tolerate Dissent? Can We Not?**

by Rabbi Dov Linzer, Rosh HaYeshiva, Yeshivat Chovevei Torah © 2012, 2014, 2020

One of the primary institutions needed for the well running of society is its legal system, both the laws proper, and the bodies to adjudicate and enforce those laws. For those about to enter the Land of Israel, the substance of the laws is no less than all the mitzvot of the Torah. As to the judicial system that will enforce these laws – that is that focus of the beginning sections of this week's parasha, named, fittingly, Shoftim, judges.

The Torah commands not only the appointment of judges and officers of the law throughout the land, it also sets up a High Court and takes serious measures to protect the authority of this court. We are told that when a matter cannot be resolved otherwise, we are to take it to the place that God has chosen – Jerusalem – and bring it before the "priests and the judge who will be at that time" (17:9). This body, understood to be the Sanhedrin or High Court, will issue a ruling, and that ruling must be followed without deviation. Dissent will not be tolerated: "And the person who acts presumptuously, and will not listen to the priest who stands there to serve before the Lord thy God, or unto the judge, that man shall die, and you shall eradicate the evil from Israel" (17:12). The court will act harshly and decisively to stamp out any threat to its authority.

We can understand the need to protect the court's role as the highest and ultimate authority empowered to interpret the law. If people could interpret and apply the law as they saw fit, general lawlessness would ensue. Nevertheless, it is hard to identify with the harshness of the response – the death penalty! – for any deviation. Moreover, such squelching of opposing and critical voices would see to give the court absolute, unchecked power. What, then, is to stop absolute power from corrupting absolutely?

As far as the death penalty is concerned, the Rabbis have significantly limited its scope. While making it clear that the duty to follow the rulings of the court is incumbent upon everyone, the Rabbis have said that the death penalty of the verses is reserved for the zaken mamre, the rebellious elder. Only a great sage, a great legal scholar, can receive such a punishment. If he acts in opposition to the court, and not only acts, but – add the Rabbis – rules for others in this manner,

then he has positioned himself as a competing legal authority. Theoretical debate is fine, but to rule in practice against the court is not fine. This can truly undermine the court, and must be stopped.

The Rabbis impose many more criteria that must be met before one can be considered a *zaken mamre*, effectively making this category moot. With the death penalty effectively removed, how would the court's authority be defended when there was real opposition? Well, there are other ways.

In a well-known story, we hear that Rabbi Eliezer ruled that a certain oven was ritually pure while all other rabbis ruled that it was impure. Rabbi Eliezer provides miraculous signs that he is correct: a carob tree is uprooted, a stream of water flows backwards, and the walls of the study house bend in. The punch line that we are all familiar with is when the rabbis say to God: "The Torah is not in Heaven! It is for us to decide!" The authority of the court is so great, this audacious story tells us, that it trumps even God's own claim as to the true meaning of the Torah!

But the story doesn't end there. For the court's authority has been challenged not only by God, who in the story chuckles and steps back, but also by a great rabbinic sage, someone who is not willing to step down and go quietly, someone who acts in highly public and demonstrative ways to prove that he is right. This, the story tells us, is a serious threat.

This perhaps is the meaning of the carob, the stream, and the walls of the study house. These represent the societal structures and the natural order of things. For Rabbi Eliezer to push his position against the court, was an attempt to reverse the natural order, an act that could shake the foundations of society. And it must be stopped. And so: "On that day all that objects that R. Eliezer had declared to be ritually clean were brought in and burnt by fire." (Baba Mezia 59b). Without violence and without putting anyone to death, the rabbis demonstrated, firmly and decisively, that challenges to its authority would not and could not be tolerated.

All this is well and good. But with such absolute authority, who is to keep the court honest? What checks and balances exist over them? For this, we return to the beginning of the parasha— the appointment of judges. In the United States, the check that the other branches have over the Supreme Court is its ability to appoint and approve of the justices, and to create lower courts. This echoes the Torah's mandate that the people appoint the judges and also create regional courts: "Judges and officers you shall appoint in all your gates" – that is your cities – "and all your tribes" (16:18). Regional courts distribute the power somewhat – it is not all concentrated in the hands of the High Court. Beyond this, there is a mandate that the court not only represent the majority, but that they also work to protect the rights of the marginal and disempowered in society: "You shall not pervert judgment; you shall not respect persons... Justice, only justice, you shall pursue." (16:19-20). And the judges must protect themselves against outside influences: "You may not take a bribe" – even, say the Rabbis, if it is with the intent of judging correctly – "for a bribe blinds the eyes of the wise and corrupts the words of the righteous"(16:19).

Structurally, however, there is no one whose role it is to ensure that these mandates are being followed. The court must be its own watchdog. If they are found violating, they can be disqualified – a type of impeachment – but short of that, it is their own integrity which needs to keep them in check. It is for this reason that the Torah, in Yitro's advice to Moshe, describes the need for high personal character of the judges. This and only this is what will keep them honest.

But such men are hard to find, and – even when found – can be corrupted by power. A story is told that when Rav Maimon, the first Minister of Religion in Israel, was looking to re-form the Sanhedrin, he was asked by Ben Gurion: "But where will you find people who are *sonei batzah*, (Shemot 18:21), despisers of unearned gain?" To which Rav Maimon responded, "With enough money, you can get anything, even *sonei batzah*."

In looking at this system and its challenges, it is clear that a lot rides on the appointment of judges – who is chosen, who does the choosing, who they represent, and the strength of their personal character and integrity. Outside of Israel, halakhic authority is distributed and adherence to it is volitional (as a matter of secular law), and by nature the rabbis and the *batei din* have to be more responsive to those who would come to them. In Israel, however, we have courts with real concentrated authority, as described in our parasha. For such a system to be just, to be free of corruption and non-oppressive, the right judges are needed. Without this, such authority can do more harm than good. If we are to have a rabbinic body such as this, then it is incumbent upon us to make sure that we are all – as a society – living up to the mandate of our parasha and ensuring that the judges we appoint are the judges who will truly embody "justice, only justice" for the people whom they serve. With this we will be deserving to merit the blessing of the verse: "So that you will live and possess the land with the Lord your God gives you"(16:20), which teaches us, says Rashi, "that the appointment of fit and proper judges is worthy of give life to the Jewish People and to cause them to dwell in their land."

## **Parshas Shoftim -- When the Chips Are Down**

by Rabbi Mordechai Rhine © 2014 Teach 613

Two of the most fascinating mitzvos in the Torah are the mitzvos of charity and loaning money without charging interest. Sometimes it is challenging to give up one's potato chips own money to another person. "I too need MY money," one might say. Even when considering a loan, one might ask, "Must I lend my money out, without even getting interest payments in return?"

Jewish tradition maintains that everything that G-d blesses us with is given to us for a purpose. In order to be successful, some resources are meant to be kept, while others are meant to be given to others. This is similar to a carpenter who comes into a home with a hammer and nails. He knows very well that to be successful, at the end of the day, he will take his hammer with him, but he will leave behind the many nails that were used for the repair.

The wisdom of life is to know what to keep, and what to "invest".

The story is told of a woman who was sitting in an airline lounge reading a book as she waited for her flight to be announced. As she read her book she munched on potato chips that were next to her in a bag. Suddenly she realized that each time she took a handful of potato chips from the bag, the person sitting next to her would do the same. She didn't even look up from her book. She was simply astounded that someone else would take from HER bag of potato chips without asking. Still, she said nothing, although her astonishment and anger were building with each handful.

Once she was on the plane she opened her carry-on bag, and was most surprised to find that the bag of potato chips that she had bought earlier was still in her suitcase unopened. The bag that she had "shared" with that other lady- the one she had thought belonged to her- hadn't been her's at all.

I originally came across this story in the context of judging people favorably. The lesson of the story focused on the woman who had originally felt offended that "her" potato chips were being "stolen", and then regretted her feelings when she realized that the bag belonged to the other person. The lesson is that sometimes we think someone is taking what belongs to us, but we don't even know half the story.

But I believe that there is another powerful lesson that can be learned if we can focus our minds on the woman who so graciously shared her snack with the subject of the story. Why did she graciously allow her seatmate to share her own bag of chips, considering that her seatmate didn't even ask?

Some people live their lives with absolute clarity. They know that G-d gives us many blessings in our lives. Some are meant for us to keep, while others are meant for us to use for the benefit of others.

The custom of the Jewish people is to give charity generously- to tithe one's income- especially before the New Year. This is the season that we choose worthy Torah institutions and worthy charitable institutions to allocate the resources that were meant to be shared, before the day of judgment.

Yet, what happens if "the chips are down"? What happens if we feel that we could use the money ourselves?

The Torah perspective is that Tzadakah is not an extra. Tzedakah comes from the word Tzedek / Justice, because when one gives tzedaka one is merely exercising justice. A certain amount of your assets aren't really yours. They were given to you so that you can help others.

This is the Jewish attitude. Many of our assets aren't really ours. They were given to us much as the administrator of an escrow account, to help others. This is what enables us to give charity generously and to loan money interest-free, even when the "chips are down."

With best wishes for a wonderful Shabbos.

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## The Pursuit of Righteousness: Thoughts for Parashat Shofetim

By Rabbi Marc D. Angel\*

Professor Gershom Scholem wrote: "The Jewish mystic lives and acts in perpetual rebellion against a world with which he strives with all his zeal to be at peace" (Major Trends in Jewish Mysticism, p. 34). I think this statement is true not only of mystics, but of all truly religious individuals.

On the one hand, a religious person wants to live in harmony with God and humanity. He/she seeks a world in which the ideals of compassion, justice and truth are fully honored and obeyed. On the other hand, a religious person inevitably finds him/herself in rebellion against the rampant falsehood, cruelty and hypocrisy which characterize society. There is a horrible rift between the ideal and the real, and this rift tears at the soul of every truly religious individual.

The essential rift is not between the religious and the secular; it is between the righteous and the unrighteous. There are people who identify as "secular" but who live righteous, upstanding lives. There are people who identify as "religious" but who live unrighteous, immoral lives. Indeed, truly religious people are often most deeply pained when confronting moral turpitude among those who claim to be religious.

We expect—rightly—that people who present themselves as faithful adherents to Torah should live exemplary lives that set an example of righteousness and compassion. How painful it is to learn of "religious" individuals who engage in criminal activity, in child molestation, in spousal abuse. How disillusioning it is to confront "religious" teachers and leaders who display vile personality traits—arrogance, egotism, cruelty and self-righteousness.

It has become normative in the Orthodox community to refer to a religious Jew as a "shomer Shabbat," a Sabbath observer. Yet, as important as Shabbat observance is, I think this is the wrong term to use when identifying a religious Jew. Regrettably, we know of Jews who are "shomer Shabbat" but who are thieves, cheaters, and abusers. Being scrupulous in observance of the Sabbath or other ritual commandments does not in itself mean that a person is religious.

**To be religious means to serve God and humanity in righteousness, compassion and goodness. To be religious means to be honest, kind and thoughtful. Anyone who lacks these qualities is not "religious," no matter how careful he/she is in ritual observance. A religious Jew should be called "shomer Torah umitzvot", with the understanding that this phrase includes all the ethical and moral laws as well as the ritual observances.**

This week's Torah portion instructs us to appoint judges and officers who will ensure righteous judgment in our communities. "Justice, justice shall you pursue" (Devarim 16:20). This passage has often been interpreted to mean that we should be thoroughly imbued with justice. We should pursue justice only through just means, and we should never think that "righteous" ends can be achieved through "unrighteous" behavior.

This applies not merely to judges, but to all human beings. Our behavior should be pure, just as our inner lives should strive for purity. Truly religious people are not only troubled by the corruption and evils in our society; they strive to eliminate these corruptions and evils. They strive to improve themselves, their families, their communities, and society at large. They understand that the pursuit of righteousness is the foundation of religious life.

Religious people are perpetually in rebellion against a world with which they strive to be at peace. Peace begins with our own inner peace, putting our own spiritual lives in proper order. Once we are strong within ourselves, we can deal with our society with greater courage, honesty and success. The rebellion against evil will be won, one person at a time, one day at a time.

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\* Jewishideas.org. Note: Emphasis added.

## Parshas Shoftim

by Rabbi Yehoshua Singer\*

As we welcome this Shabbos, we are entering into the month of Elul, the month preceding the High Holidays. Beginning on Friday, the first day of Elul, we traditionally blow the shofar every morning and recite Psalm 27 twice a day to encourage us to begin the process of repentance. In pre-war Europe there was a sense of awe felt throughout the community as preparations began for the Days of Judgement and Atonement.

Yet, this year we continue to find ourselves wondering how we will find connection and inspiration. Even those able to attend services on the High Holidays are planning for shorter services, with minimal singing and minimal speeches. Elul – אלול - we are told is an acronym for אני לדודי יודוד לי – I am for my Beloved, and my Beloved is for me, an expression of the depth of our nation's union with G-d which is the foundation of our repentance and our awe and reverence. How are we to feel that union, the holiness and sanctity of our nation, and our place within that nation, at a time when we are so limited in our ability to connect and be inspired?

There is a Rash"i in this week's Parsha which suggests that it is specifically in our current situation of unknown futures and undefined challenges where we can truly understand what it means to be G-d's nation. Moshe forewarns us that when we enter Israel we should not learn from the different practices of soothsayers and fortune tellers utilized by the Canaanite nations. Their ways are abominable to Hashem, and it is for those practices that Hashem is removing them from the land. Moshe then gives an unusual command - "You shall be complete with Hashem your G-d." (Devarim 18: 9-13)

Rash"i (ibid. 13) explains that with the command to "be complete with G-d" Moshe was charging us with an alternative approach to soothsaying and fortune telling. We should live with a sense that we are completely with G-d, in His hands and in His care. We should place our hopes for the future with G-d, and should not seek out means and ways to know the future. Rather, whatever comes upon us we should accept with completeness. Rash"i concludes that when we take this approach, then we will be Hashem's nation and we will be set aside as Hashem's portion in His world.

Rash"i is telling us here that our attitude towards the unknown is what defines us as Hashem's nation. When we face challenging and uncertain times, we naturally seek to find stability and to aim for some form of security. Yet, Rash"i is telling us there is a higher approach. If we see ourselves as servants in G-d's army, as His people in His world, then our main responsibility is to properly handle the moment. Our mission is to live in the time, the place and the setting that G-d has assigned us and make the most of it. When we accept that every detail of our personal mission was crafted by G-d specifically for us, then we can completely accept the mission that G-d has assigned us. We can then "be complete with Hashem".

This higher attitude may be easier to attain now than it would be in our usual lives. While we are all drastically affected by the pandemic, the impact on each and every one of us is unique. From the variations of the direct impact of symptoms, to the variations of the collateral impact of the varying regulations within different professions and different demographics, our current life settings are all individually tailored. No two stories are the same. When we realize this, we can begin to appreciate that our current personal struggle was tailor made for us by G-d. With that understanding, we can begin to accept our mission and the responsibility that goes with it to focus on the present and to handle the challenges of today.

Far more important than when the virus will pass and what will be when it does, is how we handle our mission today. If we accept our current situation and focus on how we can best live in the reality G-d has chosen for us, then we can truly say this Elul that "I am for my Beloved, and my Beloved is for me."

\* Rabbi, Am HaTorah Congregation, Bethesda, MD.

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## Shoftim: Special Message for Hodesh Elul

by Rabbi Moshe Rube\*

Here is a beautiful Dvar Torah from Rabbi Dr. Tzvi Hersh Weinreb, Executive Vice President Emeritus of the Orthodox Union. It's a wonderful thought as we head into the holiday season. Shabbat Shalom, Chodesh Tov, and Shanah Tovah!

By Rabbi Dr. Tzvi Hersh Weinrab  
Executive Vice President Emeritus of the Orthodox Union

Our tradition teaches us to consider all of our life experiences as opportunities for self-education. Even life's "ordinary" events deliver lessons to be learned, though decoding that message is seldom a simple task. What messages to these recent, unique, and all-encompassing circumstances have for the human race, for the Jewish people, and for each of us as individuals?

In what realm of human knowledge can we find answers to the existential questions that we now, willingly or unwillingly, must confront?

One fascinating and sophisticated approach can be found in the pre-Holocaust writings of Rabbi Kalonymos Kalman Shapira, the Piaczesner Rebbe. He utilized the techniques of meditation and imagery in his pedagogical activities. Here is a description of the technique he used with incoming yeshiva students, loosely translated from his monograph Tzav V'Zeruz:

*If you wish to develop religiously, and not remain at age 70 the same person you are at your bar mitzvah, do this: Every year set yourself a goal. If your name is Reuven imagine the Reuven that you would like to be a year from now. What will be his character, his level of piety, his scholarly achievements? Let this imaginary Reuven be the measure by which you assess yourself. After a month ask yourself how far you have progressed toward becoming this imaginary Reuven. Do this every month until the end of the year. And then set yourself a goal for next year's Reuven. Continue to make regular assessments and set new goals for Reuven as your life proceeds.*

We have all endured many months of living a restricted life, deprived of the environments of the synagogue, of family occasions both joyous and sad, of work settings, and of places of entertainment. Wittingly or unwittingly, we are no longer the same Reuven as we were but several months ago. Ask yourselves, "How have I changed? Have I grown spiritually, or regressed? Have my domestic relationships improved or deteriorated? Has my physical condition become healthier, or weaker? Have I studied more Torah or less? Has the quality of my Torah study deepened or diminished? How exactly have I suffered? Has my prayer life intensified or dissipated? Have I become more efficient at my work, or less so?"

According to the Piaczesner Rebbe these are the assessments which we must undertake if we are to educate ourselves, if we are to begin to learn the lessons that this pandemic has to teach us.

But that's only the assessment component of the great Rebbe's pedagogical master plan. What about the goal setting component? What about the future?

We don't know exactly when and exactly how, but eventually we will emerge from our current circumstances. What kind of post-pandemic Reuven do we want to be then? How will this new Reuven differ from the Reuven of today? What lessons will he have learned from the deaths of loved ones? What lessons will he have learned about the value of simply breathing? What will he have learned about his family? Above all, for what kinds of things will he have learned to be grateful? What did he take for granted before this pandemic and now must sincerely appreciate?

We have begun the season of Ellul, during which these kinds of questions are especially apt. Now is the time to define for ourselves the type of person we want Reuven to be a year from now. Now we must begin the thorough introspective work which is desperately necessary if we are to grow religiously. We need to make an assessment of what we have learned from the pandemic. And we need to define where we go from here. What will next year's Reuven look like?"

\* Rabbi, Knesseth Israel Congregation, Birmingham, AL



## **Rav Kook Torah**

### **Shoftim: The High Court in Jerusalem**

#### **The Jurisdiction of the Sanhedrin**

What happens if a local court is unable to decide a case? In such situations, the Torah gives ultimate authority to the Sanhedrin, the High Court of 71 elders in Jerusalem:

*"If you are unable to reach a decision in a case... then you should set out and ascend to the place that God will choose. You must approach the Levitical priest and the judge... and you must do as they tell you. You must keep the Torah as they interpret it for you, and follow the laws that they legislate for you." (Deut. 17:8-11)*

In what areas did the High Court have jurisdiction? Was it only in legal/Halachic matters, or also in matters of faith?

In other words: does Judaism permit intellectual freedom in thought and beliefs, as long as one follows the codes of Halachic conduct? Or are there principles of faith which all must accept?

#### **The Clarity of the Torah of Eretz Yisrael**

The Babylonian and Jerusalem Talmuds appear to disagree over this issue. The Babylonian Talmud in Sanhedrin 87a states that the cases brought to the High Court were legal in nature. It explains that the term davar ('matter' or 'case') mentioned in the verse refers to a Halachic dispute. The Jerusalem Talmud, on the other hand, holds that davar also includes Aggadah or non-legal disputes. What is the crux of this disagreement?

Rav Kook explained that this dispute is a result of the essential difference between the Torah of Eretz Yisrael, as represented by the Jerusalem Talmud, and the Torah from outside the Land of Israel, as represented by the Babylonian Talmud.

The different approaches of the two Talmuds originate in the limitation of prophecy to the Land of Israel.<sup>1</sup> The Torah of Eretz Yisrael benefits from prophetic influence, and this affects its style and fundamental nature.

Since the Torah of the Land of Israel is rooted in prophetic knowledge and insight, elaborate discussions are superfluous. The scholars of Eretz Yisrael arrive at legal decisions through an intuitive insight into the underlying principles. This explains the terse style of the Jerusalem Talmud, where subtle hints are often sufficient in order to reach the final Halachic decision.

The Babylonian Talmud, however, lacked this prophetic input. The Babylonian scholars engaged in intricate discussions, using complex legal reasoning to clarify the Halachah. Thus, unlike the expression commonly found in the Jerusalem Talmud, "Ta chazi" or "Ta chami" ("Come and see"), the Babylonian Talmud uses the expression "Ta shema" ("Come and hear"). "Ta shema" indicates a greater distance from the source, analogous to the difference between the clarity of that which is seen as opposed to that which is only heard.

#### **Halachah and Aggadah**

The difference between the two Talmuds is not limited to style. The author of Chovot HaLevavot<sup>2</sup> wrote in his introduction that matters of faith and belief, which are the foundations of Aggadic material, do not fall under the jurisdiction of the High Court. This, he explained, is because these teachings are not a matter of received traditions, but rather the fruit of our intellectual efforts.

This position, however, is not universal. Other scholars, such as Rav Hai Gaon,<sup>3</sup> held that also Aggadic teachings are binding.

The opinion of the Chovot HaLevavot is suitable to the Torah as it manifests itself outside the Land of Israel. There, without prophetic influence, beliefs are based solely on our powers of logic and reason. Since interpretation of Torah principles is a matter of intellectual effort, it is natural to distinguish between the detailed study of Halachah, which

requires meticulous legal analysis, and the less rigorous study of Aggadah. For this reason the Babylonian Talmud distinguishes between Aggadah and Halachah, ruling that the prohibition of “Lo Tasur” (defying the rulings of the High Court) only applies to legal matters.

In Eretz Yisrael, however, where Torah is rooted in prophecy, the legal and non-legal areas of Torah share a common foundation. Beliefs, just as much as practical deeds, are grounded in received tradition and prophetic inspiration. Therefore the Jerusalem Talmud rules that the High Court’s authority also extends to Aggadah.

### **The Kohen and the Judge**

This distinction allows us to understand the Torah’s command, “You must approach the Levitical priest and the judge who will be at that time.” Why mention both the kohen and the judge?

These two officials represent two forms of Torah authority. The kohen represents Torah that utilizes prophetic means in order to ascertain the Halachah. The kohen’s Torah comes from his position as God’s emissary: “From the kohen’s lips they will guard knowledge... because he is an angel of the God of Hosts” (Malachi 2:7). This is particularly true of the High Priest, who required Divine inspiration in order to consult with the Urim and Thummim (Yoma 73).

The judge, on the other hand, represents Torah adjudicated according to logic and legal reasoning. By mentioning both the kohen and the judge, the Torah indicates that both approaches are valid, and both are binding. If the Torah had only mentioned the kohen, one might think that only Torah based on prophetic inspiration would retain this authority. And if the Torah had only mentioned the judge, one might have thought that there is no place for Divine inspiration in the Halachic process, as might be understood from the verse, “[The Torah] is not in Heaven” (Deut. 30:12).<sup>4</sup>

### **The Future Unity of Aggadah and Halachah**

It is natural to differentiate between the expansive study of Aggadah and the technical mindset required for intricate Halachic analysis. In the depths of the soul, however, there lies an inner aspiration to unite these two areas.

With the illuminating light of the era of redemption, the differences between these two areas of Torah will become less clear-cut. The esoteric part of Torah will become more revealed, and the exoteric part of Torah will become more transcendent and closer to the mystical side. The Zohar expresses the special connection of the Torah of Eretz Yisrael to the Messianic Era by characterizing the Babylonian Talmud as the temurah, the “substitute,” while the Jerusalem Talmud is the geulah — the redemption itself (Zohar Chadash, Ruth).

(Sapphire from the Land of Israel. Adapted from Igrot HaRe’iyah vol. I pp. 123-124, letter 103 (Tevet 5668); Orot pp. 89-90.)

### **FOOTNOTES:**

1 See Mo’ed Katan 25a; Kuzari II:14.

2 Rabbi Bahya ibn Paquda, eleventh-century scholar and philosopher.

3 The head of the Talmudic academy at Pumbedita in Babylonia (modern-day Iraq) (939-1038).

4 The Talmud in Baba Metzia 59b records a disagreement regarding the status of an oven made from coils of clay (tanur akhnai). Rabbi Eliezer supported his position with miracles and even a Heavenly Voice (Bat Kol). But the Sages still ruled against Rabbi Eliezer, insisting that decisions are reached by majority rule; miracles and Heavenly Voices are not part of the decision process, as “The Torah is not in Heaven.”

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## **The Judge and the Refugee** **Based on the Teachings of the Lubavitcher Rebbe** Adaptation by Former UK Chief Rabbi, Lord Rabbi Jonathan Sacks\*

In the Torah section of Shoftim (Deuteronomy 16:18–21:9) we read of the cities of refuge, to which a man who had killed

accidentally could flee, finding sanctuary and atonement. The chassidic masters note that Shoftim is always read in the month of Elul—for Elul is, in time, what the cities of refuge were in space. It is a month of sanctuary and repentance, a protected time in which a person can turn from the shortcomings of his past and dedicate himself to a new and sanctified future.

The Lubavitcher Rebbe analyzes an important feature of the cities: they were only to be found in the land of Israel, even though the judges and officers who executed Torah law were to be appointed wherever Jews live. Why does the law extend everywhere, while refuge belongs to the Holy Land? And what does this imply for the month of Elul, our place of spiritual refuge in the calendar of the Jewish year?

### **A Paradox**

Sifri interprets the opening verse of our Parshah, “You shall set judges and officers in all your gates,” to apply to “all your dwelling places,” even those outside Israel. It then continues: One might think that cities of refuge were also to exist outside the land of Israel. Therefore the Torah uses the restrictive expression “these are the cities of refuge” to indicate that they were to be provided only within Israel.

Nonetheless, Sifri says that someone who committed accidental homicide outside the land of Israel and fled to one of the cities of refuge would be granted sanctuary there. It was the cities themselves, not the people they protected, that were confined to the land of Israel.

The fact that Sifri initiates a comparison between the “judges and officers” and the cities of refuge indicates that they have a relationship to one another. It is this: The judges who applied the law and the officers who executed the sentences did not aim at retribution, but at the refinement of the guilty. And the aim of the cities of refuge was to impose on the fugitive an atoning exile—atonement in the sense of a remorse which effaces the crime until he regains his original closeness to G d’s will.

We might then have thought that if this safeguard, this place of atonement, was available in the holy environment of the land of Israel, it would be all the more necessary outside its borders, where it was easier to fall into wrongdoing. And yet only judges and officers were to be provided beyond Israel’s borders—only the agents of the law, not its refuge.

### **Transcendence or Empathy**

There are two phases in teshuvah, or repentance. There is remorse over what has been done, and commitment to act differently in the future. These are inextricably connected. For the only test of sincere remorse is the subsequent commitment to a better way of life. To be contrite about the past without changing one’s behavior is a hollow gesture.

This is the deeper significance of the law that the city of refuge is found only in the land of Israel. For a man could not atone while clinging to the environment which led him to sin. He might feel remorse, but he would not have taken the decisive step away from his past. For this, he had to escape to the “land of Israel,” i.e., to holiness. There, on its sanctified earth, his commitment to a better future could have substance.

Judges, however, could be appointed outside the land of Israel. For it is written in Ethics of the Fathers, “Do not judge your fellow man until you come to his place.” A court which sits in the land of Israel cannot know the trials and temptations which exist outside, or the difficulties of being loyal to one’s faith in a place of exile. The land of Israel is a land where “the eyes of the Lord your G d are always upon it, from the beginning of the year to the end of the year.” It is a land of divine grace. One cannot judge a man by its standards if that man lives outside its protection.

So judges had to be drawn from the same environment as their defendants. They had not only to know what he had done; they had to experience for themselves the environment which brought him to it.

Rabbi DovBer of Lubavitch (the second Chabad rebbe) was once giving private audiences, when he interrupted them for some time before continuing. It transpired that a man who had had an audience wanted the rebbe’s help in setting right a particularly degrading act he had done. The rebbe later said to one of his close disciples that one must discover some analogous quality in oneself, on however refined a level, before one can help someone to remedy his sin. His interruption of the audiences had been to attempt to find in himself this point from which he could identify with the sinner.

It was this principle that lay behind G d’s command to Moses when the Israelites had made the Golden Calf: “Go, get

yourself down, for your people have dealt corruptly.” For at that moment, Moses was inhabiting the spiritual heights of Mount Sinai, neither eating nor drinking, divorced from the world. The Israelites were degraded through their sin. But by telling him to “go down” to “your people,” G d created a bond between Moses and the people, on the basis of which Moses was able to plead on their behalf.

### Three Degrees of Refuge

Although all the cities of refuge were to be in the land of Israel, they were not all in the same territory. There were the three in the land of Israel proper—the Holy Land. Three were in the territories east of the Jordan, where “manslaughter was common” (Talmud, Makkot 9b). And when in the messianic era “the L rd your G d will enlarge your borders,” three more will be provided in the newly occupied land.

This means that every level of spirituality has its own refuge, from the relatively lawless eastern territories to the Holy Land, and even in the world of Moshiach. And this is true spiritually as well as geographically. At every stage of one’s religious life, there is the possibility of some shortcoming for which there must be refuge and atonement. Even if a person never disobeys G d’s will, he may still not have done all within his power to draw close to G d.

This is the task of the month of Elul. It is a time of self-examination, when each person must ask himself whether what he has achieved was all that he could have achieved. And if not, he must repent, and strive towards a more fulfilled future. Businessman and scholar—the one who has lived in the world and the one who has spent his days under the canopy of the Torah—both must make Elul a time of self-reckoning and refuge.

It is the way of the Western world to make Elul, the month of high summer, a time for vacation from study. The opposite should be the case. It is, above all, the time for self-examination, a time to change one’s life. And the place for this is the city of refuge in the “Holy Land,” which, in the geography of the soul, is a place of Torah.

Each Jew should set aside Elul, or at least from the 18th onwards (the last 12 days, a day for each month of the year), or at any rate the days when selichot are said, and make his refuge in a place of Torah.

A refuge is a place to which one flees—that is, where one lays aside one’s past and makes a new home. Elul is the sublimation of the past for the sake of a better future. And it is the necessary preparation for the blessings of Rosh Hashanah, the promise of plenty and fulfillment in the year to come.

\* From *Torah Studies* (Kehot 1986), an adaptation of the Lubavitcher Rebbe’s talks by Britain’s Chief Rabbi, Dr. Jonathan Sacks. © Chabad 2020.

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### Holy Witnesses

By Menachem Feldman\*

Witnesses are an important part of every judicial system. Yet, as is often the case, Judaism presents a deeper dimension and perspective on the function and purpose of witnesses.

According to the Talmud, there are two categories of witnesses, “clarifying witnesses” and “establishing witnesses.” Clarifying witnesses are witnesses in the conventional sense. They observe an event and later testify that the event indeed occurred; for example, witnesses can testify that a man borrowed one hundred dollars from his friend. The witnesses, however, have no part in the transaction; the borrower is morally obligated to repay the loan whether or not the witnesses testify. It is the loan that obligates him, not the witnesses.

The second category, “establishing witnesses,” is entirely different. According to Jewish law, there are events that have no legal significance unless there are witnesses present. For example, the witnesses at a wedding ceremony not only attest that the wedding took place, but actually establish the marriage itself. Without proper witnesses, the marriage would have no legal significance.

In other words, the “clarifying witnesses” reveal the legal reality, and the “establishing witnesses” actively participate in creating a legal reality. But these two categories of witnesses are not just legal definitions; they’re relevant to the inner,

spiritual dimension of the Torah.

The prophet Isaiah tells us: “‘You are My witnesses,’ says the L rd.”<sup>1</sup> We are the witnesses charged with the responsibility to “testify” and reveal the truth of G d throughout the earth. Our spiritual task as witnesses contains both dimensions, clarifying and establishing. We serve as “clarifying witnesses” when we recognize the presence of G d in the magnificent universe He created. When we remind ourselves and others of the good inherent in the world and within people.

Yet merely observing, appreciating and sharing does not capture the full potential and greatness of the Jew, for the Jew is a witness to a marriage, the marriage between Creator and creation, between the G d and the Jewish people, between heaven and earth. As previously explained, the witnesses of a marriage are “establishing witnesses,” part of the creation and establishment of the marriage.

To be a witness to the marriage of heaven and earth, the Jew must do more than appreciate and focus on the inherent G dliness found on earth. The Jew must partner with G d in creation. The Jew actively improves and elevates the world around him. He transforms the mundane by imbuing it with meaning and holiness. The Jew doesn't just tell a story, the Jew seeks to actively create it.<sup>2</sup>

#### **FOOTNOTES:**

1. Isaiah 43:10.

2. Adapted from the teachings of the Rebbe, Reshimot, 160.

\* Director of the Lifelong Learning Department, Chabad Lubavitch Center, Greenwich, CT. © Chabad 2020.

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### **An Insight on Parshat Shoftim: Trusting in G-d**

By Rabbi Moshe Wisniefsky\*

**Moses told the Jewish people, "Be wholehearted with G-d" (Devarim 18:13)**

In the course of fulfilling our Divine mission in life, we can sometimes wonder if we have properly ascertained what G-d wants of us in a specific situation. After all, we are only human, and we all know only too well how possible it is to misinterpret the meaning of messages.

The answer to this concern is to "be wholehearted with G-d," meaning to trust that G-d does not place us in situations that we are insufficiently equipped to handle. If, from our part, we make sure to enlist G-d's help and rely on it -- ignoring whatever internal or external voices there may be that attempt to dissuade us -- Divine providence will ensure that we possess all the knowledge and other qualities necessary to navigate life's challenges.

**– Kehot's Daily Wisdom 2**

**\* An Insight from the Rebbe.**

Gut Shabbos,  
Rabbi Yosef B. Friedman  
Kehot Publication Society

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## **In Memory Of My Mother, Peppy Sternheim Lewin, a”h: The Woman Responsible for Sugihara’s Famed Visas <sup>1</sup>**

By Nathan Lewin - 16 Av 5780 – August 6, 2020

Forty years ago, sitting in my office in Washington on a Thursday, I was jolted by a telephone call that informed me that my mother, a”h, was suddenly taken from us during a visit she and my father, zt”l, made to Yerushalayim. Because El Al unexpectedly advanced its flight to Israel that night, I could not even attend her levaya. My farewell came 30 days later at the hakamas matzeva on Har Hazeisim.

Growing up in our home in New York, I knew she had countless friends who admired and loved her. But I was astounded to hear from much younger folks how her warmth and sage advice had influenced their lives. She embodied the line of Eishet Chayil that reads, “Piha patcha b’chachma.”

All who knew her benefited from her wisdom. In fact, her wisdom saved thousands of Jewish lives. Because of her foresight and determination, our immediate family escaped the worst of the Shoah, and there are now thousands of Jews living in the United States, Europe, and Israel who owe their lives to my mother’s persistence. She was too modest during her all-too-brief lifetime, however, to seek public acclaim for what she had accomplished.

She was born in Baligrod, Poland, in 1911 to Naftali Sternheim and Rachel Lieber Sternheim. Naftali left Galicia at a young age and took up residence in Amsterdam. He prospered there so grandly that he and his family were awarded Dutch citizenship – no mean feat at the time.

Naftali remained a totally frum Jew and gave both his daughter (known then as Pepi) and her younger brother Leo (Levi) thorough Torah educations. My mother studied at “Asher’s,” the well-known Jewish European boarding school for girls. She also received a rounded secular education, even taking classes as the University of Berlin. She spoke Dutch and German fluently. <sup>2</sup>

While in Amsterdam, Naftali Sternheim remained kept abreast of news in Galician Poland. He admired what he read of the accomplishments of Aharon Lewin, Hy”d – the rabbi of Rzeszow (“Reisha”) – who had been elected by the Jews of Poland to the Polish legislature (the “Sejm”) and whose published original Torah lessons and responsa had achieved international renown. (Rav Lewin was the author of HaDrash VeHa’iyun, Birkas Aharon, Avnei Chafetz, and other works.)

Naftali Sternheim knew that the Reisha Rav had a son Yitzchak who, besides being a talmid chacham, had earned a reputation at a young age by authoring articles in Polish, Hebrew, and Yiddish, and by studying for a law degree at the University of Lvov.

Rav Meir Shapiro, zt”l – the originator of Daf Yomi – visited Amsterdam on a fund-raising trip for his path-breaking Yeshiva Chachmei Lublin. When he met Naftali Sternheim (who doubtless gave him a substantial contribution), Naftali told him he had an accomplished daughter who would be a proper match for the Reisha Rav’s brilliant son.

Rav Meir Shapiro and the Reisha Rav were very close. Both had been elected to the Sejm, and they were in frequent contact. When he returned from his trip, Rav Shapiro suggested the shidduch to Rav Aharon

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<sup>1</sup> For the published article, go to <https://www.jewishpress.com/review/in-print-review/in-memory-of-my-mother-peppy-sternheim-lewin-ah-the-woman-responsible-for-sugiharas-famed-visas/2020/08/06/>

<sup>2</sup> At this point in the original, there is a photo with this text: A copy of the second page of the Leidimas, containing both Zwartendijk’s handwritten notation (bottom left) and Sugihara’s handwritten notation (top right).

Lewin.

A copy of the first page of the list Chiune Sugihara maintained of the people to whom he issued visas. Nathan Lewin's grandmother (Rachel Sternheim) is number 16 on the list. His father (Isaac Lewin) is number 17. Number 18 is his uncle (Levi [Leo] Sternheim). After Leo Sternheim received his visa, he told his chavruta about it. Word spread like wildfire and the very next morning, a mob gathered outside Sugihara's consulate.

Rav Shapiro was tragically niftar at an early age and never made it to my parents' chassunah. After their marriage, my parents settled in Lodz because Naftali Sternheim had invested in textile mills there. Soon after they took residence there, my father, already renowned, was elected by the Jews of Lodz to the City Council. (He recounted his experiences confronting the Lodz Council's notorious anti-Semites in his essays titled "MiBoker LaErev" published by Mossad HaRav Kook.) I was born in Lodz in January 1936. My mother was an avid reader in Dutch and German. (Since my father didn't know Dutch and my mother spoke no Polish before her marriage, their common language – until they both learned English – was German.) She followed closely what was happening in Germany as Hitler assumed power.

In the fall of 1939, months after Kristallnacht, the press speculated that Hitler might invade Poland. Exemplifying the admirable path that Rabbi Shimon extols in Pirkei Avot, "roeh es ha-nolad – properly anticipating the future," she foretold that a Nazi invasion of Poland would be a catastrophe for Jews. I often heard in my youth that my mother made my father promise that, notwithstanding his official position in Lodz, he would, if Hitler invaded, immediately transport our entire family eastward.

The Sternheim family were visiting my parents in Lodz on September 1, the date of Hitler's invasion. My parents decided we should all travel immediately by train to the border with Lithuania, cross it, and take refuge in Vilna. (It took only one week for the Nazis to reach Lodz.)

Naftali Sternheim thought he should first return to Amsterdam to collect diamonds he had there and then join us in Lithuania. He took a commercial flight to Amsterdam. Relatives reported to me years later that they witnessed diamonds sewn into the lining of his coat in Amsterdam. He then took a train that was believed to stop at a Swiss border point where Jews could be smuggled into Switzerland.

He never rejoined the family, however. He was delivered by Swiss border guards to the Germans and murdered in Auschwitz. My brother Naftali, born in the United States, and now a talmid chacham active in teaching Torah and community service in Boro Park, is named after him.

From the contested Polish-Lithuanian border point, my parents, my grandmother and uncle, and I walked through a forest into Lithuania. I often heard in my childhood that, as a three-year-old, I was carried through the woods in the middle of the night and warned that wolves would devour me if I made a sound. I obeyed and remained silent. And so we arrived in Vilna, joining the many Polish Jews who had fled Poland as soon as Hitler invaded.

It was in Lithuania that my mother's foresight and persistence led to a major breakthrough that is now recognized by historians. Seeing the "nolad" – what was in store – she sensed that Hitler's appetite wouldn't be sated with Poland and that Lithuania would soon come under his rule. She therefore began searching for some other destination for our family.<sup>3</sup>

There was, however, no country in 1940 that was ready to issue visas to Jews fleeing Poland. Furthermore, by marrying a Polish citizen, my mother had lost her Dutch nationality and was now a Polish

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<sup>3</sup> At this point, the original article has an illustration with this text: A copy of the handwritten notation that Ambassador DeDecker's put in the Polish passport of Nathan Lewin's mother. Zwartendijk copied this note verbatim into the Leidimas.

citizen. Her mother and brother Leo, however, remained Dutch citizens, so my mother approached the Dutch honorary consul in Kaunas ("Kovno"), a businessman named Jan Zwartendijk. (Kovno was a short distance from Vilna.) Could we travel to the Dutch East Indies, to Java, which seemed in 1940 to be a harbor safe from the Nazis?

On instructions from his superior in the Netherlands' foreign office, Zwartendijk told my mother that only Dutch citizens had the legal right to enter the Dutch colony. Foreigners would not be issued visas because conditions in the Dutch East Indies were unsettled. Only my grandmother and uncle would be admitted.

My mother pursued her goal. The Dutch ambassador in Riga was L.P.J. deDecker. She wrote a letter to him, explaining our plight and asking him whether Polish citizens related to Dutch citizens could be admitted to the Dutch colony. DeDecker replied that the Netherlands had stopped issuing visas to the Dutch East Indies. My mother persisted in a second letter. She was, after all, a former Dutch citizen. Was there no Dutch colony where she would be welcome?

DeDecker answered her letter. The Dutch West Indies, including Curacao, could allow her entry if she received permission from the governor of Curacao. Here my mother's ingenuity again came into play. She asked deDecker in a third letter whether he would endorse her Polish passport with the declaration that no visa was needed for entry to Surinam or Curacao, but omit any reference to the need for authorization of the governor. DeDecker replied that she should send him her passport. She did.

Polish passport No. 907496, issued to Pessla Lewin, came back to Vilna by mail with an endorsement of the Dutch ambassador dated July 11, 1940, declaring in French that the admission of foreigners to Surinam, Curacao, and other Dutch possessions "en Amerique" (in America) did not require a visa. (Photos of the relevant pages are reproduced on page 221 of my father's book *Remember the Days of Old* published in 1994. The original passport is lost.)

My mother then traveled to Kovno with her endorsed Polish passport and our valid Lithuanian safe-conduct travel document, a "Leidimas." She asked honorary consul Zwartendijk to copy deDecker's declaration onto the "Leidimas." Viewing it as an instruction from his superior – the Dutch ambassador in the region – Zwartendijk copied the notation verbatim on July 22, 1940.

My mother and her brother Leo then proceeded to the Japanese consul in Kovno, Chiune (Sempo) Sugihara. On July 26, 1940, Consul Sugihara wrote, in Japanese characters, on my parents' "Leidimas" and on the travel documents of my grandmother and uncle, the first Japanese transit visas issued to Jews fleeing Poland purportedly en route to the Dutch West Indies.

The list maintained in the Tokyo foreign ministry of Sugihara visas lists as No. 16, 17, and 18 visas issued to Rachel Sternheim (my grandmother), citizen of the Netherlands, Isak Levin (my father), citizen of Poland, and Levi Sternheim (my uncle), citizen of the Netherlands.

My father's visa included my mother and me as a four-year-old nestled on her shoulder. I still have my parents' "Leidimas," and it will remain a family treasure. (When Nobuki Sugihara, Chiune Sugihara's only living son, visited New York two years ago, I showed it to him at a public gathering. Japanese news photographers snapped our picture exhibiting it, and Nobuki took a photo of it for his own records.)

The refugee Jews in Vilna, including future Israeli Minister of Religion Zerach Warhaftig, promptly heard of this avenue of escape from my uncle Leo, whose chavrusa at the Telshe Yeshiva was Nathan Gutwirth. They hurried to Kovno where, according to the autobiography of Sugihara's wife, a crowd of Jews surrounded the Japanese consulate on July 27, 1940, the day after our visas were issued. Sugihara was instructed by the Japanese foreign ministry not to issue these transit visas, but he did so in violation of that instruction, qualifying him as a Yad Vashem "Righteous Gentile." Jan Zwartendijk, who



endorsed many travel documents with deDecker's language (albeit with a rubber-stamp so that he didn't have to write each long-hand), was also accorded that title when many Sugihara beneficiaries, including me, wrote to Yad Vashem.

In total, over the course of a month, before being recalled from his post at the end of August, Sugihara wrote in Japanese characters 2,139 transit visas for Jews seeking shelter from the Nazis.

Many of these visas were, as was ours, for a family. It is fair to say that at least 6,000 refugees were rescued with Sugihara visas. Now – 80 years later, counting descendants of Sugihara beneficiaries who had large families – there may be more than 100,000 Jewish lives that can be credited to the Zwartendijk-Sugihara effort.

Our family traveled from Vilna to Moscow and then, by the Trans-Siberian Railroad, to Vladivostok. The Soviet paradise miraculously honored Sugihara's visas and allowed us and other Jewish refugees (which included, according to my father's report, 350 rabbinical students and 85 Mirrer Yeshiva rabbis and talmidim) to go by ship to Japan.

My father reports that the Jewish community of Kobe then had about 70 families. They formed a committee to care for the refugees and rented homes in which the refugees could stay. Many more recipients of Sugihara visas soon followed.

My earliest memory is of Japan, living in an apartment that had been leased for refugee Jews. We were there only a few months before my father received permission for our immediate family to come to the United States. Agudath Israel and Chabad had both put him on a list of distinguished rabbis.

My grandmother and uncle were denied entry to the United States, and they traveled to the Dutch East Indies. My grandmother survived the war in a Japanese enemy alien camp, but my uncle died wearing a Dutch military uniform on an island off the coast.

My mother settled comfortably into the United States. She loved America for its freedom and culture. She quickly embraced its language, its literature, and its museums, while retaining the commitment to Torah and mitzvos that she had learned at home and that was encouraged by my father, a central figure in the Agudath Israel World Organization. She methodically wrote out and studied English-language phrases and idioms in order to converse comfortably in English.

She never boasted of her heroic efforts that had saved thousands of Jewish lives. She left the limelight to my father, who wrote vigorously in Yiddish about "Churban Europa," edited seven volumes in Hebrew titled "Eleh Ezkerah" containing the biographies of kedoshim, and fought tirelessly for every Jewish cause both during the war and in the decades that followed.

Although my mother often recounted our foray through the forest from Poland to Lithuania, she never detailed her conversations with Zwartendijk or Sugihara. I foolishly never asked. Years after she was gone, my father first described, in one of his many published books, the wisdom, ingenuity, and persistence of Peppy Lewin, a"n, that should forever be chronicled in Jewish history books.

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## **RABBI DR. ISAAC LEWIN, ZT"L – MY FATHER – ON HIS 25<sup>th</sup> YAHRZEIT (28 Av) <sup>4</sup>**

By Nathan Lewin

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<sup>4</sup> This article, perhaps edited, is likely to appear soon in The Jewish Press.

“A gitte voch, a gezinte voch, a mazeldike voch, un der zaide zolt balt befreit veren.” Growing up in New York City in the early 1940’s, I heard this refrain recited by my father every Saturday night after Havdalah. (Translation from Yiddish: “May we have a good week, a healthy week, a lucky week, and may grandfather soon be freed.”)

Yiddish was not the language we spoke at home. As soon as they settled in the United States, my parents – both fluent linguists – learned English. They trained me, then their only child, to speak English at home. But the Yiddish phrase – “der zaide zol balt befreit veren” – still rings in my ears.

I was five years old when my father and I landed in San Francisco on March 20, 1941, on a ship that came from Yokohama, Japan. My mother, a”h, had remained in Kobe with her mother and her brother, who had journeyed with us on Sugihara visas, because they did not have the right to accompany my father. He had been granted a special nonimmigrant visa because he was on lists of distinguished rabbis that Agudath Israel and Chabad had sent to the State Department. When her visa was about to expire, my mother came to America, and my grandmother and uncle, Dutch citizens, traveled from Japan to the Dutch East Indies.

I have little personal recollection of our life in the United States in the early 1940’s. But I do remember vividly the subject that monopolized my father’s days and nights after we arrived in America. It was “hatzala” – rescue.

My father was the eldest son of the renowned rabbi of Reisha (Rzeszow in Polish), who the Jews of Poland twice elected to the Polish parliament (the “Sejm”). Rav Aharon Lewin (pronounced “Levin” in Poland) was a great *talmid chacham* who published halachic responsa (“Avnei Chefetz”), a magnificent commentary on much of *Maseches Brachos* (“Birkas Aharon”), and a commentary on Torah (“Ha-Drash Ve-Ha-Iyun”) that he wrote while riding by train each week in the first-class carriage at government expense, from Rzeszow to Warsaw for sessions of the Sejm. He was self-taught in Polish and German. As I was growing up in America, Jews who had heard him speak told me that they marveled at his oratorical skill in Yiddish, Polish, and German.

While still in his twenties in Poland, my father published scholarly and timely articles in Polish, Yiddish, and Ivrit. He studied for a degree at the University of Lvov, and was awarded a doctorate in law in 1937. Shortly after my parents settled in Lodz, my father was elected to the Lodz City Council. When he battled the Polish anti-Semites on the Council, they jeered at him with cries that he and all Polish Jews “go back to Palestine.” (I recall Yitzchok Meir Levine, signer of Israel’s Declaration of Independence and leader of Agudath Israel in Israel, telling my father that if my father had lived in Israel when the State was declared, he would have been the nominee of the Agudah for the “dati” seat on Israel’s first Supreme Court. Because the religious bloc had no candidate with a law degree, that seat was filled by Professor Simcha Assaf, who was not an attorney and had no formal legal diploma.) My father’s *semicha* and law degree won him the formal title “Rabbi Dr. Lewin” in America. He kept the original spelling of the family name although it was pronounced differently in America than it had been in Poland.

It was natural for my father to turn to the Yiddish press in New York and write for the Yiddish newspapers. That was how he supported our family in the early days after our arrival in America.

Three Yiddish newspapers appeared daily on local newsstands in New York in the 1940’s. Orthodox Jews bought and read the “Morgen Journal.” The less devout read the “Tog.” Socialists and free-thinkers read the “Forverts” – grand-daddy of today’s “Forward.” My father became a regular correspondent for the “Morgen Journal” and its weekly magazine supplement “Der Amerikaner.”

My father’s favorite toy was his portable Hebrew typewriter. I would fall asleep each night on the living-room sofa of our one-bedroom apartment to the clickety-clack of that machine. My father was a hunt-and-peck typist, using two index fingers at incredible speed.

I became accustomed to the racket of the typewriter. My sleep was frequently interrupted by midnight phone calls from individuals with exotic multi-syllable names. Kal-ma-no-vitch. Schen-ko-lev-ski. I discerned that their calls concerned crises relating to the rescue of Europe's Jews.

Soon after arriving in America, my father contacted Rabbi Eliezer Silver of Cincinnati and joined with him and others in Hatzala efforts. Moreinu Yaakov Rosenheim, president of the international Agudah movement, had reached America as a refugee in 1940, and my father became his closest associate.

Awakening and galvanizing the American Jewish community became his obsessive goal. The headline of an article by him published in the "Morgen Journal" in February 1942 – one year after our arrival in America – screamed his message: "Will We Allow the Elimination of the Jews in Polish Ghettoes?" (My translation from Yiddish.) He described the starvation and the deaths "fun hunger und kelt" in the ghettos. "How long can the lives of our brothers and sisters continue under these conditions?" He warned prophetically, "Nothing will be left of them but graves, and maybe not even those." He initiated a refrain that he sounded again and again in the following months: "How will American Jewry respond to a situation that is unparalleled in the thousands of years of Jewish martyrdom?"

My father pleaded for action: "We must do what we can to rescue millions of innocent victims from starvation in the ghetto purgatories. The way is open. It is not easy. It takes labor and dedication. Can that deter us? Do not delay! Do not be silent!"

In August and September 1942 cables arrived from Gerhart Riegner and Isaac Sternbuch. They revealed the Nazis' genocidal program – already underway – to murder millions of Jews in German-occupied Europe. The State Department called the Riegner cable "a wild rumor, fueled by Jewish anxieties."

The Sternbuch telegram was sent to Rosenheim through the diplomatic pouch of the Polish government-in-exile. So my father personally saw it. Rosenheim and my father sent the news to both President Roosevelt and Eleanor Roosevelt, but neither responded. Rosenheim and my father met on September 4 with Stephen Wise, and he ordered them to be silent because the reports were "atrocious tales."

Wise did not tell them that the State Department had asked him to keep the report quiet. The official request did not justify Wise's suppression of the news. As Eli Wiesel asked 25 years later, "How could he pledge secrecy when millions of lives were involved? How was he not driven mad by the secret?"

In November 1942 my father flouted Wise's command. He asked in a published Yiddish article: "Did the leaders of American Jewish organizations, who should have been alarmed since September 3, fulfill their Jewish and human duties? Was anything done?" He added that the cabled reports required a "rousing protest because what is happening is unimaginable. The primary duty of our organizational leaders was to sound the alarm."

My father was then 36 years old. He was struggling to adjust to a land and a language that he had never anticipated in his wildest dreams. But he took on senior American leaders unmercifully. His Yiddish columns reported that Dr. {not "Rabbi"} Stephen Wise had issued a *cherem* – an excommunication ban – against publicizing the frightful information he had received. Instead of "klingen of alle glocken" – ringing all alarm bells – and rousing American and British Jewry, Wise had silenced everyone.

My father denounced Wise's flimsy pretexts for silence – that the reports were unverified and that disclosure would harm Europe's Jews by angering Germany. While Wise was suppressing the news, said

my father, “dos Yiddisher blut vaiter geflossen” – Jewish blood continued to flow. “Is it sufficient,” my father asked caustically, “that Dr. Wise and Dr. Nahum Goldmann took one trip in 40 days for a visit to Washington?” Then came the challenge that is unanswered to this day: “We ask the leaders of American Jewish organizations, ‘How will you respond on the day of reckoning? How will you answer when you must account for what you did when the blood of your Jewish brothers was gushing?’”

When Wise finally realized that suppression of the news was no longer possible, he created a “Joint Emergency Committee on European Jewish Affairs” that was to take steps to stop the killing. The Committee existed only between March and November 1943. Generous historians describe the effort as a “forlorn attempt at cooperative activity.”

Because he was a vociferous critic, my father was invited to attend the Committee’s meetings. He asked in the “Morgen Journal” of August 26, 1943, “Why is American Jewry asleep? Why has nothing been done for the unfortunate Jews of Europe?” He reported that as a Committee invitee he had proposed action. His proposal was adopted after much uproar. Yet nothing was done.

He declared in another Yiddish article that the “Joint Emergency Committee” was incompetent and was “mamash a chozek” – truly a laughing-stock. It meets, he said (with an exclamation mark for emphasis), only once in several weeks. It accomplishes nothing. In fact, he reported, one hour after the meeting has ended, no one recalls what was discussed.

The “Joint Emergency Committee” was formally dissolved on November 5, 1943, and was replaced by the “American Jewish Conference.” The “Conference” was torn by internal conflict among its 32 organizations. Agudath Israel refused to join, and the media reported that “Rabbi Lewin of the Agudath Israel was noted as referring to the ‘G-d damned Conference.’” (I doubt that my father said those precise words, but I applaud his message!)

The “American Jewish Conference” attacked Peter Bergson (real name Hillel Kook) for organizing the celebrated “Rabbis’ March on Washington” three days before Yom Kippur in 1943. President Roosevelt infamously refused to meet with the rabbis, accepting the advice that these bearded men were not representative of American Jewry. My father not only joined this demonstration but actively recruited others.

A celebrated article my father wrote in December 1943 was titled “Di Sha-ah Shlogt Zwelf” – “The Hour Strikes Midnight.” He condemned the organizational rivalries. “Our brothers are drowning in their own blood. They look to us – the free and fortunate Jews in democratic lands – and here burn the flames of political strife that destroy any hope of saving the *sheyris ha-pleita*.” The responsibility lies, he said, with the Jewish “leaders.” Many more Yiddish articles in the same angry voice followed during the war years.

My father gathered selected Yiddish articles he had written during the war in a volume he titled “Churban Europa.” He also edited seven volumes of Hebrew biographies of *kedoshim* – rabbis who were murdered in the Shoah – under the title *Eleh Ezkerah*.

In July 1945 – very soon after V-E Day – he was one of the first rabbis to go to Europe to visit survivors. He went again in June 1946 with Rav Eliezer Silver, as official US representatives, both proudly wearing the uniform of the United Nations Relief and Rehabilitation Administration (“UNRRA” not to be confused with today’s contemptible “UNRWA”).

After the war my father fought for Jewish rights at the United Nations and in the halls of Congress. One major effort was the repatriation of Jewish orphans who had been hidden from the Nazis in monasteries, nunneries, and Christian homes. He won acclaim as a professor of Jewish History and responsa literature at Yeshiva University’s Bernard Revel Graduate School and as the author of many

learned papers on these subjects. He was also the Hebrew principal of Yeshiva University's Highschools for Girls ("Central"). His addresses at the United Nations Economic and Social Council and his testimony before Congressional committees appear in a dozen published books.

But the war's end brought the tragic news that our family's prayer that "der zaide zol balt befreit veren" was not realized. The Reisha Rav had been murdered together with his brother, Rav Yechezkel Lewin, in a Ukrainian pogrom in Lemberg (Lvov) in June 1941 as the Russian troops were leaving the city and the Germans were entering. My grandmother, Rebbetzin Doba Friedman Lewin, then hid in a "bunker," but was discovered and gassed in Belzec, as was my father's older sister. *Hashem Yinkom Domom.*

# Likutei Divrei Torah

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## Covenant and Conversation

Rabbi Jonathan Sacks

### The Ecological Imperative

In the course of setting out the laws of war, the Torah adds a seemingly minor detail that became the basis of a much wider field of human responsibility, and is of major consequence today. The passage concerns a military campaign that involves laying siege to a city:

When you lay siege to a city for a long time, fighting against it to capture it, do not destroy its trees by putting an axe to them, because you can eat their fruit. Do not cut them down. Are the trees people, that you should besiege them? However, you may cut down trees that you know are not fruit trees and use them to build siege works until the city at war with you falls. (Deut. 20:19–20)

War is, the Torah implies, inevitably destructive. That is why Judaism's highest value is peace. Nonetheless, there is a difference between necessary and needless destruction. Trees are a source of wood for siege works. But some trees, those that bear fruit, are also a source of food. Therefore, do not destroy them. Do not needlessly deprive yourself and others of a productive resource. Do not engage in a "scorched earth" tactic in the course of war.

The Sages, though, saw in this command something more than a detail in the laws of war. They saw it as a *binyan av*, a specific example of a more general principle. They called this the rule of *bal tashchit*, the prohibition against needless destruction of any kind. This is how Maimonides summarises it: "Not only does this apply to trees, but also whoever breaks vessels or tears garments, destroys a building, blocks a wellspring of water, or destructively wastes food, transgresses the command of *bal tashchit*." [1] This is the halachic basis of an ethic of ecological responsibility.

What determines whether a biblical command is to be taken restrictively or expansively? Why did the Sages take this seemingly minor law to build out a wide halachic field? What led the Sages in the direction they took?

The simplest answer lies in the word "Torah". It means law. But it also means: teaching, instruction, direction, guidance. The Torah is a lawbook like no other, because it includes not only laws but also narratives, genealogies, history, and song. Law as the Torah conceives it is embedded in a larger universe of

meanings. Those meanings help us understand the context and purpose of any given law.

So it is here. First and foremost is the fact that the earth is not ours. It belongs to its Creator, to God Himself. That is the point of the first chapter of the Torah: "In the beginning, God created..." He made it; therefore He is entitled to lay down the conditions within which we live in it as His guests.

The logic of this is immediately played out in the story of the very first humans. In Genesis 1 God commands humanity: "Fill the earth and subdue it. Rule over the fish in the sea and the birds in the sky and over every living creature that moves on the ground" (1:28). "Subdue" and "rule" are verbs of dominance. In Genesis 2, however, the text uses two quite different verbs. God placed the first man in the Garden "to serve it [*le'ovdah*] and guard it [*leshomrah*]" (2:15). These belong to the language of responsibility. The first term, *le'ovdah*, tells us that humanity is not just the master but also the servant of nature. The second, *leshomrah*, is the term used in later biblical legislation to specify the responsibilities of one who undertakes to guard something that is not their own.

How are we to understand this tension between the two opening chapters? Quite simply: Genesis 1 tells us about creation and nature, the reality mapped by the natural sciences. It speaks about humanity as the biological species, *Homo sapiens*. What is distinctive about humans as a species is precisely our godlike powers of dominating nature and exercising control of the forces that shape the physical world. This is a matter of fact, not value, and it has increased exponentially throughout the relatively short period of human civilisation. As John F. Kennedy put it in his inaugural presidential address: "Man holds in his mortal hands the power to abolish all forms of human poverty and all forms of human life." [2] Power is morally neutral. It can be used to heal or wound, build or destroy.

Genesis 2, by contrast, is about morality and responsibility. It tells us about the moral limits of power. Not everything we can do may we do. We have the power but not the permission; we have the ability but not the right. The earth is not ours. It belongs to God who made it. Therefore we are not the owners of nature but its custodians. We are here to serve it and care for it.

This explains the story that immediately follows, about Adam, Eve, the serpent, and the forbidden fruit. What the fruit was, why the

serpent spoke, and what was the nature of the first sin – all these are secondary. The primary point the Torah is making is that, even in paradise, there are limits. There is forbidden fruit. Not everything we can do may we do.

Few moral principles have been forgotten more often and more disastrously. The record of human intervention in the natural order is marked by devastation on a massive scale. [3] Within a thousand years, the first human inhabitants of America had travelled from the Arctic north to the southernmost tip of Patagonia, making their way through two continents and, on the way, destroying most of the large mammal species then extant, among them mammoths, mastodons, tapirs, camels, horses, lions, cheetahs, and bears.

When the first British colonists arrived in New Zealand in the early nineteenth century, bats were the only native land mammals they found. They discovered, however, traces of a large, ostrich-like bird the Maoris called "moa." Eventually skeletons of a dozen species of this animal came to light, ranging from three to ten feet high. The remains of some twenty-eight other species have been found, among them flightless ducks, coots, and geese together with pelicans, swans, ravens, and eagles. Animals that have not had to face human predators before are easy game, and the Maoris must have found them a relatively effortless source of food.

A similar pattern can be traced almost everywhere human beings have set foot. They have consistently been more mindful of the ability to "subdue" and "rule" than of the responsibility to "serve" and "guard." An ancient Midrash sums this up, in a way that deeply resonates with contemporary ecological awareness: When God made Adam, He showed him the panoply of creation and said to him: "See all My works, how beautiful they are. All I have made, I have made for you. Take care, therefore, that you do not destroy My world, for if you do, there will be no one left to mend what you have destroyed." [4]

Environmental responsibility seems to be one of the principles underlying the three great commands of periodic rest: Shabbat, the Sabbatical year, and the Jubilee year. On Shabbat all agricultural work is forbidden, "so that your ox and your donkey may rest" (Ex. 23:12). It sets a limit to our intervention in

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nature and the pursuit of economic growth. We remind ourselves that we are creations, not just creators. For six days the earth is handed over to us and our labours, but on the seventh we may perform no “work,” namely, any act that alters the state of something for human purposes. Shabbat is thus a weekly reminder of the integrity of nature and the limits of human striving.

What Shabbat does for humans and animals, the Sabbatical and Jubilee years do for the land. The earth too is entitled to its periodic rest. The Torah warns that if the Israelites do not respect this, they will suffer exile: “Then shall the land make up for its Sabbatical years throughout the time that it is desolate and you are in the land of your enemies; then shall the land rest and make up for its Sabbath years” (Lev. 26:34). Behind this are two concerns. One is environmental. As Maimonides points out, land which is overexploited eventually erodes and loses its fertility. The Israelites were therefore commanded to conserve the soil by giving it periodic fallow years, not pursuing short-term gain at the cost of long-term desolation.[5] The second, no less significant, is theological: “The land,” says God, “is Mine; you are but strangers and temporary residents with Me” (Lev. 25:23). We are guests on earth.

Another set of commands is directed against over-interference with nature. The Torah forbids crossbreeding livestock, planting a field with mixed seeds, and wearing a garment of mixed wool and linen. These rules are called *chukim* or “statutes.” Samson Raphael Hirsch (Germany, 1808–1888) in the nineteenth century, like Nachmanides six centuries earlier, understood *chukim* to be laws that respect the integrity of nature. They represent the principle that “the same regard which you show to man you must also demonstrate to every lower creature, to the earth which bears and sustains all, and to the world of plants and animals.” They are a kind of social justice applied to the natural world: “They ask you to regard all living things as God’s property. Destroy none; abuse none; waste nothing; employ all things wisely.... Look upon all creatures as servants in the household of creation.”[6]

So it was no accident that Jewish law interpreted the prohibition against cutting down fruit-bearing trees in the course of war as an instance of a more general prohibition against needless destruction, and more generally still, against acts that deplete earth’s non-renewable resources, or damage the ecosystem, or lead to the extinction of species.

Václav Havel made a fundamental point in *The Art of the Impossible*: “I believe that we have little chance of averting an environmental catastrophe unless we recognise that we are not the masters of Being, but only a part of Being.”[7] That is why a religious vision is so important, reminding us that we are not owners of our resources. They belong not to us but to

the Eternal and eternity. Hence we may not needlessly destroy. If that applies even in war, how much more so in times of peace. “The earth is the Lord’s and all that is in it” (Ps. 24:1). We are its guardians, on behalf of its Creator, for the sake of future generations.

[1] Maimonides, *Mishneh Torah*, *Hilchot Melachim* 6:10.

[2] Washington, DC, January 20, 1961.

[3] Jared Diamond’s *Guns, Germs, and Steel* (New York: W. W. Norton, 1997) and *Collapse: How Societies Choose to Fail or Succeed* (New York: Viking Penguin, 2005) are classic texts on the subject.

[4] *Ecclesiastes Rabbah* 7:13.

[5] Maimonides, *Guide for the Perplexed*, III:39.

[6] Samson Raphael Hirsch, *The Nineteen Letters*, letter 11.

[7] Václav Havel, *The Art of the Impossible* (New York: Knopf, 1997), 79.

### **Shabbat Shalom: Rabbi Shlomo Riskin**

“You shall appoint judges...[who] will not pervert justice.... Justice, justice shall you pursue... You shall not plant for yourselves an Asheira [tree used for purposes of idolatry according to Rashi and Ibn Ezra] near the altar of the Lord your God.” (Deuteronomy 16:18–21)

The juxtaposition of these verses – the demand for honorable and righteous judges, the concern for an impartial legal system which is a “no bribe zone,” immediately followed by the prohibition of idolatry – seems to mix two completely different areas of religious concern. It combines the moral and ethical laws of interpersonal conduct together with the ritual laws of divine service. Each of these two realms holds a respected place in the Bible, but why group them so closely together without any kind of segue between them?

Second, which of these two crimes is more grievous? Is it a corrupt judicial system which undermines the very infrastructure of an ethical society? Or is it a mistaken religious notion which calls for the worship of a tree instead of the worship of the Creator of the tree? Certainly the injurious implications emanating from the first seem far more damaging than those emanating from the second.

Indeed, the Bible itself adds a rider to the command to pursue justice: “in order that you may live and inherit the land which the Lord your God gives you.” A just society is a necessary prerequisite for the continued life of historic Israel and for Israel’s ability to retain sovereignty over her homeland. No such caveats or conditions appear pursuant to the prohibition of the Asheira.

Moreover, the Bible has already expressed its displeasure at those who worship trees or stones, which can neither see nor hear nor eat nor smell (Deut. 4:28). Why prohibit worshipping the Asheira tree specifically if it is planted near the sacrificial altar? Is it not equally forbidden to serve a free-standing

## **Likutei Divrei Torah**

Asheira tree even if it is nowhere near the sanctuary (Mishkan) or Temple?

The Talmud (Avoda Zara 52a) makes a startling comparison, which begins to provide the solution to our questions:

Resh Lakish said, “Anyone who appoints an unworthy judge is considered like someone who plants an Asheira tree in Israel, as it is written: ‘You shall appoint judges and executors in all your gates’ and it is written right next to it, ‘You shall not plant for yourselves an Asheira tree.’” And R. Ashi added, “And if it is in a place where pious scholars are found, it is as if he planted the Asheira next to the sacrificial altar.”

What I believe the sages are deriving from this juxtaposition of the biblical verses is that the real sin of idolatry lies in the perversion of justice perpetrated by the idolaters. This was found in their lack of morality and ethical conscience, in the orgiastic Dionysian rites, which included eating the limbs and drinking the blood of living animals and in the drunken trysts with temple prostitutes. Idolaters paid no heed to “Thou shalt not murder” when they sacrificed innocent children to Molekh! And worst of all was when the immorality of idolatry invaded the hallowed gates of the Holy Temple. At that point, the entire reason for Israel’s nationhood ceased to exist, so that God was forced to leave His House and see to it that it be destroyed.

The truth is that almost every time the Bible forbids idolatry, it is within the context of the immoral behavior which characterized it:

Do not bow down to their gods, do not worship them and do not act according to their practices. (Ex. 23:24)  
Guard yourself lest you seek out their gods.... They burn their sons and daughters in fire to their gods. (Deut. 12:30–31)  
You shall destroy the Hittites...in order that they not teach you to act according to all their abominations. (Deut. 20:17–18)

Remember that God chose Abraham because he was committed to compassionate righteousness and moral justice (Gen 18:18–19); on Tisha B’Av, the memorial day of our Temples’ destruction, we read publicly the verse, “‘But let him who glories glory in this: Understand and know Me, that I am God who exercises loving-kindness, moral justice, and righteous compassion on the earth, for in these things do I delight,’ says the Lord” (Jer. 9:23).

Although Maimonides consistently defines idolatry in pure and absolute theological and metaphysical terms, Rabbi Menahem HaMeiri (thirteenth and fourteenth century, Provence) defined idolatry in terms of the “disgusting immoral acts of the idolaters,” whose paganism prevented them from accepting the universal moral laws of the Noahide Covenant. For the Meiri, anyone who was moral was ipso

facto not to be considered an idolater. In the final analysis, he understood that to know God is to pursue justice and righteousness; idolatry is not so much a sin of incorrect theological opinions as it is a sin of social corruption and immorality!

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**The Person in the Parsha**  
**Rabbi Dr. Tzvi Hersh Weinreb**  
**Anarchy or Utopia?**

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Who would you consult if you wanted to know a thing or two about the perfect society? Would you ask a politician? A professor of government? A philosopher expert in theories of utopia? Or perhaps a historian familiar with successful societies across the ages?

Would it even occur to you to ask an entomologist, a scientist who studies insect life? But it is precisely such a person whom the Bible suggests we consult if we want to learn a thing or two about the ideal society. In fact, it is the wisest man in the Bible, King Solomon, who suggests that we observe insect life. I refer to the following passage in the book of Proverbs:

"Lazy bones, go to the ant;  
 Study its ways and learn.  
 Without leaders, officers, or rulers,  
 it lays up its stores during the summer,  
 Gathers in its food at the harvest." (Proverbs 6:6-8)

Already in antiquity men observed colonies of mere ants and noticed how remarkably efficient they were. Today, we would attribute that efficiency to the power of instinct. But those of us who retain a sense of the wondrous ways of nature are impressed by the complexity of tasks that ant colonies perform, without an instruction manual, without training, and, above all, without leaders.

The Midrash, in the Torah portion of Shoftim which we read this Shabbat, is not only in awe of the complexity of the ants' tasks, but is astonished at the moral lesson which we can learn from this lowly creature:

"Behold the ethical behavior of the ants as it avoids theft. Said Rabbi Simon ben Chalafta: 'I once observed an ant who dropped a kernel of wheat, which then rolled down the ant hill. All the ants came, one by one, and sniffed it. No ant dared take it, until the one who dropped it came and took it for herself. Behold the wisdom of the ant, which is to be praised, for it did not receive instruction from any other creature, and has neither judges nor policeman.'" (Deuteronomy Rabba, Shoftim, 3.)

There are many ways to understand the verse in Proverbs and the Midrashic passage just quoted, and each time I personally encounter these texts, I understand them differently. But this year, I found myself fascinated by the possibility that King Solomon and Rabbi

Simon ben Chalafta ask us to take a glimpse of what a perfect society might look like.

It would be a society that had no leadership hierarchy and in which all were truly equal. It would be a society in which everyone contributed to the extent that he could, and would, do so diligently and industriously. Furthermore, it would be a society in which each individual respected the other and would not dream of taking something which belonged to someone else.

In short, it would be an efficient society and an ethical one. And it would have no leader, no need for judges, no necessity for policemen to assure that crimes were not committed.

This week's Torah portion describes a society which is far from that ideal. It opens with the command that we "appoint magistrates and officials... who shall govern the people and do justice." The Torah insists upon a judicial system and personnel to enforce its laws. It speaks of a judicial hierarchy with lower courts consulting higher ones. It speaks of a king. It describes a military system and outlines the roles of priests, sergeants, and generals. It describes a system of government which is comprised of several different institutions, each with its own set of responsibilities and privileges.

This week's Torah portion leaves us with the following question: is it the ideal society that is being described herein, or do the systems elaborated upon in this parsha reflect the Torah's concessions to human frailty? Perhaps the long list of laws that comprise this week's parsha is a response to the tragic fact that real societies do not resemble the utopian ideal and, therefore, require judges and policemen, overseers and enforcers, kings and generals.

Taking the latter approach and understanding that the royal, military, and judicial institutions described in detail in this week's Torah portion are necessary because mankind is not perfect, enable us to understand a puzzle which confronts every careful reader of this week's text.

For, you see, there is one passage in our parsha which just doesn't seem to fit. It is the subject of chapter 19, in which the children of Israel are commanded set aside three cities to serve as sanctuaries for a person who was guilty of killing another unwittingly. How does this unspeakable calamity, unintentional manslaughter, fit into the rubric of the other passages of this week's Torah portion which deal with institutions of government?

This is a question asked by numerous commentators, beginning with Abraham ibn Ezra in the early Middle Ages, and including Obadiah Sforno who lived in Renaissance Italy, the Safed Kabbalist Moshe Alshich, and the German Jewish 20th century scholar David Tzvi Hoffman.

## Likutei Divrei Torah

I recently came across an answer to this question which appeals to me. It is offered by a contemporary Rabbi, Yehuda Shaviv, whose work on the weekly Torah portion, MiSinai Ba, I have referred to previously in this column.

He suggests that the passage describing in detail how to treat an unintentional murderer illustrates the simple human lesson that accidents will happen. "It would be wonderful indeed," writes Rabbi Shaviv, "if people would never blunder or err, and could control all of their actions rationally and with great caution. But our Torah relates to human beings in all of their frailties and faults, and gives us ways of coping and rectifying those shortcomings."

To me, the difference between the harmonious social organization which characterizes the colony of ants versus human groups which require intricate systems of control and management is the difference between creatures guided by instinct versus humans blessed by free will. It is the very freedom that we as humans enjoy that compels us to be on guard against evil in all of its forms.

The lesson of this week's parsha is that human beings require external controls in the form of law, systems of justice and enforcement, kings and political leaders, and even militias and generals. King Solomon's call to us to witness the ants is really his invitation to us to envision an ideal society, but one which is nearly impossible to achieve given the human condition.

Until that ideal is achieved, we are well advised to study all that the Torah has to say about safeguards against human faults. Parshat Shofetim provides excellent examples of the Torah's lessons in this regard. It recognizes the reality of crime, dishonesty, and violence. It even copes with inevitable unintentional violence.

Anarchy must be avoided, but utopia is not realistic. The Torah is designed to help us deal with the realities of existence, which are typically far from ideal. Nevertheless, the Torah holds open the possibility that a utopia might one day emerge. After all, if the ants can achieve an efficient and ethical society, why can't we?"

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**Torah.Org: Rabbi Yissocher Frand**  
**And It Shall Be When He Sits (K'Shivto)**

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In Parshas Shoftim, the Torah introduces us to the concept of a Jewish Monarchy. "When you come to the land that Hashem your G-d gives you, and possess it and settle in it, and you will say 'I will set a king over myself, like all the nations that are around me.'" [Devarim 17:14]. The Torah says, "Yes you are allowed to establish a monarchy. It is a mitzvah to have a king." However, there are restrictions: He may not have an excessive number of wives. He may not have too many horses. He should not take too much silver and gold for himself. And



there are also positive commandments: “And it shall be when he sits on the throne of his kingdom, he shall write for himself two copies of this Torah in a scroll from before the Kohanim, the Levites” [Devorim 17:18]. Every Jew must write a Sefer Torah. The king needs to write a second Sefer Torah which he keeps with himself at all times.

The Torah introduces the mitzvah to write this (second) Sefer Torah with the expression “And it shall be when he sits (k’shivto) on the throne of his kingdom.” The Medrash in Esther Rabbah makes a very interesting comment. There are two ways of saying “And when he will sit on his throne.” It could say “v’haya k’shivto” or it could say “v’haya b’shivto.” The Medrash makes a distinction regarding the implications of each term. By the nations of the world, the pasuk says, “k’sheves haMelech Achashverosh al kisei malchuso...” [Esther 1:2] using a letter “Chaf” as the prefix. However, when we speak about Jewish kings in the Book of Shoftim [11:26], the pasuk says “b’sheves Yisrael...” using the letter “Beis” as the prefix. The Gemara explains the distinction: By the nations of the world, the “Chaf” is used because their monarchies are not permanent. By kings of the Jewish nation, as long as there was a Klal Yisrael, the monarchy remained. Therefore, the prefix “Beis” is used, which has a connotation of a permanent monarchy.

If that is the case, this pasuk in our parsha presents a problem. It is speaking about a Jewish king and yet it uses the prefix “Chof” – v’haya k’shivto al kisei mamlachto! This seems to violate the rule mentioned in Esther Rabbah.

I saw a thought in the name of the Gerer Rebbe, the Chidushei HaRi”m, and I saw a similar thought in the name of the Techeiles Mordechai from Rav Sholom Mordechai haKohen Schwadron (the Brizhaner Rav). The reason the Torah uses the expression “And it will be k’shivto...” here is because the Torah is speaking about the initial ascension of the Jewish king onto his throne. Normally, when a king first assumes his throne, he is all inspired and “pumped” to do good for the people. He wants to make sure the people are taken care of. He wants to make sure to improve the economy. He wants to make sure that human rights are preserved in his country. All the sincere and idealistic ideas of good government are always present when one starts something. Every president starts his administration with these grand ideas and grand plans to provide “a chicken in every pot and two cars in every garage and universal health care” etc., etc., etc.

Those plans are made “v’haya k’shivto...” (when he first ascends the throne). But we all know that with the passage of time, it rapidly becomes “same old, same old.” People become jaded; they become turned off; they get cynical. People sort of devolve into a

run of the mill, go-through-the-motions type of administration.

The challenge always is for a king to maintain throughout his monarchy that same feeling of freshness, enthusiasm, and humility that he had the day he sat on the throne for the first time. This is what the Torah wants to hint at here, says the Brizhaner Rav. All the plans and good intentions that a king has when he assumes the throne (k’shivto al kisei malchuso) should remain with him for the rest of his reign.

This idea is a very beautiful vort to say at a Sheva Brochos. At a Sheva Brochos, the Chassan and Kallah are in their first week of marriage. They are so sensitive and so caring and so loving towards each other. They each have the greatest of intentions to make this a perfect marriage. But unfortunately, as we know, like with everything else in life – things do not remain the way they were at the start of an endeavor. Honeymoons are called honeymoons because they only last for a certain amount of time, unfortunately.

A groom is compared to a king. This is a wonderful homiletic lesson from the pasuk in our parsha. That enthusiasm and that idealism and that commitment to be a good husband and to take care of the spouse and to respect and honor her should remain constant throughout the marriage as it was “k’shivto...” when he first ascended to the role of a groom (who is compared to a king)."

Rav Pam once offered a beautiful thought. We say “V’Erastich lee l’olam” [Hoshea 2:21] (And I will betroth you to me forever). Erusin [betrothal] is a temporary stage. It is the period between Kiddushin [halachic engagement] and Nisuin [halachic marriage]. In Talmudic times, it lasted for 6 to 12 months, but it was always meant to be a temporary situation. So what then, asked Rav Pam, does the pasuk mean when it says, “I will betroth you to me forever”? If it is forever it is not Eirusin and if it is Eirusin it is not forever?

Rav Pam said the same type of concept. When someone goes ahead and makes Eirusin, he has all the good intentions and the love and compassion in the world, but it is only “Eirusin” – a temporary stage. However, that type of “I will betroth you to me” should really be forever.

Even if someone is not planning to speak at a Sheva Brochos this week, this vort still has relevance. If your son is starting in a new Yeshiva or it is the first zman of a new year in his old Yeshiva, this insight still has relevance. I am always amazed. I have been teaching now for over 40 years. The final zman [semester] of the previous school year ended four or five weeks ago. By then, not everybody was taking notes; people were dozing off in shiur, etc. A scant five weeks later, everybody has their new notebooks, everybody is taking notes and everybody is sitting at the edge of their chairs

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to hear my pearls of wisdom. Everybody is enthused. But with the passage of time, we know what happens.

That is the trick. It should be “v’haya k’shivto”. Every day they should be in your eyes as if it were a new experience. It is a challenge. But if we had that enthusiasm, if we were able to channel it into our learning, into our marriages, and into our lives, then in fact, we would be much more successful in all areas of life.

### The Torah Provides “Cover” To Protect From Embarrassment

The Torah talks about going to battle, spelling out the laws of war. “When you go out to battle against your enemy, and you see horse and chariot – a people more numerous than you – you shall not fear them, for Hashem, your G-d is with you... It shall be that when you draw near to the war, the Kohen shall approach and he shall speak to the people.” [Devarim 20:1-2].

There was a Kohen who had the special title “The Priest Anointed for Battle” (Kohen Mashuach Milchama). Before the people went out to war, he gave them a spiritual pep talk. He also gave them instructions. He announced that anyone who built a new house but had not yet made a “Chanukas HaBayis” [inaugurating the new home] was exempt from battle. Likewise, a person who planted a new vineyard but had not yet had the opportunity to consume the wine therefrom (restricted by the Torah’s agricultural laws) was exempt from battle. Similarly, a person who was betrothed to a woman but had not yet married her was given a deferment from going to war.

Finally, the Kohen Mashuach Milchama added that anyone who was fearful and faint of heart was allowed to return home so that he not “melt the hearts of his brethren” in the heat of battle (by running away from the scene of the fighting).

There is a Talmudic dispute [Sotah 44a] as to the true meaning of the one who was “fearful and faint of heart”. Rabbi Akiva interprets the phrase literally – a person who would panic as a result of hearing and seeing the sounds and sights of war. Just seeing a drawn sword would scare him and make him incapable of fighting. Rabbi Yossi of Galilee interprets the phrase to refer to someone who is afraid of his own spiritual shortcomings (literally – afraid of the sins that are in his hands). They fear not the sights and sounds of battle; they fear that they are undeserving of the Divine Protection that a soldier requires in battle because of previous spiritual lapses on their part.

Battles were won based on zechusim [merits]. Therefore, generals needed and wanted to have righteous soldiers on their side. If a soldier lacked merit, and even deserved perhaps punishment, it would be better for the army to

have such a soldier leave the site of battle before the fighting begins.

Rabbi Yossi explains that getting these unworthy soldiers off the battle field was the Torah's primary concern and that the entire issuance of deferments for people with new houses, vineyards, or brides was merely a "cover" to allow those people who recognized themselves as being spiritually undeserving to leave the ranks of the other soldiers without suffering public embarrassment.

The Tolner Rebbe once spoke out the following idea in the name of Reb Yechezkel Kuzmir ([1755-1856], founder of the Modzitz Chassidic dynasty): Come and see how particular the Torah is to protect another person from embarrassment. The Torah is willing to exempt all these people (the new homeowner, the new vineyard owner, the new husband) who are most likely young and would be prime candidates for being good soldiers, just in order to not embarrass that poor soul who feels faint of heart because of sins he has committed. He uses this idea to explain a Talmudic passage in a totally different context.

There is a famous dispute in a Mishna in Tractate Gittin [90a] in terms of permissible halachic grounds for divorcing one's wife. Beis Shammai's opinion is that the only ground for divorcing one's wife is promiscuity on her part. Unless one's wife is unfaithful, one is not allowed to divorce her. Beis Hillel allows one to divorce his wife "even if she burns his supper."

This seems to be an anomalous position for the School of Hillel to take. Normally Beis Hillel is seen as being more tolerant and perhaps more supportive of attempts to strengthen the bonds of marriage. Here it seems that they allow any husband to get rid of his wife on a whim, even for a minor momentary lapse on her part.

Reb Yechezkel Kuzmir says "no." It is the same concept. Really, Beis Hillel does not want you to divorce your wife unless there are serious grounds to do so – something akin to what Beis Shammai indicates. However, if the only way one was allowed to divorce his wife was if she was unfaithful to him, then everybody would know that this woman was being sent away from her husband for reasons of infidelity. She would never be able to get married again because she would be known to be promiscuous. This woman's case would be fixed for the rest of her life! Therefore, Beis Hillel advance their position that a man can divorce his wife for any reason. This way, when a person divorces his wife, the rest of the world will not assume that she cheated on him. They will be able to give her the benefit of the doubt and suspect that perhaps she only burnt the chulent.

This is the same concept as expressed by Rav Yossi HaGalili in terms of the draft deferments: The Torah goes out of its way to save someone (be it the soldier or the wife) from shame and embarrassment, lest people jump to the wrong conclusions. That is the source of Beis Hillel's opinion.

An Incident Which Illustrates the Genius of the Satmar Rebbe

The pasuk states, "A prophet from your midst, from your brothers, like me, shall Hashem your G-d establish for you – to him shall you listen." [Devorim 18:15] This is one of the fundamental beliefs of our religion – the Almighty gives prophecy to certain individuals, and we are commanded to listen to such people.

There was a Jew named Reb Shmuel Paperman, who wrote a biography of the Maharil Diskin, Reb Yehoshua Leib Diskin [1818-1898]. Reb Yehoshua Leib was a Rav in the famous town of Brisk (Brest-Litovsk). Reb Shmuel Paperman writes in the book that the Beis HaLevi, Rav Yosef Dov HaLevi Soloveitchik [1820-1892], was so in awe of the Maharil Diskin that he applied to himself the Biblical commandment about listening to a prophet. Whatever the Maharil Diskin ruled, he followed, as if in fulfillment of the pasuk "to him you shall listen."

This author, Reb Paperman, brought the biography he wrote to the Beis HaLevi's grandson – Rav Yitzchak Ze'ev Soloveitchik ("the Brisker Rav") [1886-1959] – and asked him for an approbation. The Brisker Rav said "It is a very nice book, but I would like you to remove that one line that the Beis HaLevi said about the Maharil Diskin "to him you shall listen." The Brisker Rav felt that this language is unique and reserved for speaking about a prophet. Concerning no other person can you give a blanket endorsement: "to him you must listen."

They told this incident to the Satmar Rebbe (Rav Yoel Teitelbaum [1887-1979]. The Satmar Rebbe heard this and he said "And what about Rabbi Akiva Eiger?"

The person then asked the Rebbe what he meant by that question. The Satmar Rebbe explained: I was referring to the Rabbi Akiva Eiger in Shulchan Aruch Orach Chaim Siman 125. The Shulchan Aruch rules that when reciting Kedusha, only the Chazan says "Nakdishach..." or "Nekadesh..." and the rest of the congregation is silent. Only at "Kadosh, Kadosh, Kadosh" does everybody chime in. This is the opinion of Rav Yosef Karo (the "Machaber"). Rabbi Akiva Eiger writes in his glosses to the Shulchan Aruch that the Ari, z"l, disagrees and says that everyone should also repeat the opening pasuk (either "Nakdishach" or "Nekadesh") and Rabbi Akiva Eiger concludes, "to him you must listen."

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This was the on the spot response of the Satmar Rebbe to the report that the Brisker Rav objected to the idea that his grandfather would have applied the pasuk "to him you must listen" to the Maharil Diskin. This incident speaks to the incredible bekias (encyclopedia mastery) of the Satmar Rebbe. True genius!

### Dvar Torah

#### Chief Rabbi Ephraim Mirvis

What lesson can we learn from the sacrificial rite in the temple for our coronavirus times? We are given a mitzvah וְאָכַלְתֶּם-נֶשֶׁם לֶפְנֵי ה' וְאָלַקְתֶּם וּשְׁמַחְתֶּם בְּכָל מַשְׁלָח וּשְׁמַחְתֶּם בְּדָבָר – and you shall eat from the sacrifice before the Lord your God. בְּכָל מַשְׁלָח וּשְׁמַחְתֶּם בְּדָבָר – and you shall rejoice in everything you have put your hands to'.

One wonders, why this rejoicing with particular regard to 'משלח ידכם – what you've done with your hands' [at that particular time?]

The Kli Chemda gives a beautiful peirush here. He brings down the Rambam from the Mishneh Torah in Hilchos Shvitat Yom Tov, where the Rambam tells us that when we sit down to our Yom Tov meals we should do so in the presence of family. Both close family and extended family – and also וְכָל הַנְלוּוִים עִלָּי – people who are dependent on us'. We should open our homes to the needy, enabling them to participate in our festive meal. And then the Kli Chemda asks, what happens if, for some technical or practical reason, those who are needy can't get to our home? Well, he says, we learn from the passuk that we quoted from our Parsha: וּשְׁמַחְתֶּם בְּכָל מַשְׁלָח וּשְׁמַחְתֶּם בְּדָבָר – and you should rejoice in everything that your hands have sent – a different way of translating it. Meaning that in such a situation you should prepare food parcels and send them to those who are dependent upon you.

And isn't that exactly what is happening right now during these very challenging coronavirus times?

It is so difficult for us all because we love having people at our tables and now, the potential for הכנסת אורחים – home hospitality, is limited. However, that is not stopping us from showing kindness to others. We are witnessing an extraordinary level of גמילות חסדים – true selflessness and altruism – through the many food parcels which are being delivered to those who are dependent upon us. Right now during coronavirus times, Baruch Hashem, we are excelling in exactly what the Torah wanted us to achieve. In a situation in which, the needy can't reach the food on our table, בְּכָל מַשְׁלָח וּשְׁמַחְתֶּם בְּדָבָר – we should guarantee that food from our table will reach the needy. [Compiler's Note: This came out late last week for Reeh but is right for our times.]

## OTS Dvar Torah

### Rabbi David Brofsky

What does a calf have to do with the laws of war? The conquest and settlement of the land involved many challenges, and the Torah prepared the people of Israel accordingly. We aspire to uphold our morality and holiness even when at war.

Parshat Shoftim deals with many challenges that the nation of Israel would face as they entered the land. They would need to settle it, set up a judiciary and law enforcement system (with judges and officers), establish their spiritual leadership (priests and Levites), and, some time later, perhaps even crown a king. The Torah describes different types of transgressions, both spiritual and civil in nature, with which these systems would need to contend. One of the main challenges facing the nation was the conquest of the land, so the Torah discusses how soldiers were recruited (and who was granted an exemption from participating in combat), how wars are to be waged, and how the enemy is to be treated.

Toward the end of the parsha and in the following parsha, Ki Tetzei, we encounter several other war-related commandments. A verse at the end of chapter 20 states as follows: "When in your war against a city you have to besiege it a long time in order to capture it, you must not destroy its trees..." (Deuteronomy 20, 19). The Torah forbids us from chopping down trees during a war. At the beginning of the next parsha, the commandment of eshet yefat to'ar (ibid. 21, 10-14) appears, and this provides us with the legal framework for the taking of enemy women as hostages.

The Torah is aware of the spiritual danger inherent in going to war, even if it is a justified and necessary war. Soldiers can forget about the world outside of the battlefield, and its moral and Torah values. They can become desensitized to the importance of the land, "...for is the tree of the field a man?" (ibid. 20, 19). Soldiers can also forget that the use of force is only meant against enemies in battle, and not to satisfy their sexual urges.

Another episode appears between these two: the decapitated calf. The Torah tells us about a case when a dead person's body is found between two towns, and how the elders of both towns must participate in a ceremony in which they declare:

Our hands did not shed this blood, nor did our eyes see it done... and do not let guilt for the blood of the innocent remain among Your people Israel and they will be absolved of bloodguilt. Thus you will remove from your midst guilt for the blood of the innocent, for you will be doing what is right in the sight of Hashem. (Deuteronomy 20, 7-8)

The commentators grappled to understand what this ceremony is meant to achieve. Equally puzzling is the decision to discuss this

law in the middle of a discussion on the laws of war, between the prohibition of destroying trees in the battlefield and the laws regarding female captives.

In fact, the Torah is expressing another concern – that the experience of fighting in a war could cause soldiers and the general public to undervalue human life, and perhaps even cause them to admire forceful and violent conduct. The laws of the decapitated calf, which illustrate the importance of the life of a single and perhaps anonymous individual, who may have come from afar, and may not even have been Jewish, are designed to stress the value of every human life, and of life in general. They also serve as a warning, cautioning us that wars can harm the nation's soul (for more on this, please read the late Rabbi Yechiel Michel Tucazinsky's introduction to his famous book, Geshet Hachaim – "The Bridge of Life", as well as the writings of my rabbi and teacher, Rabbi Aharon Lichtenstein, of blessed memory).

In the next parsha, the Torah raises the bar, demanding that "our camp should be holy" (ibid. 23, 15). The need to conquer and fight is justified, it's the right thing to do, and it doesn't contradict the Jewish people's basic purpose: to be a kingdom of priests and a holy nation (Exodus 19,6), a nation that behaves ethically and in a holy way, and constantly aspires to do so.

### Dvar Torah: TorahWeb.Org

#### Rabbi Hershel Schachter

##### Selective Observance

The posuk in Parshas Shoftim uses three different phrases to describe a disagreement about halachah - "bein dama l'dam, bein din l'din, bein negah l'negah" (17:8). The Vilna Gaon is quoted in the Sefer Aderes Eliyahu as having commented that this language indicates that all the dinim of the Torah are classified into three distinct categories: issur v'heter, dinei mamonus, and tuma v'tahara. The parsha states that if in any one of these three areas there is a machlokes among the chachomim in town which is ripping apart the community, the issue must be presented to the Sanhedrin in Yerushalayim which should give the psak that will be binding on all of Klal Yisroel. The implication is that were it not for the fact that the machlokes among the rabbonim is causing friction and ripping apart the community, each group would follow their own poseik.

The Tosefta (Sanhedrin 7:5) tells us that all the laws of the Torah are interconnected and fall into one big pattern to comprise one big mosaic. The Gemarah will, therefore, often learn out the details of one mitzvah from another mitzvah. Nonetheless, the Gemarah does put limitations upon this concept of all of Torah fitting into a single pattern. The Gemarah says that issur v'heter cannot be learned out neither from tumah v'taharah (Yevamos 103b) nor from dinei mamonus (Berachos 19b). These sources seem to be

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implying that each one of the three areas of halacha makes up its own pattern; all of dinei mamonus fit into one pattern, all of the laws of issur v'heter fall into a separate pattern, etc. (see Sefer Eretz Hatzvi siman 2).

When we are in doubt as to what the facts of a case are, the halacha has a different way of resolving the safeik depending on which category of dinim the case at hand belongs to. Regarding issur v'heter, we assume that any safeik regarding a din min ha'Torah must be resolved l'chumrah. However, when we have a safeik in the area of dinei mamonus the psak will be in favor of the muchzok (possession is nine-tenths of the law) which is l'kula. Finally, when the safeik is in the area of tumah v'tahara, whether the psak will be l'hachmir or l'hokeil will depend on the location where the safeik arose - in a reshus ha'yochid or in a reshus ha'rabim.

In addition to these three areas of halacha, the Gemarah tells us that there are another three areas that are treated differently. With respect to dinei n'foshos the Torah tells us "V'he'tzulu ha'aida" (Bamidbar 35:25), i.e. we should always bend over backwards to try to acquit the person being judged, and this applies even with respect to the way we darshan the halachos by reading in between the lines (Sanhedrin 69a). In the area of avoda zara the Torah tells us "shakeitz t'shaktzenu", etc., which implies that we should always bend over backwards to go l'chumrah when darshening the pessukim, and in the area of kodshim, the Gemarah (Zevachim 49-50) discusses at length the fact that the middos she'ha'Torah nidreshes bohem apply differently to kodshim from how they apply to the rest of the Torah regarding lomeid min ha'lomeid (learning out C from B where B itself was derived from A).

Reb Yehuda Ha'Nasi edited the mishnayos and divided everything into six sections. The sedorim of Nezikin, Kodshim and Taharos constitute three separate areas of halacha.

Some are only careful in observing those mitzvos which are bein adam laMakom and not that meticulous in nezikin (bein adam lachaveiro). Others are only extremely careful in observing those mitzvos which are bein adam lachaveiro while not being that meticulous in observing those mitzvos in the area of issur v'heter (bein adam laMakom). An Orthodox Jew is one who is equally meticulous in all areas.

It is quoted in the name of the Vilna Gaon that many divide all mitzvos into two categories: bein adam laMakom and bein adam lachaveiro. In reality, there is a third category: bein adam l'atzmo. We have the mitzva of V'holachto b'derachav - to preserve the tzelem ELOkim that was implanted within us at birth by developing our middos. The Gemarah (Bava Kamma 30a) tells us that one who wishes to become a chassid should be

meticulous in three areas of halacha - avos, nezikin, and berachos. These three represent the three areas of mitzvos - bein adam laMakom, bein adam lachaveiro, and bein adam l'atzmo.

Unfortunately many people are only selectively observant. Listed among the various mumin (wounds or blemishes) that invalidate a kohein from being markiv korbanos in the Beis Hamikdash is saru'ah, one whose limbs are not symmetrical (e.g. one arm is noticeably longer than the other, one eye is noticeably larger than the other.) I remember Rav Nissan Alpert's hesped at the funeral of Hagaon Rav Moshe Feinstein wherein he mentioned that he met many gedolim in his lifetime whom he felt that suffered, in a certain sense, from the mum of saru'ah. Some were very meticulous in one area of halacha, but not to the same extent in other areas. And some were especially strong in learning in one area of Torah (psak halacha, Kodshim, Nashim & Nezikin, etc.) but not equally as strong in all other areas of Torah. The one and only gadol b'Torah he knew who seemed to be equally strong in all areas of Torah and equally meticulous in all areas of mitzvos at the same time was his rebbe - Hagaon Rav Moshe Feinstein.

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#### **Torah.Org Dvar Torah**

**by Rabbi Label Lam**

#### **Persuaded by Ourselves**

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 just words. (Devarim 16:20)

Bribery is a very powerful force. Even wise people can fall under its spell and even just words can become twisted. The Torah understands that we are not strictly logical creatures but rather we are psychological beings. The Torah describes it as a subtle blinding agent to be weary of.

I heard a story about a man who wanted to his friend who was sick on Shabbos. He wondered to himself if visiting him would be more of a disturbance and a burden or a relief. He discussed it with his wife but she had no clear way of knowing whether a Shabbos visit would cross the line of showing concern and enter the realm of being intrusive. Shabbos afternoon this man disappeared for many hours into the frigid and snowy day.

When he returned home covered in snow his wife asked about his friend's welfare assuming that he had gone to visit his ailing friend. Surprisingly he told her that he had no idea how his friend was feeling. Puzzled, she asked him where he had disappeared to for so many hours. He told her that he had in fact taken a long trek to his friend's house. Again she asked him about the man's welfare and he told her that he did not enter to visit him. Then he explained his seemingly bizarre behavior. He said that since he was doubtful about whether

or not it would be helpful to visit he was concerned that if he decided not to go from the comfort of his warm home where his shielded from the harsh wintry elements, perhaps his decision would not be based upon what is best for his friend but rather on his desire to stay warm and dry.

So he decided that it would be best, more honest of him, if he walked all the way to his friend's home and from there he would decide what's best. When he stood outside of the house he thought it more objectively and decided it was better not to disturb his sick friend on Shabbos! Now that shows a profound understanding of what bribery can do to the mind of a man.

The Mesilas Yesharim states, "...the material and physicality of this world – it is darkness of night to the eye of the intellect, and causes him to err on two fronts: Thus the simpletons walk confidently, and fall and are lost without having felt any prior fear...For they feel as secure as an edifice and they fall before having any knowledge whatsoever of the stumbling block. Now, the second error, and this is even worse than the first, is that [the darkness] distorts their sight until they literally see evil as if it were good and good as if it were evil. Thus they strengthen in clenching to their evil ways. For not only do they lack the [proper] vision to see the truth, to perceive the evil right in front of their eyes, but they also see fit to conjure up great proofs and convincing evidences to support their evil logic and false ideas."

The mind of people is constantly being bribed and blinded. It helps for a person to be aware of this fact. If a person is truly blind, and he realizes it, he can seek help and find someone to advise him to navigate the darkness. The second type of blindness is far more dangerous. He's worse than Mr. Magoo behind the wheel. Not only is he legally blind but he thinks he can see, and he's drunk too with his false and self-serving idealism

The Dubno Maggid told a Moshol of a man tramping through the woods and noticing all around him on trees high and low, there were bulls eyes, and in the center of the center of each bulls eye was an arrow shot with force. He became curious to discover who it is that can hit the center of the target every time. Then he met a chap with a quiver and a bow. He asked him, "Are you perhaps the author of all these center shots?" Proudly he nodded yes. Then he asked the marksman, "How do you manage to hit the center every time?" The man answered, "It's really quite easy! First I shoot the arrow, and then I paint the bulls eye!"

He's quite dangerous, but he sure knows how to make himself look and feel right. First one acts, however unjustly, and brilliantly justifies himself. Then he defies all standards of rationality and with genius rationalizes. It may be wise to not be so persuaded by ourselves.



BS"D

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### Parshas Shoftim

#### "I Should Accept Him As My Rabbi?"

These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: CD #1214 – The Danger of Cutting Down a Fruit Tree. Good Shabbos!

"I Should Accept Him As My Rabbi?"

In Parshas Shoftim, the pasuk says: "If a matter of judgment will be hidden from you, between blood and blood, between verdict and verdict, or between afflictions and affliction, matters of dispute in your cities – you shall rise and ascend to the place that Hashem, your G-d, shall choose. You shall come to the Kohanim, the Levites, and to the judge who will be in those days; you shall inquire and they will tell you the word of judgment." [Devorim 17:8-9]. The Gemara [Rosh HaShannah 25b] makes a famous comment on the words "that will be in those days": The Gemara asks "Would I think that I should go to a judge who was no longer alive?" The Gemara derives a very important lesson from this precise terminology: "You have no judge other than the one who is present in your days." You need to go to the Gadol and Posek of your generation. Even though every generation that is farther removed from Sinai experiences Yeridas HaDoros (spiritual descent of the generations), nevertheless we have no choice but to go to the judges present in our own times.

As we get older, many of us here remember Gedolim of yesteryear. The Siyum HaShas is an incredible, wonderful event. But every Siyum HaShas — which happens every seven and a half years — there is a nostalgic feeling when looking upon the dais and thinking "I remember when..." I remember when Rav Moshe Feinstein and Rav Yaakov Kamenetsky and Rav Ruderman and Rav Hutner and the list goes on and on. Today we go to the Siyum HaShas and to Conventions and we see that those Gedolim are already not amongst us. There is this understandable feeling of "I should go to him?" "I should ask my Shaylos of him?" "I remember when he was running around playing stick ball!"

That is what the pasuk is telling us. You have no judges other than those in your own day. You have to respect them and accept their ruling. These are the Shoftim and the Gedolim that HaKadosh Baruch Hu has provided for our particular generation.

Rabbi Abraham Twerski cites the following idea in one of his sefarim: The Torah speaks of the "souls that Avram made in Charan." The Rambam describes in the beginning of Hilchos Avoda Zarah that Avraham Avinu brought thousands of people under the wings of the Divine Presence. And yet what happened to those thousands of people? We really find only one person who is a true spiritual descendant of Avraham Avinu and that is his son, Yitzchak. What happened to all the Nefesh asher asa b'Charan? Some of the meforshim speculate that after Avraham died and Yitzchak took over, the converts made by Avraham said "I should go to Yitzchak? I remember when Yitzchak was just a toddler!" Therefore, they did not accept his authority.

I was in Europe this past summer (2016). We went to the Kever of the Chasam Sofer (Rabbi Moshe Schreiber [1762-1839]). As part of the preparation for this tour, I did a lot of research about the Chasam Sofer, his Yeshiva, his life, etc., etc. The Chasam Sofer was niftar when he was 76 years old. When he died, his son the Kesav Sofer (Rabbi Avraham Shmuel Binyamin Schreiber [1815-1871]), was only in his twenties. It is incredible to imagine the impact the Chasam Sofer had. He was THE Gadol Hador! Here it is, his son, who was in his twenties was taking over the Yeshiva and taking over the city.

At the Chasam Sofer's levaya, the Dayan of Pressburg (which is today Bratislava) got up and announced to the Kesav Sofer "I accept you as my Rav (Rabbinic authority), Mazal Tov! The entire Tzibbur — there were thousands of people there — were crying! The Chasam Sofer was gone and they all yelled out "Mazal Tov!"

Have you ever been at a funeral where everyone yells "Mazal Tov"? The Dayan was doing something that was very wise. The Chasam Sofer was a man in his seventies. He had been the Rosh Yeshiva and Rav of Pressburg for decades. And now a twenty-year-old was going to take over? This was the problem of the thousands of converts made by Avraham Avinu. They could not live with the fact that their new Gadol was going to be Yitzchak Avinu.

Rav Chaim Shmulevitz once mentioned a similar concept in a Shmooz. The Gemara [Sanhedrin 11a] relates that Rabbeinu HaKadosh was giving a shiur and someone had eaten garlic. The smell was offensive and Rabbeinu HaKadosh said "The person who ate garlic should leave the room." The Gemara says that the great Rabbi Chiya got up and left, after which everyone got up and left the room (so as not to embarrass Rabbi Chiya).

Now we can be assured that Rabbi Chiya was not the one who ate the garlic, but he wanted to prevent the person who had eaten the garlic from being humiliated. Reb Shimon, son of Rabbi, found Rav Chiya the next day and said "Are you the one who caused my father pain?" Rav Chiya responded, "Heaven forbid that it was I" (but he walked out nevertheless to spare the other embarrassment). The Gemara asks — from where did Rav Chiya learn to do such a thing? The Gemara answers he learned this idea — that it is better to bring humiliation on oneself than to have it fall upon someone else — from Rabbi Meir.

Rabbi Meir was an earlier Tanna. What was the story with Rabbi Meir? It was taught: There was an incident with a certain woman who came to the Beis Medrash and told Rabbi Meir — "One of the students in this Yeshiva betrothed me through biyah" (this means he performed the act of Kiddushin upon me not with the traditional ring, but with the marital act). [Although this was a recognized mode of Kiddushin in the Mishna (Kidushin 1:1), it is now considered to be a brazen act which is not appropriate as a means of establishing Kiddushin.] The Talmud says that in response to this woman's charge, Rabbi Meir arose and wrote her a divorce document. Following that, all the students arose and wrote her their own divorce documents.

The Gemara then asks — from where did Rabbi Meir learn this idea from and goes on to say that he learned it from an earlier Tanna — Shmuel haKatan.

The Gemara then says that Shmuel haKatan learned this concept from Shachnaya ben Yechiel [Ezra 10:2] and Shachnaya ben Yechiel learned it from Yehoshua and Yehoshua got it from Moshe Rabbeinu (each time citing incidents where a great person saved another from embarrassment by taking blame for something he did not do).

Rav Chaim Shmulevitz asks “If this lesson was ultimately learned from Moshe Rabbeinu” so then why when the Gemara started this whole chain of derivations, did it not say that Rav Chiya got it directly from Moshe Rabbeinu? Why insert all these “middle-men” in the chain of derivation of this lesson? Rav Chaim Shmulevitz answers – it is because Rav Chiya could not get it from Moshe Rabbeinu! Moshe Rabbeinu was not the Rebbe of Rav Chiya. He was not his Dayan, he was not his Posek. A person can only take his Torah paradigms from someone of his own generation. Granted, Rabbi Meir was not Moshe Rabbeinu and he was not even Yehoshua. It does not matter. Yiftach in his generation was equivalent to Shmuel in his generation. One must go to the Shofet who is present in his own generation.

#### No One Is Above the Law

Later in the parsha we read the laws of appointing a king. “You shall surely set over yourself a king whom Hashem, your G-d, shall choose; from among your brethren shall you set a king over yourself; you cannot place over yourself a foreign man, who is not your brother.” [Devorim 17:15].

The Torah warns that the king may not have too many horses; he may not have too many wives; he should not have unlimited wealth. In all these limitations, the Torah is concerned “Lest his heart stray” (after non-essential material possessions.) We know what can happen if a person has too many wives, as we see with the case of Shlomo HaMelech.

Chazal say that Shlomo was over-confident and said about himself “I will be able to exceed the limit without having my heart stray.” He felt that these Torah laws applied to everybody else, but that he would be able to control himself. “I am not going to let it happen to me. I can have many wives. (He had 1,000 wives!) It is not going to affect me.”

The Medrash says in Shir HaShirim that when Shlomo HaMelech said “I can have many and I will not stray” the letter Yud of Lo Yarbeh lo Nashim (He shall not have too many wives) came to the Ribono shel Olam and said “Look, he is not listening to this pasuk.” The Medrash has very strong language here: “Let Shlomo HaMelech and a thousand like him become nullified (batel) but a Yud in the Torah will never be discarded.”

The Sefer Koheles Yitzchak asks a simple question: Why was it specifically the letter Yud that came to complain? Shlomo’s act of ignoring this law affected the letter Reish also and the letter Beis also of the word “lo YaRBeh lo nashim.” He shares a beautiful thought. The letter in Hebrew which grammatically turns something from the past or the present into the future is the letter Yud. Ro’eh means ‘to see’. Yireh (with a Yud in front of the Ro’eh) means WILL see. Ochel means eat; Y’Ochal means ‘to eat’ in the future.

The Yud is a letter which always makes something into the future. Shlomo HaMelech was right. He was capable of theoretically having a thousand wives and not having it affect him. But not everybody is capable of that. A person must worry about the future. Not everyone is a Shlomo HaMelech. The reason the Ribono shel Olam let this happen and let this affect Shlomo HaMelech is to prove this very point – that no one is above the law and no one can say “It does not apply to me.” For with such an attitude, everything can be discarded.

Therefore, it was the Yud which represented the future which precisely formulated the problem: Maybe you, Shlomo, can get away with it – but we are talking about Kings of Israel for generations to come. They will not be able to do it.

A similar thought is found in the Gemara [Shabbos 12b]. The Sages said a person may not read by an oil-burning candle. The concern was that a person would become preoccupied with his studies and absent-mindedly tip the candle (thereby violating the prohibition of kindling or extinguishing fire on Shabbos). The Tanna Rav Yishmael learned by a candle and said “I am

confident that I will not come to tip the candle.” Unfortunately, he became so absorbed in his studies that he did tip the candle. He then said, “How wise are the Sages who forbade a person to read on Shabbos by candlelight.” No one can say “This doesn’t apply to me.”

When the author of the Minchas Chinuch (Rav Yosef Babad [1800-1874]), was already an old man, a woman came in to ask him a Shaylah and she closed the door behind her. The door locked. Here he was together with a woman in a situation of Yichud. He was an old man, beyond the stage of Tayvas Nashim (strong sexual desire). He could have very easily rationalized, “I do not need to worry about this Yichud prohibition. It does not apply to me in my stage of life.” What did he do? He jumped out the window! He was so afraid of the Issur Yichud, he ran for the quickest exit which was the window.

No one is above the law. This is the lesson of Lo Yarbeh lo nashim and the misplaced confidence of Shlomo HaMelech that it did not apply to him.

Transcribed by David Twersky; Jerusalem DavidATwersky@gmail.com

Technical Assistance by Dovid Hoffman; Baltimore, MD dhoffman@torah.org

This week’s write-up is adapted from the hashkafa portion of Rabbi Yissochar Frand’s Commuter Chavrusah Series on the weekly Torah portion. A listing of the halachic portions for Parshas Shoftim is provided below:

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from: [torahweb@torahweb.org](mailto:torahweb@torahweb.org)

date: Aug 20, 2020, 1:03 PM

subject: Rabbi Mordechai Willig - Rosh Hashanah 5781

**Rabbi Mordechai Willig**

**Rosh Hashanah 5781**

The Coronavirus presents a serious ongoing danger. Doctors have warned that public gatherings can spread the virus unless proper precautions are taken. They recommend outdoor gatherings, if possible, and require masks and social distancing. As a result many questions have arisen concerning Rosh Hashanah 5781. Each shul should follow the psakim of its own rav. What follows are merely my suggestions which may be implemented in our own shul, depending on the facts the facts on the ground come Rosh Hashana.

The main issue is the need to shorten the davening Rosh Hashanah morning in order to reduce the risk. In addition, it is difficult for many to keep masks on for a long period of time. Furthermore, for the outdoor minyanim, it is hard, and for some even dangerous, to remain in a potentially very hot tent for an extended Tefilla. Finally, it may be necessary to have two consecutive minyanim in shul, since it may not be filled to capacity as usual for health and/or legal reasons. For example, in our shul davening on Rosh Hashanah typically lasts for six hours. How can it be reduced to three hours?

It is critical to preserve the primary ingredients of the Rosh Hashanah experience that the tzibur is accustomed to and anticipates. The Rama (Orach Chaim 619:1) states: one may not change the custom of the city, even the tunes sung and piyutim that they say there. The Mishna Berurah (619:9) explains that changes confuse the kahal. If we omit a tune or a devotional piyut, the kahal may be confused and/or disappointed.

The lesser of the evils would be to omit the piyutim accompanied neither by tunes nor by tears. These literary masterpieces, primarily authored by R' Elazar HaKalir (day one) and by R. Shimon ben Yitzchok HaGadol (Shacharis day two), should be studied and even recited at home during the course of Rosh Hashanah.

As such in Shacharis, only Ata Hu Elokeinu and L' Keil Orech Din, and their brief introductions and conclusions will be, respectively, sung and recited. In Mussaf, only Melech Elyon (on day one) and Un'saneh Tokef will precede Kedusha. From Kedusha and on, we will daven as usual, but, if necessary, at a somewhat faster pace.

The lengthy Mi Shebarach's will be omitted, and Lamenatze'ach before shofar will be recited only once, not seven times as usual.

The beginning of Shachris will be recited individually, in shul or at home. At the appointed time, the Chazan will begin at Nishmas, which is the beginning of the beracha which ends with Yishtabach (Mishna Berurah 52:5. See the pask of Harav Hershel Shachter shlit"a, 20 Tamuz 5780). Even those coming from home should not speak in the middle of p'sukei d'zimra. Even though from the perspective of hefsek it would be better to start after Yishtabach (Orach Chaim 54:3, Mishna Berurah 54:6), it is more desirable that the ba'al Shachris begin with the traditional, haunting chant of Hamelech.

The custom of one hundred shofar blasts is not recorded in the Shulchan Aruch; the Mishna Berurah (596:2) quotes it from the Shelah. If necessary, the last forty blasts can be omitted. Alternatively, they can be sounded outside of shul after Musaf concludes. As mentioned, doctors agree that risk is reduced outdoors and many are davening outside as well.

Some doctors are concerned with aerosols from the shofar. To allay these fears, the shofar can be blown near a door, if feasible, so the air goes outside. Some have suggested covering the wide end of the shofar with a mask. However, if this changes the sound of the shofar the mitzva is not fulfilled (Orach Chaim 586:16). It is reported that a very tight fit, such as a rubber band, changes the sound. Therefore, a loose fit must be used, and it must be tested in advance to make sure that the mask does not change the sound of the shofar.

In case consecutive minyanim are held, Harav Hershel Shachter shlit"a ruled (17 Menachem Av 5780) that Chazaras HaShatz may be led by a Chazan two times, as seen in Mishna Berurah (124:5). The Rivevos Ephraim (Greenblatt, 2:83, 4:254) agrees. The Divrei Yaakov (Adas, Berachos 21a,7) asked many poskim and they said it is obviously permitted. Therefore, while the Mishna Berurah is not conclusive (it may refer to one who davened at the first minyan but was not the Chazan), it is nonetheless permissible.

Some wish to use the Tzomet microphone for outdoor minyanim. This device has not been accepted by American poskim. Tzomet has developed an infra-red thermometer based on their notion of grama. This, too, is not universally accepted. Therefore, if there is a need (many doctors question its accuracy when entering a building), a non-Jew should use a thermometer as a shvus d'shvus which is permissible in a case of need.

In the merit of our strict adherence halacha and our strict adherence to responsible medical guidelines may we all merit a K'siva V'Chasima Tova.

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from: **Shlomo Katz** <skatz@torah.org>

to: hamaayan@torah.org

date: Aug 20, 2020, 2:02 PM

subject: Hamaayan - Opening Gates

**Parshas Shoftim Opening Gates**

BS"D Volume 34, No. 43 2 Elul 5780 August 22, 2020

Sponsored by Faith Ginsburg in memory of her uncle, Benjamin Lavin (Binyamin Beinish ben Raphael a"h), her sister, Ann Rita Schwartz (Chana Rus bat Naftali Hertz a"h), and her father-in-law, Maurice Ginsburg (Yisrael Moshe ben Yosef a"h)

Our parashah, which is always read in the month of Elul preceding the Days of Judgment, begins: "Judges and officers you shall appoint at all your gates—which Hashem, your Elokim, gives you—for your tribes; and they shall judge the people with righteous judgment." R' Levi Yitzchak of Berditchev z"l (1740-1809; early Chassidic Rebbe) writes that this verse is offering us a recipe for a successful judgment on Rosh Hashanah. Hashem wants to judge us mercifully, but we must allow Him to do so. When we behave with kindness and judge our fellow Jews favorably, we awaken Hashem's kindness, so that He can judge us the same way. Through such behavior, we open the "gates" of Heavenly kindness, allowing blessing to flow to all of the Jewish People.

This, writes R' Levi Yitzchak, is the lesson of our verse: You will appoint the judges and officers who determine your fate on Rosh Hashanah by choosing your gates, i.e., choosing which gates you will open. How? By judging all of the people with righteous judgment, i.e., by always seeing the righteousness of others and judging them favorably. (Kedushat Levi)

A related thought from the anonymous 13th century work Sefer Ha'chinuch (Mitzvah 171): Our Sages teach that man is measured by his own measuring stick. However, the author continues, this teaching is misunderstood. It does not mean that Hashem looks at how man behaves and responds accordingly. That is a human trait. Rather, through his own actions, man makes himself into a receptacle to receive reward or punishment.

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"You shall arise and ascend to the place that Hashem, your G-d, shall choose." (17:8)

Rashi quotes a Midrash: "This [the word 'ascend'] teaches that the Temple was situated higher than all other places."

R' Elya Meir Bloch z"l (1894-1955; founder and Rosh Yeshiva of Telshe in Cleveland) observes: Of course, we know that there are taller mountains than Har Ha'moriah, where the Temple stood. What the Midrash means is that because the earth is a sphere, any point can be designated as "the highest point." Har Ha'moriah deserves that designation because it is the holiest point in the world, and it is the place to which all people ascend to experience spiritual growth. (Peninei Da'at)

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"You shall do to him as he conspired to do to his fellow, and you shall destroy the evil from your midst." (19:19)

This verse speaks of an Eid Zomeim / a person who testifies falsely in Bet Din that he witnessed an event when, in fact, there are witnesses that he was somewhere else at the time of the event. The Halachah regarding such a person is that the punishment or consequence that he tried to impose on the defendant is imposed on him instead, but only if the defendant's sentence was not yet carried out.

R' Chaim Friedlander z"l (1923-1986; Mashgiach Ruchani of the Ponovezh Yeshiva) writes: Commentaries note that this is counter-intuitive. We would have thought that a false witness who successfully caused another person to be harmed should be punished more severely than one whose plans did not succeed!

R' Friedlander explains, based on the writings of R' Yehuda Loewe z"l (Maharal of Prague; died 1609) that the Torah is teaching us the power of a person's thoughts. When a false witness has a thought that someone should receive the punishment of lashes, for example, that thought must be fulfilled somehow. When it is not fulfilled against the intended victim, it is fulfilled against the false witness himself. We find this idea in Megilat Esther (9:25), "When she [Esther] appeared before the King, he commanded by means of letters that the wicked scheme, which [Haman] had devised against the Jews, should recoil on his own head; and they hanged him and his sons on the gallows." On the other hand, once the thought has been fulfilled, i.e., if the false testimony succeeded, the original thought no longer exists. [Of course, Hashem has other ways of punishing the false witness.] The lesson for us, however, is that a person's thoughts are very powerful. Therefore, in addition to controlling one's deeds and one's word, one is required to control his thoughts as well. (Sifte Chaim: Mo'adim III p.7)

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"And who is the man who has planted a vineyard and not redeemed it? Let him go and return to his house, lest he die in the war and another man will redeem it." (20:6)

The classical Aramaic translation Targum Yonatan interprets: "Let him go home from war lest the sin of not redeeming the vineyard cause him to be killed in battle."

[During the first three years after a tree or vine is planted, the fruits are Orlah, and no benefit may be derived from them. In the fourth year, the fruit is called Revai, and it may be eaten only in Yerushalayim. If there are too many fruits to transport, one redeems them and takes the money to



Yerushalayim to buy food there.] R' Yosef Shalom Elyashiv z"l (1910-2012; Yerushalayim) observes: We would have thought that redeeming the fruits of a four-year old vineyard is optional. If one wants to eat the fruit, that is the procedure he must follow; if not, he can let the fruits rot on the vine. However, Targum Yonatan is teaching us that this is not the case. Rather, redeeming the fruits is itself a Mitzvah, and a person who neglects that Mitzvah is liable to be punished; even to die in battle.

What is the purpose of such a Mitzvah? R' Elyashiv explains: The Gemara notes the similarity between the Hebrew word for redeeming the fruits ("Chillul") and the Hebrew word for "praise" ("Hallel"). The message for us is that a person who plants a vineyard should see the act of Chillul as a time for Hallel – giving praise to Hashem for the vineyard and its produce. Thus, one who fails to perform Chillul has squandered a valuable religious opportunity, and it is understandable that he would be in danger. (Shiurei Maran Ha'Grish Elyashiv: Berachot 35a [p. 364])

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"The voice of your lookouts, they have raised a voice, together shall they sing glad song, for every eye shall see when Hashem returns to Zion." (From the Haftarah – Yeshayah 52:8)

The Gemara (Berachot 12b) teaches that the Exodus must be remembered every day and that, even after Mashiach has come, we still will remember the Exodus. R' Yitzchak Isaac Chaver z"l (1789-1852; rabbi of Suvalk, Lithuania) explains: The Exodus is the foundation of our Emunah, for it was then that the Chosen Nation was imbued with the spiritual attributes that are passed down from generation to generation. Even in times of exile, some "impression" from that influence can be seen.

In particular, at the time of the Exodus we became a nation with which Hashem interacts directly, outside of the laws of nature. This relationship is, for the most part, hidden now, but, at the time of the future redemption, it will be obvious; "for every eye shall see when Hashem returns to Zion." (Haggadah Shel Pesach Yad Mitzrayim: Potei'ach Yad)

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**Elul: An Auspicious Time for Teshuvah**

R' Ehud Rakovski-Avitzedek shlita (Yerushalayim) writes: The month of Elul and the Ten Days of Repentance are auspicious times set aside for Teshuvah. This requires explanation, however, for our Sages teach (Pesachim 54a; Mesilat Yesharim ch.4) that the possibility of Teshuvah is a necessary prerequisite for the Creation and continued existence of the world. And, we know that G-d's Will is unchanging! As such, what does it mean that there is a special time for repentance?

R' Rakovski answers: Hashem does not become more receptive to our repentance during this season. Rather, as beings who are subject to time, we need a special time when we are more open to receiving the flow of goodness, the blessing of repentance, that flows from Hashem at all times. As finite beings, we cannot relate to something that is infinite.

Why Elul? R' Rakovski explains: A Ba'al Teshuvah / person who has repented is a new person. In the words of the prophet Yechezkel (33:26), he has a "new heart and a new spirit." Similarly, R' Moshe ben Maimon z"l (Rambam; 1135-1204; Spain and Egypt) writes that a penitent must change his ways so that he can say, "I am not the same person who did those things." And, Rabbeinu Yonah Gerondi z"l (Spain; died 1263) writes: "He should cast off all of his sins and make himself as if he was born today."

R' Rakovski continues: We say in the Rosh Hashanah prayers: "This day is the beginning of Your handiwork," i.e., of Creation. If Rosh Hashanah is the anniversary of Creation, then Elul, which precedes Rosh Hashanah, is the period before Creation. Hashem, so-to-speak, planned Creation during Elul. And, say our Sages, "Teshuvah was created before Creation." Since Hashem created man with a propensity to sin, the world could not exist if the possibility of repentance did not also exist. Thus, Teshuvah was created during Elul, before the world was created, and that is when we are receptive to it. Man's renewal belongs in the time period when the world itself became new. (Da'at Mo'ed)

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date: Aug 20, 2020, 2:12 PM

subject: Meshivas Nafesh - Who Was to Blame?

**Meshivas Nafesh**

**By Rabbi Yitzchok Adlerstein**

Dedicated to the speedy recovery of Mordechai ben Chaya

Parshas Shoftim Who Was to Blame?

Atone for Your people Israel that You have redeemed.[2]

Chazal[3] parse this pasuk, and see separate references to two groups. "Your people Israel," they say, refers to the living; "That you have redeemed," to the dead. We must ask why the living require atonement? Moreover, the dead, we would think, require neither atonement nor redemption.

We can explain in two different ways, one examining the plain sense of the text, and the other taking into account a deeper, more hidden level of understanding it.

First, according to the plain meaning, our parshah speaks of the great value of levaya/accompanying a person for a while on his journey. Chazal[4] imply that such accompaniment provides protection from danger for both the traveler and his companion. Had someone accompanied the murder victim out of the city, he would have not met any harm.

Who was to blame? It might have been the dead, i.e. the victim himself! Had he not kept his plans to himself, someone would have come forward to accompany him. By not announcing his intentions, he caused his own death – and requires atonement for the shedding of his own blood! (His death is called "redemption," because death releases a person from the constant struggle with the yetzer hora.)

It might be the case, however, that it never even occurred to the victim that he should have sought levaya. He might have been completely unaware of its protective nature. Perhaps the rabbanim of the city had failed to teach and to emphasize its importance. If that was the case, then the living – the inhabitants of the city – require kapparah for not properly educating everyone about this important practice.

Alternatively, we can detect a second approach to our parshah by noting its juxtaposition to what precedes it: "When you besiege a city for many days to wage war against it...do not destroy its trees." [5] The city might be an allusion to the individual, in the same manner as the "small city, and few people in it, and a great king comes against it." [6] This is interpreted as an allusion to the constant besieging of a person by the yetzer hora. Similarly, here in our section of Devarim, the city may represent an individual taking strong measures against his own impulses. Wishing to rid himself of his weakness for comfort and pleasure, he besieges his own being. He attempts for long periods of time to deaden parts of himself through constant fasts, privation, and self-denial.

To such a person the Torah speaks, "Do not destroy its trees." [7] Don't damage the body. "Only a tree that know is not a food tree, it you may destroy." [8] Only those things that are completely non-essential – things that are luxuries – you may rid yourself of.

You might counter that the gemara relates several stories about individuals who, as part of their repentance, practiced self-denial to the point of death. We should not learn from them; this is not the best way to go. Possibly, those individuals knew enough about themselves that there was no way back from their sin other than in extreme measures against the body. They do not serve as a general model.

This is the other message of our section. "If a corpse will be found...[and] it was not known who smote him." [9] No one knows why he died. No one killed him! He died through his own ill-advised practice of abusing himself. Tragically, he was not aware of better ways to live. The townspeople had not broadcast proper conduct and behavior to the masses. They must all gather and perform the mitzvah of the decapitated heifer. They all need atonement – the living, and the one who died through his own actions. The living declare that their hands did not shed his blood – at least not directly.

That, however, does not acquit them. "Our eyes did not see." [10] They must



say that they were unaware of the way he was treating himself. Had they known, they would have intervened and reasoned with him. Furthermore, they were not aware of such conduct in general. If they had been, they would have taken steps to properly educate the community to stay away from practices of mortifying the flesh.

Even if that declaration is true, they still require atonement. People are obligated to learn – and to anticipate crucial needs of the community, even when they have no personal experience with them!

1 Based on Meshivas Nafesh by R. Yochanan Luria (15th century)  
2 Devarim 21:8 3 Sifrei #210 4 See Sotah 46b and Bava Metzia 86b  
5 Devarim 20:19 6 Koheles 9:14 7 Devarim 20:19 8 Devarim 20:20  
9 Devarim 21:1 10 Devarim 21:7

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from: Rabbi Sacks <info@rabbisacks.org>

date: Aug 19, 2020, 3:17 PM

### **A Sage is Greater than a Prophet (Shoftim 5780)**

#### **Rabbi Jonathan Sacks**

In Shoftim, Moses speaks about the great institutions of Judaism: courts, judges, officers, Kings, Priests, Levites and Prophets. In the case of the Prophet, Moses says in the name of God:

I will raise up a Prophet for them from among their own people, like yourself: I will put My words in his mouth, and he will speak to them all that I command him. (Deut. 18:18)

The phrase “a Prophet ... like yourself” cannot be meant literally. In the quality and clarity of his communications with God, Moses was unique. He was unique in the miracles he performed. Most importantly, only he was authorised to proclaim Torah: he was Israel’s sole legislator. The King and Sanhedrin both had powers to make temporary enactments for the sake of social order. Prophets were given the authority to command specific, time-bound acts. But no one could add to or subtract from the 613 commandments given by God through Moses.

This, therefore, is how Rambam explains our passage:

Why is it said in the Torah: “I will raise up a Prophet for them from among their own people, like yourself” (Deut. 18:18)? He will come not to establish a religion, but to command them to keep the words of the Torah, warning the people not to transgress them, as the last among them said: “Remember the Torah of Moses My servant” (Mal. 3:22).[1]

In other words, the Prophets who followed Moses, from Elijah to Malachi, were not revolutionaries. They did not intend to create something new but to restore something old. Their task was to recall people to the mission Moses taught them: to stay faithful to God, and to create a just and compassionate society.

Eventually, during or after the Second Temple period, most of these institutions came to an end. There were no Kings because Israel had no sovereignty. There were no Priests because it had no Temple. But there were also no Prophets. How important was this? And what happened to prophecy?

The Talmud gives two radically opposite opinions. The first:

Rabbi Yochanan said: From the day that the Temple was destroyed, prophecy was taken from the Prophets and given to fools and children.[2]

We can’t be sure what Rabbi Yochanan meant. He may have meant that children and fools sometimes see what others don’t (as Hans Christian Anderson illustrated in the famous story of The Emperor’s New Clothes). He may, though, have meant the opposite, that prophecy deteriorated during the late Second Temple period. There were many false prophets, soothsayers, doomsayers, mystics, announcers of the apocalypse, and messianic movements, all confidently predicting the end of history and the birth of a new order of things. There were religious sectarians. There were Essenes expecting the arrival of the Teacher of Righteousness. There were rebels against Rome who believed that their military hero would bring freedom, even the messianic age. It was a fevered, destructive time, and Rabbi Yochanan may have wanted to discredit, as far as possible, any dependence on supposedly divine certainty about the future. Prophecy is the chattering of children or the rambling of fools.

However the Talmud also cites a quite different opinion:

Rabbi Avdimi from Haifa says: From the day that the Temple was destroyed prophecy was taken from the Prophets and given to the Sages ... Ameimar said: And a Sage is greater than a Prophet, as it is stated: “A Prophet has a heart of wisdom” (Ps. 90:12). Who is compared to whom? You must say that the lesser is compared to the greater.[3] (Since a Prophet must have a heart of wisdom, the Sage, who is wisdom personified, must be greater still).

This is seriously interesting. The early Judges in Israel were Kohanim.[4] When Moses blessed the people at the end of his life he said of the tribe of Levi, “They shall teach Your laws to Jacob and Your instructions to Israel” (Deut. 33:10). When Ezra taught Torah to the Israelites, he positioned Levites among the people to explain what was being said. All this suggests that when the Sages – teachers and masters of Jewish law – traced their intellectual-spiritual lineage, they should have done so by seeing themselves as heirs of the Kohanim and Levi’im. But they did not do so. We see this from the famous Mishnah that opens Pirkei Avot:

Moses received the Torah at Sinai and handed it onto Joshua, Joshua to the elders, and the elders to the Prophets, and the Prophets to the Men of the Great Assembly.

The Sages saw themselves as heirs to the Prophets. But in what sense? And how did they come to see themselves not just as heirs to, but as greater than the Prophets. What is more, the proof-text they cite means nothing of the kind. The verse in Psalm 90 says, “Teach us to number our days, that we may gain a heart of wisdom.” The Talmud is playing on the fact that two quite different words sound alike: נָתַן (we may gain) and נָבִיא (a Prophet). In other words, only by suspending our critical faculties is the proof-text a proof.

Something very strange is happening here. The Sages, who valued humility, who knew that prophecy had come to an end in the days of Haggai, Zechariah and Malachi five centuries before the destruction of the Second Temple, who believed that the most one could hear from heaven was a bat kol, a distant echo, are here saying that not only are they Prophets, but they are superior to Prophets.

All this to teach us that the Sages took the ideals of the Prophets and turned them into practical programmes. Here is one example. Remonstrating with the people, administering rebuke, was fundamental to the prophetic task.

This is how Ezekiel understood the task:

God said: “Son of man, I am sending you to the Israelites, to a rebellious nation that has rebelled against Me ... Say to them, ‘This is what the Sovereign Lord says.’ And whether they listen or fail to listen—for they are a rebellious people—they will know that a Prophet has been among them. (Ez. 2:3-5)

Ezekiel must take a public stand. Once he has done that, he has fulfilled his duty. The people will have been warned, and if they fail to listen, it will be their fault.

The Sages had a completely different approach. First, they understood the task of remonstrating as belonging to everyone, not just Prophets. That is how they understood the verse, “You shall surely rebuke your neighbour so you will not share in his guilt” (Lev. 19:17). Second, they held that it should be done not once but up to a hundred times if necessary.[5] In fact you should keep reprimanding a wrongdoer until they hit you or curse you or scold you.[6] All of this, though, applies only if there is a reasonable chance of making the situation better. If not, then we apply the rule: “Just as it is a mitzvah to say something that will be heeded, so it is a mitzvah not to say something that will not be heeded.”[7]

Note the difference between the two approaches. The Prophet takes a heroic stand but does not take responsibility for whether the people listen or not. The Rabbis do not take a heroic stand. In fact, they democratise the responsibility for rebuke so that it applies to everyone. But they are ultra-sensitive to whether it is effective or not. If there is a chance of changing someone for the better, then you must try a hundred times, but if there is no chance at all, better be silent. This is not only a wise approach; it is a highly effective one.

Now consider peace. No finer visions of a world at peace have ever been given than by Israel's Prophets. This is just one:

The wolf will live with the lamb, the leopard will lie down with the goat, the calf and the lion and the yearling together; and a little child will lead them ...

They will neither harm nor destroy on all My holy mountain, for the earth will be filled with the knowledge of the Lord as the waters cover the sea. (Isaiah 11:6-9)

Now consider rabbinic teachings:

"For the sake of peace, the poor of the heathens should not be prevented from gathering gleanings, forgotten sheaves, and corners of the field ... Our masters taught: for the sake of peace, the poor of the heathens should be supported as we support the poor of Israel, the sick of the heathens should be visited as we visit the sick of Israel, and the dead of the heathens should be buried as we bury the dead of Israel." [8]

Once again, the difference is glaring. What for the Prophets was a dazzling vision of a distant future was, for the Sages, a practical programme of good community relations, a way of sustaining peaceful coexistence between the Jewish community and its Gentile neighbours. It was imaginative, gracious and workable.

There are many other examples. The Sages achieved something extraordinary. Throughout the biblical era, the Israelites were constantly tempted by idolatry and foreign ways. The Prophets were often driven close to despair. During the rabbinic era, Jews became a people defined by religion, commandments, learning and prayer, sustained voluntarily and maintained tenaciously against all pressures to convert to the majority faith. That is because the Rabbis did not focus on distant visions. They devised practical programmes. These may have lacked drama, but they worked. The Sages, perhaps to their surprise, realised this: where the Prophets failed, they succeeded. I believe that institutions like prophecy survive when they are translated from utopian ideals into practical policies. The greatness of the Sages, still not fully appreciated by the world, is that guided by the visions of the Prophets, they gave us the instructions for how to get from here to there. Shabbat Shalom

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date: Aug 20, 2020, 2:55 PM

**Home Weekly Parsha SHOFTIM 5780**

**Rabbi Wein's Weekly Blog**

It can be said that the Torah is in favor of law and order. In this week's reading, the Torah prescribes a system of judges, courts, and police. The Torah apparently takes it for granted that no society can really function without these institutions of law and protection. The Torah warns us that these institutions must be ones of righteousness, fairness, and even altruism, but they must exist for society to function.

Amongst the ideological foes of Jewish life and values, the idea of anarchy – no government, no police, no courts – ranks as one of the most pernicious and evil of enemies. The nature of people is to be contentious, protective, and zealous of one's own property, personal rights, and privileges. Since, by nature, human beings always encounter other human beings which is the basis for all commerce and social interaction, disputes will certainly arise when one's rights butt up against the perceived rights of others. How are these matters to be settled?

In a lawless society, brute strength and violent behavior would always prevail. But the Torah constantly reminds us that we are to protect and enhance the rights of the poor and defenseless, the widow and the stranger, those that are, somehow disadvantaged by the process of general society. And it becomes the task of the legal system that is established in Jewish society, to protect these individuals. Judges and police, courts and bailiffs are not only necessary for society, but are also the agents of Godly intent.

All human history has shown us that all legal systems established by human beings are inherently flawed and subject to manipulation. We read in the book of Psalms of the complaint that evil can be easily constructed by legal means. Even a cursory study of the prophets of Israel will reveal the extent of their condemnation of the perverse practices and corruption of the court systems and the judges of their generations.

It is hard, if not well-nigh impossible, to find people who are completely incorruptible. All of us have human weaknesses that can be exploited by others and manipulated by any form of legal system that we will devise. Our great teacher and leader, Moshe, could not find, even in his generation, judges and tribal leaders that would meet all the requirements that were set for them by Yitro and confirmed by heaven itself. He, so to speak, had to settle for what was available to him in Jewish society at that time.

There is a lesson in this for us - that we should not allow our search for perfection to disqualify people who otherwise could serve as competent and efficient judges and administrators of Torah law. That is what the Talmud meant when it said that Yiftach in his generation was the equal of Samuel in his generation. We can only deal with what exists before us. The Torah cautions us that the only judge that you have is the judge that exists in your generation. Thus, the basis of all legal systems is practicality, and the Torah is the most practical of all disciplines.

Shabbat shalom

Rabbi Berel Wein

**In My Opinion SPIRITUAL FALLOUT**

**Rabbi Wein's Weekly Blog**

The current Corona epidemic has created many types of victims in its wake. Tragically, it is estimated that hundreds of thousands of people worldwide have died from the effects of the virus, out of the millions of others, really tens if not hundreds of millions of others, who contracted the disease. Thank God, over 90% of those who were sick have recovered and even though there is some anecdotal evidence that residue symptoms exist in those that were seemingly cured of the disease, in the main it must be said that we consider ourselves relatively fortunate as far as the clinical aspects of the pandemic are concerned. However, there has been enormous collateral damage done to the societies of the world from this bitter plague that has been visited upon us.

We are all aware of the fallout that has destroyed the world's economies and has left tens of millions of people unemployed and practically destitute. Even though there are signs of a recovery in certain economies of the world such as the United States, the economic situation here in Israel remains uncertain at best and bleak at worst. And let no one at any time minimize the effects of economic woes, unemployment, financial insecurity and losses of home and businesses on the human psyche and condition. There are relatively few happy and contented people present amongst us. The pandemic has taken an economic and psychological toll that is enormous and weighs heavily upon the functions of our society. My friends, a plague is a plague is a plague!

Aside from the physical and economic havoc wrought by the Corona pandemic, I have sensed a spiritual fallout as well. Naturally, the inability to have live, personal, face-to-face Torah study has, in many ways, crippled us. With all of the wonders of Zoom and all of the gratitude that we should have that this technology allowed for Torah study during this most trying period of time, it is apparent that such study is much more difficult and less rewarding than the good old-fashioned way of listening to a live lecture or learning one-on-one with a study partner.

The results are still out as to the success of Zoom use in the schools.

Anecdotally, I observed both in the United States and here in Israel that it places far more stress on the teacher and in one way or another that stress must be communicated to the student no matter how comfortable and welcoming the virtual classroom may be. Anyone who is tempted to think that when, God willing, the pandemic finally runs its course and schooling can be continued on a permanent basis, choosing only Zoom and the virtual classrooms is sadly mistaken. Even the most rabid fan of homeschooling and technical learning must admit that the social interaction between fellow

students and live instructors is a very necessary part of the overall education and social makeup of students at all levels of schooling. How this gap in the education of the next generation will be redressed is one of the great problems that faces our society.

And, you all know that I am very opinionated when it comes to the question of attendance at synagogue worship services. To me, all the outdoor minyanim that take place, of necessity during this pandemic, are nevertheless inferior spiritually to attending services at a synagogue, even if that synagogue service is limited only to 10 men. These ad hoc minyanim have bred descent, disagreements, personal hurts and are often devoid of content and meaning to the prayers being offered.

I realize that we have no choice in this matter and that these minyanim must perforce continue to operate. I also have no doubt from my experience of being a rabbi for over 60 years that even when the pandemic ends many of these ad hoc minyanim will continue. Attending the synagogue always is somewhat of an inconvenience and after all, we go to great lengths to escape inconveniences in our lives. But I think we should all recognize that there is a spiritual price to be paid for the absence from regular attendance at our synagogue. We will have to work hard to redress that loss when the situation will change for the better, and we pray that it will do so speedily and completely.

Shabbat shalom

All blessings, Berel Wein

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subject: Rabbi Riskin on the Weekly Torah Portion

**Shabbat Shalom: Shoftim (Deuteronomy 16:18-21:9)**

**Rabbi Shlomo Riskin**

Efrat, Israel – “The Levitic kohanim, the entire tribe of Levi, shall have no portion or inheritance with Israel; the Lord’s fire offerings and His inheritance they shall eat. But he shall have no inheritance among his brothers; the Lord is his inheritance, as He spoke to him.” (Deut.18:1-2)

What is the essence of the exalted Hebrew month of Elul, the auspicious 30-day period of time prior to the Days of Awe in which, according to Hasidic philosophy, “The King is in the Field,” when God is, as it were, more accessible to us than throughout the year?

How might we best prepare ourselves to meet the King while He is “in the field”? I believe that the story of Velvel, a Soviet refusenik I met in Riga, Latvia in the month of Elul 5730 (1970), offers an answer to this question.

Due to my intensive involvement on behalf of Soviet Jewry in the late 1960’s, I was summoned to a meeting in Crown Heights (Brooklyn, NY) with the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson of blessed memory. The Rebbe, z”l, asked me to be his shaliach (emissary) to establish centers of Torah learning in several cities in the Soviet Union, Moscow, Leningrad, Riga and Vilna, a mission that I felt honored to accept. I filled my luggage with siddurim (prayer books), tallitot (prayer shawls), tefillin, and other holy objects for the Jews suffering behind the Iron Curtain, and flew, via Vienna, to the lion’s den. During my two-week mission, I surreptitiously distributed these holy items to Jews in Moscow and Leningrad, before arriving in Riga, where I spent Shabbat.

On Friday night, I met a gentleman named Velvel in the city’s main synagogue.\* During a long conversation after dinner, Velvel told me with deep sincerity that there was nothing in the world he wanted more than a new tallit, since the tallit that he had received when he turned Bar Mitzvah was in tatters. Armed with my remaining supply of Judaica, I gave one to him discreetly, which brought an ear-to-ear smile to his otherwise forlorn face. The next day, during Shabbat morning services at the synagogue, Velvel entered the sanctuary proud as a peacock in his brand-new, sparkling blue and white tallit. I was mortified, as the KGB agents who had accompanied

me to the synagogue would surely surmise that I, the outside agitator, was the source of this tallit.

As the cantor led the Torah processional through the cavernous, mostly empty sanctuary, Velvel drew near, and lifted the tzitzit (ritual fringes) of the tallit, in order to touch them to the Torah scroll and then kiss them.

The cantor, seeing Velvel, dramatically stopped the procession. A frosty silence overcame the sanctuary. Time seemed to freeze. Velvel’s arm, outstretched in the direction of the Torah scroll, hung in mid-air suspended. The cantor stared at Velvel with disdain. Velvel reciprocated, keeping his arm extended in the direction of the Torah scroll.

The minute-long staring match went on for what seemed forever, with neither the cantor (who it turns out was also a KGB agent) nor Velvel giving an inch. Abruptly, Velvel screamed at the cantor in Yiddish:

“Ich hob nit kein moyreh!” (I am not afraid!) You’ve already taken everything that you can take away from me! When I began to come to shul and I lost my job as a result, my wife left me and she took the children with her. I have no job; I have no family. The only thing I have is my Jewish tradition. The only thing I have is this tallit. Ich hob nit kein moyreh. I am not afraid!”

The cantor, lowering his eyes in acknowledgment of Velvel’s sacrificial position, resumed the procession. Slowly and triumphantly, Velvel touched the Torah with the tzitzit and delicately kissed them. He had made a profound statement to everyone present: ultimately, we have nothing in life except for God, His Torah, and His commandments. Nothing else truly matters.

This unforgettable, chilling story provides an invaluable insight into an enigmatic law of the Torah found in this week’s reading. Shoftim stipulates that the Levites are to have no share in the inheritance of the Land of Israel. This seems rather unjust! In fact, Maimonides (Hilchot Shmittah v’Yovel, 13:12) asks and answers why this should be the case:

Why did the Levites not receive a portion in the inheritance of Eretz Yisrael...like their brethren? Because they were set aside to serve God and minister unto Him and to instruct people at large in His just paths and righteous judgments...He provides for them, as [Num. 18:20] states: “I am your portion and your inheritance.”

This is the main lesson taught by my friend Velvel and the fundamental lesson of the month of Elul. This splendid time comes to remind us of our true purpose on this earth, to live a life dedicated to God. In the final analysis, nothing else matters. This does not require that we adopt an ascetic lifestyle alone on a mountaintop; on the contrary, a true life of holiness involves interacting with and relating to others.

Nevertheless, as Velvel demonstrated in Elul 5730 (1970), and as Maimonides wrote, to live a life dedicated to God is to acknowledge that ultimately, all we have is God, His Torah, and His commandments.

Everything else is transitory and illusory. It is no wonder that it is precisely during this season that people are more prepared than usual to internalize this message. Perhaps this is because, indeed, “The King is in the Field.” Let us go out to greet Him.

\* A full account of the incident involving Velvel and the tallit in Riga can be found in my book, *Listening to God (Maggid)* pp 249-251.

Shabbat Shalom!

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Yeshivat Ateret Yerushalayim

From the teachings of the Rosh Yeshiva

Ha-Rav Shlomo Aviner Shlit"a

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**Ask Rav Aviner**

*Ha-Rav answers hundreds of text message questions a day. Here's a sample:*

Guest in Seat at Shul

Q: A guest was sitting in my seat at Shul. The Halachah says that one should Daven in a fixed place. If I ask him to move, he might be insulted. What should I do?

A: It is preferable not to insult him. Either sit within 4 Amot (6 feet) of your seat or sit elsewhere (Piskei Teshuvot 9:25).

Dividing the Sheva Berachot to Honor a Great Rabbi

Q: If a family has a Minhag not to divide up the Sheva Berachot, but rather have one person recite them all, and a great Rabbi attends the wedding, what should they do?

A: They should certainly divide them up! It is the honor of Torah! (Ha-Admor Imrei Sofer of Eralu bemoaned that when his son was married he did not divide up the Sheva Berachot, as was the Hungarian custom, even though Ha-Rav Shlomo Zalman Auerbach attend the Chupa. He said that for the honor of Torah, he should have acted otherwise and called him up for the Sheva Berachot. In the book "Be-Mechitzat Zekeini", p. 259-260).

Asking Forgiveness

Q: I yelled at someone at work. People do not customarily apologize here, and he won't understand what I want if I apologize. What should I do?

A: It is extremely problematic that people do not ask for forgiveness. You should do so.

Kabbalat Shabbat With Minyan

Q: Does Kabbalat Shabbat have to be recited with a Minyan, as there is no Kaddish or Barechu? Or can I Daven by myself with greater passion?

A: You should Daven with a Minyan on account of honoring Shabbat (Piskei Teshuvot 267:3).

Learning Torah While Donating Blood

Q: Is it permissible to listen to a Torah class while donating blood?

A: Certainly.

Shidduch who Does Not Want Continue

Q: I went on a Shidduch and wanted to meet the young woman again, but she is not interested. It is very hurtful and now I feel a lack of self-confidence.

A: Ha-Rav Pinchas Hirschprung, Av Beit Din of Montreal, said in a similar situation: The Torah is no less valuable even though the non-Jews did not want to receive it... (In the book "Be-Didi Hevei Uvda", p. 405).

Drinking to Get Rid of Hiccups

Q: Do I recite a blessing if I drink water to get rid of the hiccups?

A: Yes, since you are benefiting from the water.

Non-Chalav Yisrael Milk

Q: We have a little Kiosk in our Yeshiva. Is it permissible to sell food which contains non-Chalav Yisrael?

A: You have to ask your Rosh Yeshiva. As Ha-Rav Moshe Feinstein would say: "The Rabbi from Minsk should not interfere in a question for the Rabbi from Pinsk" (Meged Givot Olam Volume 1, p. 55. Volume 2, pp. 31-32).

Blessing over Rain Drops

Q: If I catch rain drops in my mouth, do I recite the blessing of "She-Ha-Kol"?

A: Yes, if you swallow them.

Denigrating Tzahal Soldiers

Q: I am a soldier. I Davened in a Shul in Meah Shearim while wearing my uniform and some people denigrated me. This is Torah?! What can we do?!

A: They are confused. Patience. They will heal.

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subject: [Rav Kook Torah]

**Shoftim: The Jerusalem Police Officer**

**Rav Kook Torah**

"Appoint judges and police in all of your cities..." (Deut. 16:18)

Rav Kook was overjoyed with the good news: David Tidhar, a Jewish officer serving in the British Mandatory police force, had announced that he was engaged to be married. The rabbi insisted that the wedding be held in his

own residence and that he would provide the wedding meal. Rav Kook even invited students from the yeshiva to join in the festivities.

Many people were surprised. Why was Rav Kook so fond of this particular policeman?

Rav Kook explained that David Tidhar had zekhut avot - ancestral merits.

His father, Reb Moshe Betzalel Todrosovich, was a wealthy Jaffa philanthropist who had been instrumental in bringing Rav Kook to serve as rabbi of Jaffa. Reb Moshe Betzalel supported numerous religious projects in Jaffa, especially anything related to Jewish education and assisting those in need. This fine man, Rav Kook declared, is certainly deserving of our thanks and gratitude.

The Run-Away Husband

Jewish policemen during the British Mandate (PikiWiki)

But Rav Kook's appreciation of David Tidhar was also based on his appreciation for the young man's own character and deeds. Their close ties took on greater importance when Tidhar became an officer in the Jerusalem police force. The Chief Rabbi would often turn to him for assistance in releasing a prisoner or to ameliorate a prisoner's conditions in jail.

On one unusual occasion, however, Rav Kook requested Tidhar's help in placing a man under arrest.

A certain resident of Jerusalem had decided to abandon his family, intending on leaving his wife without a proper divorce. Lacking an official bill of divorce (a get), the poor woman would become an agunah, trapped in her marriage and unable to remarry.

The scoundrel intended to flee Jerusalem on the early morning train. Legally, there was no way to stop him. The request to detain him had been submitted to the regional court, but the order could only be approved after the judge arrived at ten o'clock mid-morning.

Hearing of the situation, Rav Kook turned to Tidhar. The resourceful police officer came up with an unconventional solution to deal with the case. He dispatched an undercover detective to the train station. The detective found an excuse to start a fight with the man. The altercation began with harsh words and quickly progressed to fisticuffs.

Policemen instantly appeared and arrested the two brawlers, hauling them into the Me'ah She'arim police station. At that point, Tidhar arrived at the station. He detained the man until Rav Kook sent word that the court order had been obtained. He was then able to officially place the man under arrest.

The Would-Be Expulsion

In another incident, Tidhar sought to prevent the deportation of Jewish immigrants - a deportation that he himself had been detailed to carry out. The British passport office sent Tidhar a long list of illegal immigrants. The list included many details: names, addresses, ages, and so on. Tidhar was astounded. How had the British obtained so much information about the immigrants?

The answer was not long in coming. British immigration officials had posed as Jewish aid workers, going from house to house in the Jerusalem neighborhoods. Using this ploy, they tricked the immigrants into divulging their identifying details.

As police commander, Tidhar was the officer ordered to expel forty hapless families - on the day before Yom Kippur! It would have been a heart-breaking sight. Tidhar met with the Jewish city council. He requested that the refugees be provided with food and clothing, and he gave them a twelve-hour reprieve before executing the deportation.

The council's immigration department agreed. They provided for the immigrants' immediate needs and secretly transferred them to distant neighborhoods, thus forestalling the deportation orders.

In order to assist the refugees, Tidhar needed to work on Yom Kippur. Following Rav Kook's advice, he dressed as an Arab. This way, the Jewish immigrants would not be disturbed by the sight of a Jew desecrating the holiest day of the year - even if his labors were for their own benefit.

"There are two men," Rav Kook would say, "who assist me in maintaining order in religious affairs in Jerusalem. The first is the British High

Commissioner, Herbert Samuel. And the second is police officer David Tidhar.”

“However, there is a difference between the two,” the rabbi observed. “The commissioner always confers first with his legal advisor, so his assistance is often delayed. Officer Tidhar, on the other hand, is diligent and energetic. He does whatever he promises, quickly overcoming all obstacles.”

David Tidhar admitted, “The British officers thought that they were my commanding officers. But my true commanding officer was Rav Kook. For me, any request of the rabbi was an order, which I tried to discharge to the best of my ability. I considered it a great privilege to fulfill the Chief Rabbi’s wishes.”

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**For the week ending 22 August 2020 / 2 Elul 5780**

**Rabbi Yaakov Asher Sinclair - [www.seasonsofthemoon.com](http://www.seasonsofthemoon.com)**

### ***The Cause of Pain***

*"Who is the man who has built a new house and has not yet inaugurated it? Let him go and return to his house, lest he will die in the war and another man will inaugurate it." (20:5)*

Rashi: "and this thing will pain him."

Rashi's comment on the above verse cannot mean that the thought of someone else inaugurating his new home will be extremely painful to him. For, in the painful thoughts department, nothing is more painful than the thought of death itself.

The Midrash teaches that when the Romans executed Rabbi Chananya for teaching Torah in public, they wrapped him in his Sefer Torah and set it alight. To prolong his agony, they packed water-soaked wool around his chest. Rabbi Chananya said, "The parchment is consumed, but the letters fly up in the air." The Roman executioner was deeply moved by Rabbi Chananya's holiness and asked, "If I remove the wool from around your heart, will I have a share in the World to Come?" Rabbi Chananya promised him that he would. The Roman then removed the wool, added wood to the fire to curtail Rabbi Chananya's agony, and jumped into the flames and died. A Heavenly voice proclaimed, "Rabbi Chananya and the executioner are about to enter the World to Come." One thought of teshuva (repentance) can undo a lifetime of sin.

And one thought of sin can undo a lifetime of teshuva.

Arguably, the most important moment in a person's life is his last moment. At that moment he has the potential to fix a lifetime's wrongdoing. What a waste to spend that last moment immersed in the cares of this world, rather than one's gaze on eternity!

This is what Rashi means when he says, "and this thing will pain him." How great will this man's pain be if he spends his last moments thinking about his real estate rather than preparing himself to enter the World of Truth!

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**Rabbi Buchwald's Weekly Torah Message - Shoftim 5780-2020**

***"Security for Citizens and Caring for Guests"***

***(updated and revised from parashat Shoftim 5761-2001)***

In this week's parasha, parashat Shoftim, we encounter the ritual of the עֲגֵלָה —Eglah Arufah, the ceremony of the heifer that is put to death.

In Deuteronomy 21, the Torah states, that if a corpse of a murdered person is found outside a city, and it is not known who the murderer was or which city the victim came from, the members of the Sanhedrin (High Court) in Jerusalem must determine the closest city, and the elders or leaders of that city are required to bring a heifer to nachal eitan, a strong valley with running water. At that location, the elders wash their hands over the heifer, symbolizing washing away of the community's guilt. The elders then

say (Deuteronomy 21:7), וְעֵינֵינוּ לֹא רָאוּ, "Our hands have not shed this blood, neither have our eyes seen it." The elders ask for forgiveness from G-d for not safeguarding the roads and for not providing adequate security for the travelers.

The Talmud, Sotah 46a, explains that the Eglah Arufah ceremony is purposely centered about a young heifer—an animal that has never produced fruit [offspring], and has never done any work. This incomplete animal is symbolically atone for the death of the man who died prematurely without producing "fruit." According to Rambam, Guide of the Perplexed 3:40, the purpose of the ritual was to publicize the killing in the hope of finding the murderer.

I've always been fascinated by the Eglah Arufah ritual.

Not everyone remembers that New York City was, not so long ago, a crime ridden city on the verge of anarchy. It was Rudy Giuliani, who as mayor of New York, restored law and order to a city. After being elected Mayor in 1993, Giuliani reduced the rate of murder in the city by 65%. Since then, the murder rate has declined even further. In 1993 there were almost 2,000 murders in the city, and by 2019, the number of murders was remarkably reduced to 219. In fact, despite the recent rise in homicides, New York City is still ranked as the safest large city in America.

So, we pat ourselves on our backs as if to say what a wonderful achievement. But, is it justified?

Consider the fact that the entire country of Japan, with a total population of 126 million citizens had 950 murders in 2019. New York City, with a population of 8.4 million people should hardly rejoice over 219 murders. To the contrary, we should all be jumping out of our skins in grief and dismay that even 10 innocent people, or even one innocent person, was murdered. I've often wondered what it would be like if the mayor or leaders of any city in the world had to go out twice or three times a week to perform the Eglah Arufah ritual whenever a dead person was found. I feel quite certain that a much more concerted effort would be made to prevent murders if government officials were required to attend these horrible rituals. It is well known that the bottom line of Judaism and of all Jewish life is the "sanctity of human life." So, it should come as no surprise that Judaism has this unprecedented ritual known as Eglah Arufah to underscore the community leaders' responsibilities to protect human life.

As important as that lesson might be, we learn additionally from the ritual of Eglah Arufah that not only city officials, but even local (civillain) hosts, have a responsibility of escorting visitors, to make certain that every visitor can travel safely from one city to another. This ritual clearly demonstrates that hosts who fail to provide security are held morally responsible.

The law of escorting visitors from city to city and providing security is actually part of the customs of Hachnasat Orchim, the Jewish practice of welcoming guests in to one's home. According to Jewish law, it is proper for hosts to escort visitors from their home, and even from their places of business, and walk with them approximately 4 cubits, that is about 8 feet, outside the front door. This is not done in order to "show guests the door," but rather to provide guests with a sense of security.

Rabbi Aryeh Ben David in his helpful book *Around the Shabbat Table*, cites Maimonides, who insists that escorting guests when they leave is a greater mitzvah than inviting them in. This is rather surprising given all the hard work that is required to serve guests in one's home.

Ben David points out that once a guest leaves the home, the guest feels quite vulnerable and alone. Escorting the guest out of the home shows that the host doesn't really want the visitor to leave, and is in effect saying, "I'm willing to leave the comfort of my own home to help you on your way. I am accompanying you because I wish to extend this visit, if but for a few minutes, to allow me to be with you a bit longer because of my affection and affinity for you."

Once again, we see that the ancient rituals of Judaism have wondrous contemporary implications.

May all your journeys be safe.

*May you be blessed.*

**Righteousness, righteousness shall you pursue. (16:20)**

If we know of one imperative that hardly requires an injunction concerning its primacy, it is the pursuit of righteousness. Nonetheless, the Torah not only feels the need to mention it, but to mention it twice; *tzedek, tzedek*, “righteousness, righteousness.” Everyone is involved in *mitzvah* performance (or so they claim), but even the execution of the most significant *mitzvah* must be carried with spiritual and moral integrity. A *mitzvah* should not be carried out at the expense of others. To appropriate funds for the needy – funds that have been “earned” in a less than reputable manner – is not a *mitzvah*, but actually angers Hashem. I say “less than reputable,” because it is a term that applies to “gray” areas in which the inappropriateness of an activity/action might not be dark black or bright white, but a little grayish. It is tempting to cross the line, because, after all, we are doing this to help someone. It is like speeding to get to the hospital – even though if, *chas v’shalom*, Heaven forbid, we cause an accident, we have no excuse. Gray areas. “*Tzedek, tzedek*,” explains the saintly *Horav Bunim, zl, m’Peshischa*, “You” must pursue righteousness with righteousness. No excuses – the end does not justify the means.”

Furthermore, *tzedek, tzedek* – continuously, persistently. Just because one has begun the endeavor with *tzedek* as his lodestar does not permit him to change gears along the journey and implement “other” methods for completing the endeavor. The *yetzer hora*, evil inclination, is crafty. If at first it is unsuccessful in tarnishing the “means,” it waits until, at some point, it notices a weakness in the individual’s mettle. It seeks an area where it can exacerbate this weakness and “convince” the person to alter his means – of course, for the greater good. Hashem demands consistent *tzedek* from us.

A community was confronted with choosing between two candidates for the position of *rav*. While one was far more erudite, charismatic and people-oriented, the other candidate was a *b’nai shel Kedoshim*, heir to an extraordinary lineage of forebears who were all illustrious Torah giants. Due to their obvious obtuseness, the community leaders gravitated towards *yichus*, pedigree, over quality. They sought the advice of a Torah luminary, who was appalled by their line of thinking: “It would be an insult to this candidate’s ancestors if he were to be chosen solely in their merit – rather than on his own. The Torah requires the position of *rav* to be occupied by one who is eminently qualified – not one whose ancestors preceding him were qualified. *Yichus* is wonderful, an added benefit, once everything else is in place.”

*Tzedek* must be pursued with *tzedek*.

בללתו רום לבבו מאחיו ולבולתו סור מן המצוה ימין ושמאל

**So that his heart not become haughty over his brethren. And not turn from the commandment right or left. (17:20)**

The Torah demands that the Jewish king maintain a sense of humility, shying away from anything that might present him as pretentious and vain. The fact that he is king neither gives him license to act haughty, nor does it allow him to feel that he is better than anyone. With his position comes enormous responsibilities, as well as temptation to accede to a *yetzer hora*, evil inclination, that will play with his subconscious, encouraging him to act pompously and to use his office for personal gain. Monarchy, as with all leadership positions, is not a free pass. It creates tremendous opportunity, but equally formidable responsibility. One does not come without the other.

*Horav Shimshon Pincus, zl*, compares this to businessmen who go to the business show to purchase wares and products for resale. Some spend more than others, thus returning home with a greater amount of merchandise. While the one who purchased much is overjoyed with his full load of merchandise, he also understands that he must sell it all in order to realize the enormous profit he expects to make. He is also aware that selling the wares is only half-way home – it is securing payment from the buyer that ensures his profit. It is fortuitous to have a great deal of merchandise to sell, but only if he sells it, receives payment, and no misfortune occurs in its

delivery. If it is stolen and he has no insurance, it could prove disastrous – especially for the businessman who has the most to lose.

This is what the Torah implies when it writes, *L’vilti room levavo mei’echav*. Veritably, why should the king not be inclined toward haughtiness? After all, he is the nation’s powerful monarch. With the position comes the pomp and power, wealth and honor. What we conveniently fail to acknowledge are the numerous obligations that are part and parcel of this position. Indeed, the more he has, the greater is his debt to the Almighty for selecting him for this honor.

Veritably, this idea applies to each and every one of us, whether he is blessed with wealth, acumen, an abundance of common sense or physical and emotional strength. Whoever has more than his fellow must never forget that he has been bequeathed a Heavenly gift which he must appreciate and for which he must be grateful. With this gift come enormous added responsibilities and obligations. The more we receive – the greater is our debt to Hashem. He granted us with this gift for a reason, for a purpose. Only an ingrate would ignore the significance of this gift; only a fool would be oblivious to its implicit message.

תמים תהיה עם ד' אלקיך

**You shall be whole hearted with Hashem, your G-d. (18:13)**

*Rashi* explains this to mean that one should follow Hashem with perfect faith, not being concerned about what will occur in the future (as was the custom in those days to seek out the counsel of diviners and astrologers). This means accepting whatever befalls a person with wholeheartedness and absolute conviction, recognizing it as the will of Hashem. Once, during the Middle Ages (as quoted by *Horav Eli Munk, zl, in The Call of the Torah*), a holy man gave a *kemeiah*, amulet, to someone who was anxious about the future. He warned him not to open it for an entire year. Imagine the surprise of the person when, after a year had passed, he opened it to discover, not *Kabbalistic* inscriptions (as was usually the case), but *Rashi’s* comment to the above *pasuk*!

*Temimus* is defined as whole/perfect, which intimates that the individual is one hundred percent on board, wholly-committed, no questions asked. After all, whole/perfect implies black and white – not gray. *Horav Yissachar Shlomo Teichtal, zl*, derives from *Chazal* that while it is certainly enviable to achieve *temimus*, a whole-hearted/perfect absolute “black-white” connection with Hashem, if one maintains a more tenuous relationship, even if it might be somewhat “gray,” he has hope that he will ultimately find spiritual healing and full connection with Hashem.

The *Talmud Chullin* 11a, discusses the concept of *Acharei ha’rabim l’hatos*, “we follow the majority”, and its source in the Torah. Among the proofs is the law of offering an *alyah temimah*, the entire/whole fat tail of a lamb as part of a *Korban Shelamim*, Peace-Offering. This requires that the tail remain intact and not be cut. What about the concern that the segment of the *chut ha’shedrah*, spinal column, in the tail might have been severed prior to the *shechitah*, slaughter, of the lamb – thereby invalidating it (since the animal is now *treif* and unfit for a sacrifice)? This indicates that since the majority of animals do not have this problem, we follow the rule of *rov*, the majority. The *Talmud* suggests that the person split the tail and examine the spinal column. The problem with this is that, once it is cut, the tail is no longer *temimah*, whole. The *Talmud* replies, *heicha d’layif*, as long as the sides of the tail remained joined (the tail is not cut completely in half), there is no problem.

Having said this, *Rav Teichtal* derives that *tamim* applies as long as one has not entirely severed his connection with Hashem. We can still hope that he will return and become “whole” – entirely whole. Perhaps we may add with another form of connection to this idea. The previous generations were rooted in *emunah peshutah*, simple, pure faith in the Almighty. They did not articulate their questions, which I am sure some of them had. They understood their insignificance and, as a result, did not make demands upon the Almighty. They accepted their challenges, lived with adversity and triumphed over the obstacles to their faith – because they were simple and



whole. Unfortunately, with changes wrought by modernity and affluence, we have lost sight of the idyllic faith of the past. Those who have maintained somewhat of a connection – still have a chance for return. They are still considered whole.

I heard a powerful thought attributed to the *Sefas Emes*, which is apropos to the concept of *temimus* with regard to faith in Hashem. We have two *mitzvos* with regard to one's relationship vis-à-vis parents: *Kibbud*, honor; and *yiraa*, fear. *Chazal* distinguish between these two in that *kavod*, honor, applies to positive acts of respect, ie. serving a parent. *Yiraa* focuses on the prohibitive, ie. *al teishev binkomo*; do not sit in your father's seat. *Es Hashem Elokecha tira*, we are admonished to fear Hashem. This means, says the *Sefas Emes*, *al teishev binkomo*; do not sit in His place; do not think that you can question Him, examine His decisions with misgiving. We are puny servants – here today only by virtue of Hashem's kindness. At any moment we may become a scant remembrance. *Al teishev binkomo*. A Jew who fears Hashem understands what this means.

*Shlomo Hamelech* says, *Holeich ba'tom yeilech betach*, "He who walks in innocence (*temimus*) will walk securely" (*Mishlei* 10:9). He is not naïve – he is innocent. There is a difference. *Horav Chizkiyah Mishkovsky, Shlita*, related the following incident (which he heard from *Horav Greineman*). Prior to *Succos*, everyone turns to the *Esrog* vendor to search for a beautiful set of *Arba Minim*, Four Species. Veritably, not everyone is *halachically* proficient in walking through the many issues concerning *hiddur*, beauty, of the *Arba Minim*. The community of Bnei Brak arranged for thousands of sets to be made available at a reasonable price. While these were not the most beautiful, they were definitely kosher and *mehudar*. There were four *talmidei chachamim*, Torah scholars, assigned to the large kiosk who were prepared to answer the most difficult questions concerning the beauty of the species.

A Russian (obvious from his visage and clothing) Jew approached one of the *rabbanim* and asked, "*Kavod Horav*. I apologize for burdening his honor with my elementary questions. I am, however, new to this endeavor.

Growing up in Russia, religion was non-existent. The government did not allow us to practice our religious observance. Thus, I was unable to learn about and practice any aspect of Judaism. When I arrived in *Eretz Yisrael*, I decided that I would make up for lost time. I have covered much ground in the last three years since my arrival, but the concept of the four species is beyond me. I selected three sets – for myself and my two sons. Could I impose on the *rav* to examine them for their *kashrus* and beauty?"

The *rav* examined the first *esrog*, the accompanying *lulav*, *hadassim* and *aravos*, and was amazed by their unparalleled beauty. This man had really struck gold. His first set was exceptional. His amazement was magnified when the second set that he examined paralleled the first in its unsurpassed beauty. One can only imagine the *rav's* disbelief when the third set that he examined was unrivaled in splendor. How was it possible, he wondered to himself, that this Russian immigrant who conceded that he knew absolutely nothing about the Four Species would pick out the most beautiful sets in the bunch? There was only one way to find out. Ask! He queried the man, "How were you able to pick out such exceptional sets?"

The man's reply should stimulate us to greater devotion and service. "I live with Hashem," the man began. "Prior to coming to the *shuk*, market, I spoke to Him. I said, 'Hashem! You know that I love You. You know the challenges I had to surmount, the adversity over which I had to triumph, before I was able to emigrate to *Eretz Yisrael*. I was not permitted to know who You are! They did not allow me to learn from You. Had they let me, I would have clung to You with all of my heart. I arrived in *Eretz Yisrael* and I have tried – very much – to learn, to know, to cling to You. Sadly, I know very little. I cannot even select the appropriate *Arba Minim*. I ask You, Hashem, to please select for me the *Arba Minim*.'"

*Rav Mishkovsky* summed up this story: "We have absolutely no idea how much *Hashem Yisborach* loves each and every Jew. That Jew's *temimus* was so pure and strong, that, as a result, "He" selected the perfect sets of *Arba Minim*.

כפר לעמך ישראל אשר פדית

#### Atone for Your People *Yisrael* that You have redeemed. (21:8)

The *Midrash Tanchuma (Haazinu)* quotes the *Toras Kohanim* concerning the above *pasuk*: *Kapeir l'amcha Yisrael*, "Atone for Your People *Yisrael*." This applies to the living; *asher padisa*; "that You have redeemed," refers to the departed. This teaches that the living redeem the deceased. Therefore, it is our custom to memorialize the memory of the departed on *Yom Kippur* by praying for them, setting aside *tzedakah*, charity, in their behalf. I might think that *tzedakah* has no effect once a person passes on from this world. Thus, we learn from *asher padisa*, through the medium of *tzedakah*. The *Midrash* continues describing the transformative effect that *tzedakah* has on the soul of one who has left this world.

The following story, related by *Rav Yitzchak David Bamberger* (Quoted by *Horav Yitzchak Zilberstein, Shlita*), a distinguished Torah leader of the Manchester, England, Jewish community, concerns a Jew by the name of *Ephraim Aronson, zl*. *Reb Ephraim* was a *talmid chacham*, Torah scholar, who survived the Holocaust and emigrated to England from his native Poland. He spent most of his time engrossed in Torah study and became close with a number of *rabbanim* in Manchester. Sadly, *Reb Ephraim* and his wife were not blessed with progeny. When he passed away, she attempted to memorialize his soul by bringing cake and a check to *Rav Bamberger* to distribute among the members of his *Kollel* on the day of *Reb Ephraim's* *yahrzeit*.

This practice continued annually for a number of years. One day, the widow presented herself to *Rav Bamberger*, completely distraught. Apparently, her husband (his soul) appeared to her in a dream and asked, "Why did you forget me?" She woke up suddenly and realized that her late husband's *yahrzeit* had passed the previous week. She was shocked, but, somehow, she had lost track of time and forgotten his *yahrzeit*. *Rav Bamberger* realized that he, too, had forgotten the *yahrzeit*, and he immediately set about to correct the lapse in memory.

The above incident is just one of many which underscore the *z'chus*, merit, one can create for the souls of the departed. This is especially true when it is a son who provides the *z'chus*. Not only is he providing *nachas*, spiritual satisfaction, for his parent, he is also being *mekayeim*, fulfilling, the *mitzvah* of *Kibbud Av v'Eim*, honoring parents, which does not end with the parent's demise. Every *mitzvah* that one executes in this world in honor of the deceased catalyzes incredible merit for the *neshamah*, soul, in *Olam Habba*, the World to Come.

The *Maharsham, zl (Berzhoner Rav)*, was an unusual *talmid chacham*, Torah scholar, whose level of Torah erudition was peerless. Following his wedding, he continued his work with a small cattle business. He spent most of his time engrossed in study, but he would go in every now and then to earn some money to support himself. One of his suppliers was a trusted businessman who provided him with wood. The man went daily to the forest and returned in the evening with a load of wood, for which he was immediately reimbursed. This went on for years until the man passed away. After the *shivah*, seven-day-mourning period, was concluded, the man (soul) appeared to the *Maharasham* in a dream. The man said that he would continue providing wood for the *Mararasham*, as he had in the past. The *Maharasham* told him, "But you are no longer here. Go to your eternal rest." This went on for a number of nights, with the same vision and dialogue. Every morning after he experienced this dream, the *Maharasham* would light a candle in memory of this man's *neshamah*. He followed this with the study of *Mishnayos*, also in the man's memory.

After a while, the man appeared to the *Maharasham* and said, "I am here to inform you that I will no longer be 'visiting' you. I have come in the past because, until now, I have been unable to ascend from the world of *tohu*, emptiness, so that I could reach my final rest. I suffered greatly in this transitional stage, feeling as if I was alive, but knowing that I was not. Every time that you lit a candle, studied *Mishnayos* or gave charity to benefit my soul, "they" granted me a respite for a few days. After a few days, I was awakened and sent back to endure the pain. I would escape and run to your house to be spared from my ordeal. My term has ended, and I am now

permitted to move on to my resting place. I offer you my eternal gratitude for what you had done for me. It meant so much and was so beneficial for my *neshamah*.”

We suggest an alternative understanding of “this applies to the living; this applies to the departed.” According to the *Tanchuma*, the message is: the living have an obligation to redeem, to bring merit for those who no longer can do so themselves. Perhaps *Chazal* are teaching us that the living should learn from the dead, take heed, and alter their lifestyle. The *Ponovezher Rav*, *zl*, taught, concerning the *halachah*, that one does not return from the cemetery on the same path/road that he originally entered. He should take a different way out. (It is not always possible.) The *Rav* explained that one should not leave the cemetery in the same manner, with the same attitude, that he had when he entered. When one leaves the presence of death, when he sees before his very eyes that nothing is forever and that a hole in the ground is what one may expect (if he is lucky), it should spur him to change: his *davening*; his learning; acts of *chesed*. He should not be the same person upon leaving the gravesite as he was when he arrived.

The living atone for the departed by changing their own lives as a result of the lessons they have derived from coming in contact with the departed. What greater *z'chus*, merit, can a *neshamah* have than the merit of catalyzing the spiritual/moral alteration of a fellow Jew?

*Sponsored by Rabbi & Mrs. Sroy Levitansky In memory of her parents*

שלמה בן צבי ז"ל וז' אלוה תשל"ה - הענא בת בנימין מנחם ז"ל ב' אב תשע"א

*Mr. & Mrs. Sol Rosenfeld*

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*prepared and edited by Rabbi L. Scheinbaum*

## **Semicha and Sanhedrin Controversies of the 16th and 21st Centuries**

### **Rabbi Yirmiyohu Kaganoff**

This article will be devoted to an explanation of the various halachic underpinnings of the Sanhedrin, including:

What are the roles and responsibilities of the Sanhedrin?

What exactly is semicha, and why is it such a central factor in the creation of the Sanhedrin?

What attempts have been made in the last hundreds of years to reconvene a Sanhedrin and reestablish semicha?

### **WHAT IS THE SANHEDRIN?**

The Sanhedrin, also called the Beis Din Hagadol, is the final authority on all matters of halacha. Their interpretation of Torah she'be'al peh is authoritative.

Any halachic issue that is questionable and disputed by lower batei din is referred to the Beis Din Hagadol for a binding decision.

The Sanhedrin also fulfills several vital political and administrative roles. It appoints the Jewish king, as well as the judges who serve on the courts of the shevatim and the cities. Each shevet and each city was required to have a Beis Din of 23 that the Sanhedrin appoints. Thus, the Sanhedrin is not only the supreme halacha authority, but it is also, quite literally, the “power behind the throne,” “the power behind the courts,” – and, at the same time, the court of final appeal. It has the final say in all matters, both temporal and spiritual.

There are several other halachos that require the participation or agreement of the Sanhedrin, including a decision to wage war and expanding the halachic boundaries of the Beis HaMikdash or of Yerushalayim (Rambam, Hilchos Sanhedrin 5:1). (We are permitted to eat many holy items, including certain korbanos and maaser sheni, only in halachic Yerushalayim, which has nothing to do with its current municipal boundaries. Expanding the city requires a special procedure that includes participation of the Sanhedrin.)

In addition, several types of adjudication require the participation of the Sanhedrin, including prosecuting a false prophet, and the law of zakein mamrei, an elder who ruled against the Torah she'be'al peh (both taught in parshas Shoftim), the law of a city that went astray (ir hanidachas), the procedure of the and that of eglah arufah (Rambam, Hilchos Sanhedrin 5:1).

The Sanhedrin is also in charge of supervising the Jewish calendar through the appointing of a specially-designated committee. (In the absence of a Sanhedrin or Beis Din Hagadol, Hillel Hanasi established a permanent calendar over 1500 years ago, so that the calendar can continue to exist even though we no longer have a Sanhedrin.)

### **WHERE AND WHEN DOES THE SANHEDRIN MEET?**

The Sanhedrin was open daily in its main headquarters inside the Beis HaMikdash, called the lishkas hagazis. When they are involved in litigation, the entire Sanhedrin, consisting of 71 members, is present. When not in session, there must still always be 23 members of the Sanhedrin in the lishkah.

## **WHO QUALIFIES TO BE IN THE SANHEDRIN?**

There are many technical requirements that all members must meet, but as a basic requirement they must all be superior talmidei chachamim and yirei shamayim (G-d fearing individuals). In addition, all members of the Sanhedrin -- and indeed, of all the lower courts -- must also receive the special semicha that Moshe bestowed upon Yehoshua, authorizing him to rule on all areas of Jewish law.

### **DOESN'T EVERY RABBI HAVE SEMICHA?**

There are several levels of semicha. The most basic semicha, called yoreh yoreh, authorizes the recipient to rule on matters of kashrus and similar areas. A more advanced level of semicha, called yodin yodin, authorizes its recipient to rule as a dayan on financial matters. A still higher level, no longer obtainable today, is called yatir bechoros, which authorizes its recipient to rule on whether a first-born animal is blemished and therefore inappropriate to offer as a korban (see Sanhedrin 5a). This semicha permits the firstborn animal to be slaughtered and eaten.

There was also a qualitatively different type of semicha that could be obtained from the time of Moshe Rabbeinu until the time of the Gemara. This semicha authorized the recipient to rule on capital and corporal cases (chayavei misas Beis Din and malkus) and to judge kenasos, penalties set by the Torah. Only a Beis Din consisting exclusively of dayanim ordained with this semicha may judge whether a person receives lashes or the death penalty for his actions.

In earlier days, each city and shevet had its own Beis Din of 23 judges, all of whom were possessors of the highest level of semicha. In addition, all 71 members of the Sanhedrin must have this form of semicha.

### **HOW MANY DAYANIM GIVE OUT SEMICHA?**

A single judge who is himself a musmach may grant semicha to as many qualified people as he chooses, although the grantor must be accompanied by two other people, who need not be musmachim themselves. Dovid HaMelech (himself an expert judge and tremendous talmid chacham) once granted 30,000 semichos in one day (Rambam, Hilchos Sanhedrin, 4:7)!! Semicha that was granted to someone who is not an expert in all areas of halacha is not valid (Meiri, Sanhedrin 14a).

This special semicha must be issued within Eretz Yisroel. Thus, even if a talmid chacham is highly qualified, he may not receive semicha unless the grantor of the semicha and the recipient are both in Eretz Yisroel (Sanhedrin 14a). For this reason, most of the Amora'im, the great talmidei chachamim of the times of the Gemara, never received this semicha, because they lived in Bavel, not in Eretz Yisroel.

### **THE STORY OF RAV YEHUDA BEN BAVA**

The Gemara (Sanhedrin 13b) tells us the following fascinating story which took place during the extreme persecutions that followed the failure of the Bar Cochva revolt: The Roman Empire once decreed that issuing semicha was a serious crime, punishable by death for both the grantor and the recipient. Furthermore, they ruled that the town in which the semicha was issued would be destroyed, and the areas near it would be razed.

After the execution of Rabbi Akiva, Rabbi Yehudah ben Bava realized that he was one of the last musmachim (recipients of this special semicha) still alive. If he failed to grant semicha to some young scholars, the semicha would terminate with his own death. He therefore endangered himself and granted semicha to five surviving disciples of Rabbi Akiva: Rabbi Meir, Rabbi Shimon bar Yochai, Rabbi Yehudah ben Illa'i, Rabbi Yosi ben Chalafta, and Rabbi Elazar ben Shamua – basically, to an entire generation of Torah leadership. In order not to endanger anyone else, Rabbi Yehuda ben Bava brought them to a place that was midway between two major cities and between two mountains. Thus, for the Romans to fulfill their decree they would need to level two mountains.

Rabbi Yehudah ben Bava succeeded in his mission, although he paid for it with his life. Because of his supreme sacrifice, the semicha continued among the Jewish people for several more generations.

With the increased persecution of the Jews by the Romans, the Jewish population of Eretz Yisroel dwindled, and with time, ordination through this semicha ended. Thus, no one received the semicha that qualifies someone to judge capital, corporal, or kenasos cases, and this aspect of halachic life came to an end.

### **CAN SEMICHA BE REINSTITUTED?**

The Rambam writes: “It appears to me that if all the chachamim in Eretz Yisroel agree to appoint dayanim and grant them semicha, they have the law of musmachim, and they can judge penalty cases and are authorized to grant semicha to others... a person who received semicha from someone who already has semicha does not require authorization from all of them – he may judge penalty cases for everyone, since he received semicha from Beis Din. However, this matter requires a final decision” (Rambam, Hilchos Sanhedrin 4:11).

Thus, the Rambam suggested a method whereby the semicha can be re-created.

However, several issues need to be clarified before this project can be implemented:

1. Did the Rambam conclude that this is the halacha, or is it merely a suggestion he is conjecturing? Don't his final words, “However, this matter requires a final decision,”



imply that he was uncertain about his suggestion and that he deferred making a final decision regarding this issue?

2. Assuming, unlike our previous sentence, that the Rambam ruled definitely that semicha can be reinstituted, did he require, literally, all of the Chachamim in Eretz Yisroel to agree, or does a majority suffice? Must the rabbonim be assembled all in one place, or is it sufficient if they are aware of the process and grant their approval?

3. Is the Rambam's opinion on this subject universally held? And if not, do we rule like him?

#### THE 16th CENTURY CONTROVERSY-- REINTRODUCING SEMICHA

After the Spanish expulsion, many Jews remained in Spain, practicing their Judaism in secret, while publicly appearing to be Christians. Thousands of these Marrano Jews, also often called by the Spanish term conversos or the Hebrew word, anusim, eventually escaped to areas where they could return to the religion of their fathers, yet they were haunted by the transgressions they had committed on Spanish soil. Many were concerned that they would never escape the specter of their more serious aveiros, many of which carried the punishment of kareis. Although they had become true ba'alei teshuvah, they lived in fear of their ultimate day of judgment, when they would have to provide a reckoning for their actions and face the serious consequences.

#### THE SOLUTION

The Mahari Beirav, Rav of Tzefas in the early sixteenth century, came up with a solution to the problem of these ba'alei teshuvah. He proposed the creation of batei din that could carry out the punishment of malkos, lashes, which releases a person from the punishment of kareis (Mishnah Makos 23a).

There was one serious problem with this proposal. In order to create batei din that can administer these punishments, one must have dayanim who have received a special semicha that can be traced to Moshe Rabbeinu. Since this semicha had terminated over a thousand years before, the Mahari Beirav needed a method of reintroducing the semicha.

TZEFAS, 5298 (1538)

In 5298 (1538), 25 gedolim of Tzefas, at the time the largest Torah community in Eretz Yisroel, granted semicha to the Mahari Beirav, based on the writings of the Rambam (Peirush Hamishnayos, Sanhedrin 1:3; Hilchos Sanhedrin 4:11). He then ordained four people with the new semicha, including Rav Yosef Karo, who had already written his monumental works Kesef Mishneh and Beis Yosef, and later authored the Shulchan Aruch, and Rav Moshe diTrani, the author of several major halacha works, including Beis Elokim, Kiryas Sefer, and Shu't Mabit. Mahari Beirav also sent a semicha to the Rav of Yerushalayim, Rav Levi ibn Chaviv, known as the Maharalbach, who he assumed would be delighted to receive such a wonderful gift! The Maharalbach was not happy with the gift and refused to accept the semicha. He took strong issue with their granting semicha, for the following several reasons:

1. The Rambam's closing words, "This matter requires a final decision," shows that he was not fully decided on this halacha, and therefore it cannot be relied upon.
2. The Ramban (Sefer Hamitzvos, Aseh 153) disagrees with the Rambam, contending that semicha can not be reinstituted until Moshiach arrives. Thus, since the Rambam was uncertain about this halacha, and the Ramban was certain that there is no such thing, the halacha follows the Ramban.
3. Even if we assume that the Rambam meant this ruling to be definitive, the Tzefas rabbonim had not fulfilled the procedure correctly, since all the gedolim of Eretz Yisroel must be together in one synod. (This opinion is actually mentioned earlier by the Meiri, Sanhedrin 14a.)

Furthermore, the Maharalbach insisted that all the scholars must be involved in the active debate and that all must agree. He also contended that even if someone holds that a majority of gedolim is sufficient, the minority must be aware of the debate and participate in it. He further contended that creating such a synod after the fact would not help, since, once the Tzefas rabbonim had ordained the Mahari Beirav, they now have a bias in their ruling (noge'a bedin), which invalidates their opinion on the subject.

The Maharalbach proved his opinion, that the Rambam's suggestion was not accepted as normative halacha, from the fact that there had been numerous opportunities for gedolei Yisroel to create semicha, and yet, they refrained from doing so. The Maharalbach concludes that semicha will not exist again until the arrival of Moshiach.

#### WHAT ABOUT THE MARRANOS?

As for the ba'alei teshuvah that would be left without release from their kareis, the Maharalbach pointed out that if they performed sincere teshuvah, they would be forgiven for their sins, no matter how severe they were. Although it is possible that they may suffer somewhat in this world for these aveiros, despite their teshuvah, they would receive no punishment for their aveiros in the next world (Makos 13b). On the other hand, the Maharalbach pointed out that he did not understand how semicha could accomplish what Mahari Beirav wanted, anyway, since Beis Din cannot punish someone for violating the Torah, unless several requirements are met, including:

The sinner must receive a warning, immediately prior to his violating the commandment, telling him that he is sinning, explaining to him that what he is planning to do is wrong, and informing him what punishment he will receive if he sins. The sinner must acknowledge that he heard and understood the warning, and then perform the sin, anyway. Furthermore, Beis Din does not punish a sinner unless two adult male Jews witness the entire procedure and then testify in front of Beis Din. Clearly, none of these Marranos had received warning prior to performing the aveiros, and, therefore, they were not punishable with malkus in Beis Din. Thus, how would these ba'alei teshuvah receive the malkus they desire, even if dayanim musmachim exist?

We will continue this article next week.

# **The Judges and the 'Eglah Arufah**

## **By Rabbi Yitzchak Etshalom**

### **I. THE CEREMONY**

At the end of this week's Parashah, we are instructed regarding a rather odd ceremony:

If, in the land that Hashem your God is giving you to possess, a body is found lying in open country, and it is not known who struck the person down, then your elders and your judges shall come out to measure the distances to the towns that are near the body. The elders of the town nearest the body shall take a heifer that has never been worked, one that has not pulled in the yoke; the elders of that town shall bring the heifer down to a wadi with running water, which is neither plowed nor sown, and shall break the heifer's neck there in the wadi. Then the priests, the sons of Levi, shall come forward, for Hashem your God has chosen them to minister to him and to pronounce blessings in the name of Hashem, and by their decision all cases of dispute and assault shall be settled. All the elders of that town nearest the body shall wash their hands over the heifer whose neck was broken in the wadi, and they shall declare: "Our hands did not shed this blood, nor were we witnesses to it. Absolve your people Israel, whom you redeemed, Hashem; do not let the guilt of innocent blood remain in the midst of your people Israel." Then they will be absolved of bloodguilt. So you shall purge the guilt of innocent blood from your midst, because you must do what is right in the sight of Hashem. (D'varim 21:1-9)

In the case of a "found victim" of a homicide, the elders (=judges) of the nearest town are charged with the responsibility of declaring their own innocence – what a strange demand! Would we have thought that these sage and saintly leaders are common murderers? What is the gist of their declaration?

I would like to share two unrelated insights regarding the Eglah Arufah and then combine them to (hopefully) deepen our understanding of this declaration.

### **II. THE GEMARA'S EXPLANATION**

The Gemara (Sotah 38b) explains:

R. Yehoshua' ben Levi says: the 'Eglah 'Arufah only comes on account of inhospitality, as it says: "they shall declare: 'Our hands did not shed this blood...' " – would we have thought that the elders of the court are murderers [that they need to declare their innocence]? Rather, [what they are saying is]: "He did not come to us that we left him without food, he did not come to us for us to leave him without escort." (See the Sifri, where only "escorting" is mentioned).

In other words, the elders of the court are declaring that they did whatever they could to treat this poor victim correctly while passing through their town (or that they really weren't aware of his presence – both the Gemara and the Sifri could be read both ways).

Rabbi Yoel Sperka (who taught and inspired many of us here in Los Angeles during our high school years) asked an insightful question about this explanation:

What does hospitality have to do with homicide? Why would a declaration stating that "We did not kill this man" imply anything about the way the elders (or townspeople) treated him?

### **III. A PSYCHOLOGICAL INSIGHT**

Rabbi Sperka gave an insightful psychologically-driven explanation, as follows:

An individual who passes through a town is an outsider, a stranger. He is out of his element and, as such, is subject to a great deal of isolation – social isolation which can easily lead to existential isolation.

If someone comes through town and is virtually ignored by the townspeople – he comes to "Mincha/Ma'ariv" at shul and no one greets him, asks him home for a meal etc. – his sense of isolation is increased. Along with this, his sense of self-worth and self-esteem are threatened; he simply doesn't "make a difference" here.

If, at the end of this disappointing visit, he isn't even "escorted" out of town (this "escort" could come in the form of a ride to the edge of town, a request that he grace the presence of his hosts one more day, etc.) he leaves with a lowered sense of self and of his own significance.

Someone in this state of mind who is set upon by a highway robber has much less "fight" in him with which to defend himself. He is easily overpowered by the thug who jumps him outside of city limits.

Take, on the other hand, someone who has the opposite experience. He comes to town and is immediately the subject of a fight between families who are vying for the opportunity to host him, to wine and dine him. When he must take his leave, his hosts beg him to stay one more day and, when he finally does leave, they escort him to the edge of the town and a few steps further, just to delay their parting.

Someone who has had this type of experience sets out on his inter-village journey with a stout heart and an increased (and, we hope, realistic) sense of his own worth and importance. Someone like this who is "jumped" outside of town has a real "fighting chance" (pun intended) to defend himself.

If we found such a person to be the victim of this type of crime, we can be assured that the attacker was, indeed, too strong for him – nothing that was in our power to do, short of staying with him the whole time, could have prevented this crime.

This is what the elders are declaring: If we saw this man, we did everything possible to enhance and maintain his sense of self-worth, such that any chance he had of defending himself was enhanced by his visit through our town.

(If, as the second half of the declaration implies, they did not see him, then they certainly did as much as they could...)

Thus far, Rabbi Sperka's explanation.

I would like to ask a question about this wonderful insight – in that something seems to be missing here.

Hospitality is generally understood to be a subset of the command: Love your fellow as yourself (see MT Evel 14:1). This is a Mitzvah which is incumbent on everyone, not just the court. Why is the court making this declaration – shouldn't every resident of the town state: "Our hands did not shed this blood..."?

(One could argue that the court is acting on behalf of the town; but if that were the case, the declaration should be "The hands..." not "our hands".)

Before addressing this question, here is a second observation about the "Eglah 'Arufah".

#### IV. YOSEF, YA'AKOV AND THE "AGALOT"

Subsequent to the dramatic and tense moment when Yoseph revealed his identity to his brothers, he sent them back to K'na'an to bring father Ya'akov down to Egypt. The Torah relates Ya'akov's reaction to the news of Yoseph's survival and position as follows:

So [Yoseph] sent his brothers away, and they departed; and he said to them, "See that you fall not out by the way." And they went up from Egypt, and came to the land of K'na'an to Ya'akov their father, And told him, saying, "Yoseph is yet alive, and he is governor over all the land of Egypt." And Ya'akov's heart fainted, for he believed them not. And they told him all the words of Yoseph, which he had said to them; and when he saw the wagons (\*Agalot\*) which Yoseph had sent to carry him, the spirit of Ya'akov their father revived; And Yisra'el said, "It is enough; Yoseph my son is yet alive; I will go and see him before I die." (B'resheet 45:24-28)

Hazal were bothered by a seeming incongruity of the report here. When the brothers told Ya'akov that Yoseph was still alive – indeed, very much alive – he did not believe them. Yet, when he saw the \*Agalot\* which accompanied the brothers, his spirit was revived and he affirmed that Yoseph was alive. If he didn't believe the brothers' announcement about Yoseph, what was there about the wagons that was more convincing? After all, if the brothers were trying to deceive him (yet again! – see B'resheet 37:31-33), couldn't they have also brought some wagons to bolster their story?

The Midrash (B'resheet Rabbah 94:3) explains as follows: R. Levi said in the name of R. Yohanan b. Sha'ul: [Yoseph] said to [his brothers]: If [Ya'akov] believes you, fine; if not, tell him as follows: "When I departed from you, were we not engaged in the parashah of \*Eglah Arufah\*? – hence it says: "when he saw the wagons... the spirit of Ya'akov their father revived".

The play on words is obvious: Even though \*Agalah\* (wagon) and \*Eglah\* (calf) have the same root, they are unrelated words. Nevertheless, the close morphological association creates the possibility of a Midrashic connection. The wagons which Yoseph sent served as a secret communiqué; only Yoseph and Ya'akov knew what area of Halakhah they had last discussed, as they took leave from each other near Hebron, twenty-two years earlier.

This Midrash is accomplishing more than merely making a "stretched" word-play. If that were the entire purpose of this exegesis, R. Yohanan b. Sha'ul could have associated Ya'akov's revival with Korbanot (the bringing of an \*Egel\*, e.g. at the dedication of the Mishkan) or, better yet, with the wagons which the tribes dedicated to the Mishkan (Bamidbar 7). Why did the Midrash pick up on the \*Eglah Arufah\* ceremony as the clue which verified the brothers' report?

#### V. THE ROLE OF THE JUDGES

In order to solve both of our questions, we need to take a look at the overall theme of the Parashah.

Parashat Shoftim is essentially about the various components of national leadership. It begins with the Mitzvah to appoint judges and officers and then details some of their duties. After that, we are introduced to the Melekh (king) and his restrictions/obligations. At the beginning of Chapter 18, the Torah teaches us a special Halakhah regarding the "tribe of leadership" (Levi) – and then we are (re)introduced to the office of "Navi" (prophet) and his tasks.

Within each privileged position, the Torah stakes out very clear limitations which are designed to maintain the leader's association and identification with the nation. The king is commanded to write a Sefer Torah and read it every day in order that "his heart should not become haughty relative to his fellows"; both the Kohanim and the Navi have similarly-gearred Halakhot, unique to their offices.

In much the same way, the Torah simultaneously elevates the Shoftim (judges) to an almost divine-like position of power (note that we are obligated by Torah law to follow their dictates – see BT Shabbat 23 in re: the blessing over Hanukkah lights) while instituting this ritual which insures that they will maintain a close relationship with the people they are meant to lead.

When the judges declare that they have not spilled this blood (= guarantee that this victim was treated hospitably), they are owing up to more than the treatment of this poor victim. They can only make this declaration if they are fully doing their job – leading the people of their city beyond the legal dimension of Torah – to the fully enhanced ethic of lovingkindness and concern for a fellow's welfare. Their declaration admits of a great responsibility not only towards visitors – but, ultimately, towards their townsfolk. The level of hospitality and kindness which is the norm in their town rests on their shoulders – if they can make this declaration, then they are indeed fulfilling their job. This means that the power invested in them by Torah law has not separated them from their "constituents" (as so often happens in any power position); rather, they have maintained a close relationship with the people and continue to keep their finger on the pulse of their community, which they are leading towards a full commitment to the ideals embodied in Torah.

With this approach in hand, we can now reevaluate the \*Agalot\*-*Eglah Arufah* connection made by the Midrash. When the brothers told Ya'akov that Yoseph was now the governor of Egypt, he didn't believe them. What didn't he believe? That Yoseph was alive – or that Yoseph was indeed the leader of Egypt? Consider this: What motivation would the brothers have to lie about such a matter? If

Yoseph really was dead, what did they stand to gain by generating a rumor about his being alive?

Perhaps what Ya'akov didn't believe was – that "Yoseph" ruled in Egypt. In other words, Ya'akov may have been willing to grant that his son had somehow survived whatever terrors the past twenty-two years held for him – and had, through his brilliance, insight and charm, risen to a position of power in Egypt. As hard as this may have been to accept, it paled in significance next to the incredulous report that this governor of Egypt was still "Yoseph". Who ever heard of the vizier of a major world-power maintaining his youthful idealism and tender righteousness?

When the brothers reported: "Yoseph is yet alive, and he is governor over all the land of Egypt", Ya'akov did not believe them. When he saw the wagons, those "Agalot" which were a reminder of their last Halakhic discussion, he realized that Yoseph had never relinquished the values taught by his father. Leadership carries with it the burden of responsibility for all members of the nation – their physical welfare as well as their moral growth and ethical conscience. This is the lesson of the "Eglah Arufah" – a lesson Yoseph had never forgotten.

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## **PARSHAT SHOFTIM**

What is the ideal form of leadership for Am Yisrael:

- a NAVI [a prophet];
- a SHOFET [a judge];
- a KOHEN [a priest];
- a MELECH [a king]?

As Parshat Shoftim mentions each of these four 'models', in this week's shiur we discuss this important question.

### **INTRODUCTION**

It is not by chance that Parshat Shoftim discusses different forms of national leadership. Recall how the main speech of Sefer Devarim (chapters 5-26) contains the mitzvot that Bnei Yisrael must observe upon their entry into the Land. Considering that Parshat Shoftim is part of that speech, it only makes sense that this speech would contain a set of laws relating to the establishment of national leadership. With this in mind, we begin our shiur with an analysis of the logical flow of topic from Parshat Re'ay to Parshat Shoftim.

Recall from our previous shiurim how Parshat Re'ay began the important "chukim u'mishpatim" section of the main speech (i.e. chapters 12-26). This section opened with the topic of "ha'makom asher yivchar Hashem" - the site of the Bet Ha'Mikdash - which was to become the National and Religious Center. That discussion continued with topics relating the establishment of other laws that would facilitate the creation of an "am kadosh" [a holy nation], such as special dietary laws, and a unique economic system protecting the 'poor from the rich'.

Parshat Shoftim continues this theme in its opening discussion of a comprehensive judicial system (see 16:18-17:13). That topic, concluding with the establishment of a 'supreme court, is followed by laws relating to the appointment of a king (see 17:14-20); laws relating to shevet Levi (see 18:1-8) and some guidelines relating to proper and improper 'guidance counsellors' (see 18:9-22).

As all of these mitzvot pertain to the political and religious leadership of the people, this would also facilitate the realization of God's goal for Am Yisrael to become His 'model' nation (see Breishit 12:1-3). The nation's character will be crystallized not only by the special mitzvot that each individual must follow, but also by its national establishments.

### **"OR LA'GOYIM"**

Our introductory remarks are based on not only our analysis of these mitzvot, but also Moshe Rabeinu's own remarks at the conclusion his first speech (i.e. chapters 1-4). Moshe here explains WHY Bnei Yisrael should keep all these mitzvot which he is about to teach them:

"See I am teaching you CHUKIM & MISHPATIM...for you to abide in the LAND that you are about to conquer. Observe them faithfully:

- \* For that will be PROOF of your wisdom in the EYES OF THE NATIONS, who will say upon hearing all these laws: Surely, THIS GREAT NATION is a wise people.
- \* For what great nation is there that has GOD SO CLOSE to them...
- \* and what great nation has laws as perfect as THIS TORAH which I set before you today!"

(see Devarim 4:5-8).

These psukim inform us that the CHUKIM & MISHPATIM section of Sefer Devarim will contain mitzvot that Bnei Yisrael must keep IN ORDER to achieve this divine goal - to become an "or la'goyim" - a shining light for all nations. This requires the

establishment of national institutions to mold its unique character. These institutions are to facilitate not only the spiritual growth of each individual citizen, but also the creation of a 'model nation' that will bring God's Name to all mankind.

### **THE NATIONAL INSTITUTIONS**

The first commandment of the CHUKIM & MISHPATIM section is the establishment of a National Center - BA'MAKOM ASHER YIVCHAR HASHEM. It is here where Bnei Yisrael are to gather on joyous occasions while offering their "korbanot" (see chapter 12), eat their "ma'aser sheni" (see chapter 14), and gather on the "shalosh regalim" (the three pilgrimage holidays/ see chapter 16).

However, the establishment of this center is just one of the many mitzvot which are to facilitate the formation of God's model nation. Recall that Parshat Re'ay contains several other mitzvot which help create this "am kadosh" (holy nation):

- \* the special dietary laws (see 14:2-21);
- \* the laws of the seven year "shmitah" cycle (15:1-18), a national economic policy which helps guarantee social justice;
- \* warnings against 'bad influences' which could thwart the development of God's special nation (12:29-13:19).

This theme continues in Parshat Shoftim, which describes several institutions of national LEADERSHIP:

- 1) the SHOFET - a judicial system
- 2) the LEVI - religious leadership & civil servants
- 3) the NAVI - religious guidance & national direction
- 4) the MELECH - political leadership

We begin our discussion with the first topic addressed in our parsha, the SHOFET - the establishment of a nationwide judicial system:

"You shall appoint Shoftim v'shotrim" (judges and officers) at ALL YOUR GATES (i.e. in every city) that God is giving you, and they shall govern the people with due justice... JUSTICE, JUSTICE, you must pursue, IN ORDER that you thrive and inherit the LAND... (16:18-20).

Several psukim later (an explanation of the interim psukim 16:21-17:6 is beyond the scope of the shiur), Parshat Shoftim continues this theme with the commandment to establish a SUPREME COURT at the NATIONAL CENTER:

"If there is a case too baffling for you to decide...matters of dispute in your courts - YOU SHALL GO UP to HAMAKOM ASHER YIVCHAR HASHEM, before the KOHANIM, LEVIIM, or SHOFET, and present your case..." (17:8-11).

This institution serves as the HIGHEST authority for both civil disputes and halachic questions. Both TORAH and JUSTICE must emanate specifically from the site of the Temple, the National Center. Once again, this mitzvah reflects the primary purpose for God's choice of a special nation, as God had already explained in Sefer Breishit:

"For Avraham is to become a great NATION, and the nations of the world shall be blessed by him; for I have designated him IN ORDER that he command his children and his posterity to follow the WAY OF THE LORD by keeping TZDAKA & MISHPAT..."

(see Breishit 18:17-19 and its context!).

### **SHEVET LEVI**

Not only does the Torah require the appointment of judges, it also commissions an entire tribe - SHEVET LEVI - to become 'civil servants' for this purpose. The Leviim are not only to officiate in the Temple, but they must also serve as judges. Additionally, they are responsible for the teaching of Torah and the instruction of the halacha (Jewish Law).

This educational responsibility, which may only be implicit in Parshat Shoftim (see 17:9), is later stated explicitly by Moshe Rabeinu in his final blessing to Shevet Levi:

"They shall TEACH Your LAWS to Yaakov and Your TORAH to Yisrael" (Dvarim 33:9).

In fact, Parshat Shoftim identifies this tribal obligation as the reason why Shevet Levi does not receive a portion in the land:

"The KOHANIM & LEVIIM - the entire tribe of Levi - shall have no territorial portion within Israel. [Instead] they shall receive their portion from God's offerings... for God is their portion... You shall also give them the first portion of your grain, wine and oil, and the first shearing of your sheep. For God has chosen him [Levi] and his descendants from out of all your tribes TO SERVE IN THE NAME OF THE LORD for all time" (see 18:1->5).

Not only does the Torah define their duty as civil servants, but it also details their 'compensation' for this service (see also 18:6-8).

## THE NAVI

This section, which deals with shevet Levi, is immediately followed by a discussion of to WHOM Bnei Yisrael should [and should not] turn for guidance:

"When you ENTER THE LAND which God is giving you, DO NOT learn to imitate the abhorrent practices of those nations. Let no one become...a soothsayer, a sorcerer, one who casts spells, or one who consults ghosts and spirits, or inquires of the dead. For anyone who does such things is abhorrent to the Lord...

[INSTEAD] God will raise up for you a NAVI - a Prophet, like myself (Moshe Rabeinu). To HIM you shall listen...I will put My words in his mouth, and he will speak to them all that I command him..." (8:9-22).

These psukim prohibit the consultation of any of a wide variety of popular 'soothsayers,' as was the practice of the nations of Canaan. Bnei Yisrael should rather seek guidance from the NAVI, who is to serve as a national 'advisor' through whom God will communicate His message.

## SO WHO'S IN CHARGE?

Thus far, we have encountered a court system, judges, the tribe of Levi (the Torah instructors), and the NAVI (who offers spiritual guidance). However, are any one of these leaders expected to provide political leadership as well?

\* Whose responsibility is it to actually oversee the CONSTRUCTION of the Bet HaMikdash, BAMAKOM ASHER YIVCHAR?

\* Whose duty is it to organize a standing army and lead the nation in battle?

\* Who will determine foreign and domestic policy?

\* Who will conduct and supervise the collection of taxes, the building of roads, the minting of coins, etc.?

\* Basically, who will run the country?

Neither from Parshat Shoftim or anywhere else in Chumash does it appear that these tasks are the responsibility of the kohanim, leviim, or the shoftim. Are they the responsibility of the NAVI - the Prophet?

The NAVI may, and probably should, serve as an ADVISOR to the political leadership, representing 'God's opinion' on important issues. Nevertheless, Parshat Shoftim clearly does not present him as a political leader.

Neither does the "shofet," presented at the beginning of the Parsha, emerge from the psukim as a 'political leader.' Although he must ensure the execution of justice (16:20), he is not portrayed as a political leader.

[Note: The use of the name "shofet" in Sefer Shoftim to define the ad-hoc political leadership of that time is a fascinating topic unto itself, but requires independent treatment, beyond our scope in this context.]

## THE "MELECH"

The answer to this question lies in one last category of national leadership discussed in Parshat Shoftim - the "melech" (king):

"When you have entered the land... and you will say: 'I want to have a KING, as do all the nations surrounding me,' appoint a KING over yourself, ONE CHOSEN BY GOD..."

\* He must NOT keep too many horses...;

\* He must NOT have too many wives...;

\* He must NOT amass too much silver and gold.

When he is seated on his royal throne

\* He must WRITE down this MISHNEH TORAH (the laws of Sefer Devarim) from in front of the Kohanim and Leviim;

\* He must KEEP IT with him and READ IT every day of his life IN ORDER that he learn to FEAR GOD....

\* Thus, he will not act haughtily...or deviate from the Torah...IN ORDER that he and his children may continue to reign over Am Yisrael...(see Devarim 17:14-20).

From the above psukim alone, it is unclear whether the Torah OBLIGATES or merely ALLOWS for the appointment of a king. [See Sanhedrin 20b and all the classic commentaries.]

However, it appears from the CONTEXT of these psukim, especially in their relation to the other types of national leadership presented in Parshat Shoftim, that specifically the king is expected to provide political leadership. After all, who else will 'run the show'!?

Even though Moshe Rabeinu himself acted as BOTH the "navi" and king (i.e. the political leader), it seems that this 'double duty' is the exception rather than the norm. [Later in Jewish History, certain situations may arise [e.g. Shmuel] when the national leader may also serve as NAVI, but this is not the standard procedure.]

## THE MAKING OF A NATION

Given God's desire that Bnei Yisrael become His 'model nation,' it is quite understandable why some form of central government is necessary. After all, in order to become a prosperous nation, at least some form of political leadership is needed to coordinate and administer its development.

One could suggest that when the Torah speaks of a king, it may be referring to any type of political leadership with central authority, regardless of the political system by which he is elected (be it a democracy, a monarchy, theocracy, etc.). The Torah speaks specifically of a 'kingdom,' for at the time of Matan Torah, that form of government was the most common. However, these laws regarding 'the king' would apply equally to any form of political leadership.

## "K'CHOL HA'GOYIM"

This interpretation may help us understand the phrase "melech k'chol ha'goyim" - a king like the other nations (see 17:14 and pirush of the Netziv in Emek Davar). The Torah is not encouraging Bnei Yisrael to request a king who ACTS like the kings of neighboring countries. Rather, they will request a FORM OF GOVERNMENT similar to that of the neighboring countries.

This observation may very well relate to the very concept of the singularity the Jewish Nation. Although we must remain different from other nations, we must still be a nation, in the full sense of the term. Hence, Am Yisrael does not need to be different from other nations with regard to the FORM of its political leadership, rather in the MANNER by which its political leaderships acts!

Once a specific leader is chosen, the Torah must guarantee that he does not grow too proud of his stature (see 17:16-17,20). Instead, he should use his invested powers to lead Am Yisrael towards becoming an "am kadosh." To this end, he must review the mitzvot of Sefer Devarim - MISHNEH TORAH - on a daily basis (see 17:19!). This is how we can become a 'model nation.'

Basically, "parshat ha'Melech" in Sefer Devarim sets the 'guidelines' for the behavior of the political leadership of Am Yisrael so that they fulfill God's destiny. Whereas this constitutes a primary theme of the main speech of Sefer Devarim, it is only appropriate that Parshat Shoftim deals specifically with this aspect of political leadership.

## A CHALLENGE

Undoubtedly, an inherent danger exists once political power is invested in a strong central government. But without a stable, authoritative body, a country cannot prosper and develop to its maximum potential.

It is the Torah's challenge to Am Yisrael to become a nation that resembles all other nations with regard to the establishment of a sovereign political entity. However, at the same time, it is the Torah's challenge to Am Yisrael that they be DIFFERENT from all other nations in the manner by which that leadership behaves and governs; for we are to become God's 'model nation.'

This form of national government will not diminish the Kingdom of Heaven, but will rather promote the universal recognition of God's Kingdom and further the glorification and sanctification of His Name.

shabbat shalom,  
menachem

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#### FOR FURTHER IYUN

1. Based on Parshat Ha'Melech, would you define this ideal monarchy as constitutional or divine?

See Kings II- 11:17

2. Was Moshe Rabeinu a melech, a navi, or both?

What was Yehoshua? See Rambam Hilchot M'lachim perek I.

I.

What was Shmuel? (Was he an exception or the ideal?)

Is a dynasty necessary to be considered a king?

How does this question relate to the above shiur?

3. Read Rambam Hilchot Trumot I:1-3.

Which type of melech is the Rambam referring to?

See also the Rambam in Hilchot Melachim perek I.

See also the first Rambam in Hilchot Chanuka, where he discusses the historical background to this holiday. Note his remark, "v'he'emidu MELECH min ha'KOHANIM... and MALCHUT returned to Israel for more than two hundred years..." What type of MALCHUT is Rambam referring to? How would this relate to the above shiur?

4. Which of the 'shoftim' in Sefer Shoftim are actually referred to as such in Tanach? Why?

In what way is Gideon different from all the other Shoftim (in relation to his leadership /see Shoftim 8:22-25)?

5. Later in the Parsha, we are told that the "Kohen" addresses the army prior to battle (20:1-4). Here, his primary function is to boost the soldiers' morale, promising God's assistance in the campaign against our enemies.

Does it appear from the Torah that it is also the Kohen's task to lead the army in battle?

6. Based on this week's shiur, explain the difference between Kings Shaul, David, and Shlomo, and the "shoftim."

a. Who forms the first standing army?

b. Who first decides to construct the Bet HaMikdash?

c. Who is the first to levy taxes?

D. Who establishes a strong central government?

7. Try to classify all the "chukim u'mishpatim" from Parshat Re'ay through Parshat Ki-Tetze into different groups, each of which focuses on a specific topic. See if you can relate these topics to the order of the Ten Commandments.

#### ***'What defines what's right?' For Parshat Shoftim***

What's considered 'doing what is right in the eyes of God' ["ha'yashar beinei Hashem"]?

Sefer Devarim mentions this phrase several times, and assumes that we'll understand what it means; yet the classic commentators can't seem to agree on its precise interpretation.

To illustrate this problem, our shiur begins with the final pasuk in Parshat Shoftim - to show how it forms a rather meaningful conclusion for its opening line!

#### INTRODUCTION

The last nine psukim on Parshat Shoftim (21:1-9)

discuss the laws of "eglah arufa" – when the leaders of a community must perform a special ceremony in the case of an unsolved homicide.

Even though the first eight psukim describe the various stages of this 'ritual' – the final pasuk is not its last stage, rather – it appears to be some type of summary, or possibly even an additional commandment.

To verify this, review 21:1-9 – noting how the final pasuk is different, and how it relates to the previous eight psukim. [Make not as well of how you translated the word "ki" in 21:9!]

#### SUMMARY – OR NOT?

Let's begin with the JPS translation of 21:9, noting how it understands this pasuk as a summary for the previous eight (by adding the word 'thus'):

**"Thus** you will remove from your midst guilt for the blood of the innocent, **for** you will be doing what is right in the sight of the Lord." (21:9 / JPS)

[Note similar translation in Rav Aryeh Kaplan's Living Torah, and in the Jerusalem Bible ['so' instead of 'thus' - but all view this pasuk as a summary.]

In other words, after explaining all the various stages of this ritual – the Torah concludes by informing us that it will work! However, this explanation forces us to accept two conclusions:

1) That this "dam naki" [innocent blood] refers to the blood of the "chalal" [the slain person/ see 21:1] – which requires some sort of atonement, ideally with the blood of his murderer, but otherwise with the blood of the "eglah arufa". Without either, it seems that there would be terrible consequences.

2) The phrase "ha'yashar beinei Hashem" refers to these specific procedures of "eglah arufa" (as described in 21:2-8). Hence, when you have done them, the "dam naki" will be atoned.

The second conclusion is rather difficult to accept, for why would this ritual of "eglah arufa" fall under the category of doing 'what is correct in the eyes of God'? Usually, this phrase of "ha'yashar b'einei Hashem" refers to something in the realm of moral behavior, but rarely ever to ritual. [See Shmot 15:26, Devarim 6:18, 12:28 and 13:19.]

But even the first conclusion is rather difficult to accept, for the pasuk seems to imply some sort of new command – "v'ata t'vaeyr" [You must get rid of...] – in contrast to summary. Furthermore, the last phrase of 21:8 – "v'nikaper la'hem ha'dam" [and (thus) they will be atoned for the blood/ see Rashi] – in itself seems to be a summary, and hence, there doesn't seem to be a need for an additional summary in 21:9.

#### THE CASE ISN'T CLOSED!

Most probably for either one or both of these reasons, Rashi offers a very different interpretation, understanding the pasuk as an additional command (and not a summary):

"[This pasuk] tells us that should they afterward find the murderer – that he must still be put to death; and THAT is [what the Torah refers to] as 'yashar b'einei Hashem'." (see Rashi on 21:9)

Rashi's commentary solves both problems, for it understands this pasuk as an additional command – i.e. to continue to look for the murderer – EVEN THOUGH the "eglah arufa" ceremony was performed; while this 'continued search for

the murderer' is referred to (and rightly so) as 'what is correct is the eyes of God'.

To summarize Rashi's approach, this additional pasuk is basically coming to teach us that just because we have performed the ritual – the case is not closed! Instead, we must continue to pursue justice – for that is what is 'correct in the eyes of God'.

[See English translation of 21:9 in Stone Chumash, which reflects (as usual) Rashi's commentary, and how it differs from the other English translations.]

#### PARTICULAR or GENERAL

One small problem remains with Rashi's approach, in relation to our understanding of the phrase "ha'yashar b'einei Hashem". If we consider the other times in the Torah where we find this phrase, we find that it usually refers to a very general category of behavior – more like a 'way of life' - in contrast to something specific. For example, after Bnei Yisrael cross the Red Sea and arrive at Mara, God challenges the nation to follow him as follows:

"If you obey God, and **do what is upright in His eyes** [v'ha'yashar beinav taaseh], and listen to all of His mitzvot and keep all of His decrees..." (see Shmot 15:26)

Earlier in Sefer Devarim as well, we find how this phrase is used in a very general manner:

"Keep God's commandments, His 'eidot' & 'chukim' as He commanded you – and **do what is upright and good in God's eyes...**" (See Devarim 6:17-18)

[See also Devarim 12:28 and 13:19.]

Therefore, if we follow the more general usage of this phrase elsewhere in Chumash, especially in Sefer Devarim, it would make more sense if "ha'yashar beinei Hashem" related to a wider range of mitzvot, relating to general moral behavior.

#### PREVENTIVE MEASURES!

Most likely, it is this question that caused Ibn Ezra to offer an alternate, and rather create interpretation. After mentioning the two approaches that we discussed above (i.e. either a summary or a command to pursue the murderer), Ibn Ezra continues:

"But what seems correct in my eyes [v'hanachon b'einei' – note his clever choice of words!], this relates to what I mentioned in my commentary (i.e. in 21:7) that no murder at all would have taken place in the land if [beforehand Bnei Yisrael had] acted in 'a manner that is upright in the eyes of God'. – following the principle of:

'schar aveira aveira u'schar mitzvah mitzvah' – the penalty for a transgression is another transgression, and the reward of a mitzvah is another mitzvah."

(see Ibn Ezra 21:9 / & 21:7)

Note how according to this interpretation, the phrase "ha'yashar beinei Hashem" describes good behavior in general, and not any particular commandment, just as it does earlier in Sefer Devarim (6:18, 12:28 and 13:19).

Hence, there is no longer a need to explain this pasuk either as a summary or as an additional commandment; rather Ibn Ezra understands this pasuk as the Torah providing us with some 'good advice' – to prevent this type of situation (that would require an "eglah arufa") from occurring in the first place.

#### A GOOD TEACHER

If we follow Ibn Ezra's approach, this finale pasuk to the laws of "eglah arufa" follows a pattern that emerges throughout Moshe Rabeinu's speech in Sefer Devarim. Quite often, when Moshe Rabeinu is teaching specific laws, he'll take a quick break to provide a reminder, or some good advice – that relates to good behavior in general, in relation to that specific mitzvah.

[If you'd like some examples, see 12:19, 12:28, 13:19, 14:2, 15:11, 16:12, 16:20, 19:10, not to mention all of chapter 8 thru

10 – note also 24:9, according to Rashi! I'm sure you can find many more.]

#### HOW DO WE KNOW WHAT'S 'RIGHT IN GOD'S EYES'

Before we conclude our short shiur, it is highly recommended that you read the Ramban on Devarim 6:18, where he solves the problem of how we are supposed to figure out what is considered "yashar b'einei Hashem". [Note how (and why) he brings so many examples from Parshat Kedoshim!]

It is also recommended that you see the Ramban on Devarim 21:5-8, where he quotes the Rambam's explanation how the laws of "eglah arufa" are not quite ritual, but rather a set of very wise steps to increase the chances that the true murder will be found!

In conclusion, note how the opening psukim of the Parsha command Bnei Yisrael not only to appoint judges, but also insists that their primary goal is to pursue justice and set a personal example of moral behavior (see 16:18-20!). With this in consideration, the final pasuk of Parshat Shoftim (according to Ibn Ezra's interpretation) serves not only as an appropriate finale for the laws of "eglah arufa", but also for all of Parshat Shoftim!

shabbat shalom,

menachem



# Parshat Shoftim: Rabbinic Authority

by Rabbi Eitan Mayer

## HALAKHIC AUTHORITY:

This week, we will be doing something a little different than usual. Instead of trying to extract the peshat (plain-sense) meaning of the Torah and examine the themes of the parasha, we will be looking at a halakhic issue. This means that we will be looking for the \*halakhic\* interpretation of the text, not the peshat meaning (though they often coincide), and also that we will be paying more attention than usual to post-biblical halakhic sources. Given that we are knee-deep in the halakhic section of Sefer Devarim (Deuteronomy), it seems appropriate for us to move beyond the text itself and focus on halakha.

The topic we will examine is one of great concern to the many Jews who take their Judaism seriously and are looking for guidance about one of the most pressing issues in Jewish life. That issue is halakhic authority: who is qualified to make halakhic decisions? Where does this authority come from? Are the decisions of any individual or any constituted body binding on communities or on the Jewish people as a whole? Do halakhic authorities have power also in non-halakhic areas?

Our parasha is the address for all of these questions, as it contains the brief section from which we derive the most significant rules of halakhic authority. It goes almost without saying that there are many points of view other than those which will appear in this discussion. (And to anyone who attended the course I gave on halakhic authority awhile back, I hope the review does you some good.)

First we will take a look at the relevant section of the parasha. I urge you to look at the original text and not to rely on my (or anyone else's) translation:

### DEVARIM 17:8-13 --

If a matter of judgment ["mishpat"] should escape you, between blood and blood, between law and law, and between lesion and lesion ["nega"], matters of strife in your gates, you shall arise and go up to the place that Y-HVH, your God, shall choose. You shall come to the priests, the levites, and to the judge who shall be in those days, and you shall seek ["ve-darashta"], and they shall tell you the matter of judgment. You shall do according to the thing that they tell you from that place, which Y-HVH shall choose; you shall guard ["ve-shamarta"] to do as all they instruct you ["yorukha"]. According to the instruction ["torah"] that they instruct you ["yorukha"], and according to the judgment which they say to you, you shall do; do not turn aside from the thing they tell you, right or left. But the man who shall act brazenly, to not listen to the priest who stands to serve there Y-HVH, your God, or to the judge -- that man shall die; you shall clear out the evil from Yisrael. The entire nation should hear and see, and not act brazenly any further.

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### QUESTIONS:

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1. (a) Why is the high court located in the Chosen Place, where Hashem's 'home' is also located -- what does resolving a legal issue have to do with the Beit HaMikdash (Temple)?

(b) What do the "priests and levites" have to do with judgment? It makes sense to bring matters of judgment to a judge, but what are these religious functionaries doing in the picture?

(c) The Torah places great emphasis on the fact that the priests-levites/judge sit in the Chosen Place, repeating that this is the place chosen by Hashem and that "you shall do according to the thing that they tell you FROM THAT PLACE." Why is this so important? After all, the point is not the courtroom or the address of the courthouse, it's the answer the judge gives you -- right?

2. Why does the Torah command that we execute (!) anyone who disagrees with the verdict handed down by the court? Why should it be a capital crime to have a different opinion? Does the Torah allow no room for people to see an issue from different perspectives?

3. Does all of this apply only to the specific circumstances described by the Torah -- i.e., are we required to obey the instructions of this priest-levite/judge halakhic authority only if he sits in the Chosen Place? What if the Beit HaMikdash is destroyed -- does halakhic authority perish along with it?

4. What if you think that the court (or other halakhic authority) is wrong -- do you have to listen anyway? If so, why? What sense does it make to listen to a court if the court is telling you to do something you think is against the Torah?

5. Does a court, or any other religious or halakhic authority, have any sort of authority in non-halakhic areas, or are we on our own in the non-halakhic realm?

## INTRODUCTION:

Imagine it's 2,500 years ago, and you're living in a small town three hours' donkey ride from Jerusalem. A halakhic question comes up at the farm, so you ask your local Orthodox rabbi, but he doesn't know the answer. What are you supposed to do?

#### **RAMBAM, LAWS OF REBELS, 1:4 --**

[Whenever] any law became the subject of doubt for a Jew, he would ask the court in his city. If they knew, they would tell him; if not, then the questioner, along with the court or its emissaries, would ascend to Jerusalem and ask the court at [entrance to] the Temple Mount. If they knew, they would tell them; if not, then all of them would come to the court at the opening of the Sanctuary. If they knew, they would tell them; if not, then all of them would come to the "Hewn Chamber," to the Great Court, and ask. If this matter -- about which everyone was in doubt -- was known to the Great Court . . . they would tell them immediately, but if the matter was not clear to the Great Court, they would consider it at that time and discuss it until they all agreed, or they would vote and follow the majority. Then they would tell the questioners, "Such is the halakha" . . . .

Once the Great Court delivers its response, the questioners are required to accept the answer and behave accordingly. This is not just advice -- it is a positive command (mitzvat asei) to obey the Great Court, and a negative command (mitzvat lo ta'aseh) to disobey the Court:

#### **RAMBAM, LAWS OF REBELS, CHAPTER 1 --**

LAW 1: The Supreme Court in Jerusalem are the root of the Oral Torah and the pillars of instruction; from them do law and judgment go out to all Israel, and the Torah places trust in them, as it says, "According to the instruction that they instruct you" -- this is a POSITIVE OBLIGATION. All who believe in Moshe, our teacher, and in his Torah, are bound to rely on them in religious activities and to depend on them.

LAW 2: Anyone who does not act in accordance with their teaching violates a NEGATIVE COMMAND, as it says, "Do not turn from what they tell you, right or left" . . . . Any sage who rebels against their words, his death is through strangulation . . . whether [the issue in dispute is] 1) a matter known by oral tradition, or 2) a matter derived by the Court itself using one of the hermeneutic rules of interpreting the Torah, and which seems correct to them, or 3) a "fence" in the law which they created in order to protect Torah law or because there was a need for it -- these are the gezerot and takkanot and minhagot -- in all three categories, it is a POSITIVE OBLIGATION to obey them. One who violates any of these laws violates a NEGATIVE COMMAND . . . .

Let us neither overcomplicate nor oversimplify the matter: the scope of authority granted by these mitzvot is a matter of significant debate. The sources to be presented here are only those I find both particularly important, as well as presentable over e-mail.

#### **WHAT IF I THINK THE COURT IS WRONG?**

It is all very well and good to have one central clearing-house for halakha, where all decisions are finalized, but what if it seems to me that the decision handed down is incorrect? How am I supposed to react? Hazal and many Rishonim (medieval authorities) address this possibility in many places:

#### **SIFREI, DEVARIM, SECTION 154:11 --**

"[Do not turn aside from the thing they tell you,] right or left": Even if they show to your own eyes that right is left and left is right, listen to them.

This midrash halakha seems to answer our question quite clearly: even if they tell you something you think is wrong, even if it's so obvious to you that it's as if they are standing in front of you and telling you left is right and right is left, you must listen to them. However, it is a bit more complex than that, because the language of this midrash is tricky and ambiguous:

"Afilu mar'im be-einekha al yemin she-hu semol ve-al semol she-hu yemin, shema la-hem."

While I believe that this is best translated as above, it is also possible to translate as follows:

"Even if it seems to you that they are telling you right is left and left is right, listen to them."

The difference between these two translations is that the first translation makes it sound like the court truly has made a mistake -- they tell you that right is left and left is right; still, you must listen to them. On the other hand, the second translation makes it sound more like the court has not necessarily made a mistake, just that \*you\* believe they have -- it "seems to you" that they are telling you something which is obviously wrong; still, you must listen to them. This second translation leaves room for the possibility that if the court truly is wrong, you are not supposed to follow its verdict; only if it seems to \*you\* that it is wrong are you required to follow it.

The first possibility -- that we are bound to follow the court even if it errs -- is reflected in another midrash:

### **MIDRASH TANNA'IM, DEVARIM 17:10 --**

How do we know that if they tell you that left is right and right is left, [that you must] listen to their words? The Torah tells us, "According to ALL that they instruct you."

According to this view, we are commanded by Hashem to follow the court no matter what it tells us, no matter how ridiculous it seems, even if it declares that right is left and left is right. To put it another way, you could never commit an aveira (sin) by following the court. Hashem always wants you to do what the court tells you to do.

The second possibility -- that we are bound to follow the court even if it seems wrong to us, but only if it is truly correct in its verdict -- is reflected in a passage in the Yerushalmi (Jerusalem Talmud):

### **YERUSHALMI, HORAYOT 1:1 --**

I might think that if they tell you that right is left and left is right, that you must listen to them -- therefore the Torah tells us, "to go right and left" -- that they must tell you that right is right and left is left.

If we stop to think about it, though, it seems not to make much difference which possibility is the correct one. In both cases, you think the court is dead wrong. It's as obvious to you as right and left. But you don't have access to the absolute truth of whether they are indeed right or wrong. So even if it were true that you are commanded to follow the court only when its verdict is correct, how are you supposed to know when the court is truly correct and when not?

One possible solution (and one which I believe is reflected by the context of some of the above sources) is that the different sources are referring to people with varying degrees of halakhic expertise. If you are, with all do respect, Joe Nobody in terms of halakhic expertise, then even if it seems to you that you are being told your hands are screwed on backwards, you ought to suspend your disbelief and accept the word of the Big Experts. But if you are a person of such halakhic stature that you would be qualified to sit on the Great Court, you not only can hold your ground, but perhaps you \*must\* -- unlike the non-experts, who are compelled to rely on the Court due to their halakhic non-expertise, you are a Big Expert in your own right. In your expert view, it is not just that the Court \*seems\* to have erred, it is a certainty.

The fact that a Big Expert is in a different category than others when it comes to disagreeing with the Great Court is something reflected in the first Mishna in Tractate Horayot:

### **MISHNA HORAYOT, 1:1 --**

If the Court [mistakenly] ruled that one may violate one of the commandments in the Torah . . . and one of them [i.e., one of the judges] knew that they had erred, or a student who is fit to be a judge [knew that they had erred], and he [nevertheless] went and acted according to their word [i.e., the word of the Court] . . . he is held responsible, for he did not [truly] rely on them [since he knew they were wrong] . . .

Now that we have seen some of what Hazal have to say, we turn to the Rishonim to see how they understood these pesukim. The first view we will consider is that of Rashi:

### **RASHI, DEVARIM 17:11 --**

"[Do not turn aside from the thing they tell you,] right or left": even if they tell you right is left and left is right, and certainly if they tell you right is right and left is left.

Rashi leaves us with no doubt that he believes that even when the Court is truly mistaken, even when it tells you that right is left and left is right, you are bound to obey it. He is absolutely clear: we are to follow the Court whether they tell us right is left and left is right, or right is right and left is left.

Or maybe not! Perhaps Rashi, like the midrashim above which command obedience even to an ostensibly wrong verdict, is talking to the non-expert. Whether it looks to you like the Court is wrong (right=left, left=right) or right (right=right, left=left), you must obey its verdict. Since you are not a Big Expert, a potential member of the Court, you are not qualified to say whether the verdict is \*truly\* correct, so no matter what you think, you should follow its judgment. [In the middle of writing this shiur, I consulted Rabbi Herschel Schachter, Rosh Kollel at RIETS, and R. Schachter told me that the Tzeida La-Derekh, a commentary on the Torah, suggests the same resolution as I have suggested above.]

The Ramban's interpretation of Rashi seems to accord with the above suggestion -- that Rashi is addressing someone who \*believes\* that the Court has erred, not someone who is qualified enough to \*know\* that they have, in fact, erred:

### **RAMBAN, DEVARIM 17:11 --**

"[Do not turn aside from the thing they tell you,] right or left"-- "Even if they tell you right is left and left is right," so is the language of

Rashi. The meaning is that even if you BELIEVE in your heart that they are mistaken, and it is AS OBVIOUS TO YOU as your knowledge of the difference between your right and left hands, still, you shall do as they command, and do not say, "How can I eat this [non-kosher] fat or kill this innocent person?!"

The Ramban, along with Rashi, is telling the non-expert (if it's not obvious already, just about all Jews, including most rabbis, are considered "non-experts" in this context) to suspend his or her judgment and rely on the Great Court. Even though we may consider the Court mistaken, we have no accurate way of telling.

But then the Ramban goes further -- not only are we required to obey the Court because we cannot judge when it is correct and when mistaken, but we are required to obey it even when it truly is mistaken! The Ramban continues:

**RAMBAN --**

... Instead, you should say, "The Master, who commanded the commandments, commanded that I should behave -- in regard to all of His commandments -- as I am taught by those who stand before Him in the place He shall choose, and according to their interpretations has He given me the Torah, EVEN IF THEY ARE MISTAKEN."

Here the Ramban gives the Great Court much broader power than before; until now, we could have assumed that the Ramban is telling us to submit our will to the Court's because the Court has infinitely greater halakhic expertise. But now he is telling us that the issue is not expertise, but authority. The Court is always right -- even when it's wrong! Hashem prefers that I follow the Court's wrong verdict to my own correct judgment! The Ramban goes on to explain the rationale for the command to obey and the command not to disobey the Court:

**RAMBAN --**

The need for this commandment is very great, because the Torah is given to us as a text, and everyone knows that opinions will differ in the details and in new situations; the result will be that disagreement will increase, and the Torah will become several Torot! So Scripture lays down the law, that we should listen to the Great Court -- which stands before God in the place He shall choose -- in all that they say in interpreting the Torah, whether they accepted it as testimony from earlier authorities, and they from Moses, and he from God, or if it is their own opinion about the meaning or intent of the Torah. THIS IS BECAUSE THE TORAH WAS GIVEN TO FUNCTION ACCORDING THEIR OPINIONS, even if it seems to you that they mistake right for left . . . for the Spirit of God rests on the servants of His Temple, and does not abandon His righteous ones; they are forever protected from error and stumbling. The Sifrei says: "Even if it seems to you that they say that the right is left and the left right."

**If you read the above Ramban carefully, you should now be totally confused.** Let's just review.

1) First, the Ramban quotes Rashi and says that the Torah is commanding us to obey the Court although WE BELIEVE it is mistaken. This makes it sound like the Ramban believes that we must obey the Court because we are usually wrong in our view of the halakha, and the Court is right.

2) But then the Ramban says that we are commanded to obey the Court even if it IS mistaken -- so even if we are right that the Court has told us that right is left and left is right, we must accept.

3) The Ramban then tells us that the Torah is given to us to function as the Court sees it, so that there will be unity in the nation and so that the Torah will not become multiple Torot. This makes it sound like the Ramban believes that the Court can indeed err, but that we are commanded to obey anyway for practical reasons: we have to stick together as a religious community and a nation.

4) But then the Ramban switches back again and tells us that special divine inspiration assures that the Court will NEVER make a mistake. He then quotes the midrash which reads, "Even if it seems to you . . .", implying that the Court is truly correct and that it is only our ignorance which makes us believe otherwise.

Will the real Ramban please stand up? Do we laypeople accept the Court's verdict simply for the sake of unity, or because we can't claim to know any better ourselves, or because they are simply always correct?

First let us consider one simple question: is it really true that the Great Court is "forever protected from error and stumbling?" Is there any solid evidence that the Great Court can indeed make a mistake?

If you've been paying attention so far, your answer should be yes -- much of the first perek (chapter) of Tractate Horayot (including the first Mishna, which was quoted above) deals with exactly this topic. But there is more solid evidence than that. Let us briefly take a look at two sections of the Torah:

**VAYIKRA 4:13-14 --**

If the entire congregation of Yisrael shall sin in error, and a matter is hidden from the "eyes of the congregation" [a term understood by

Hazal to refer to the Great Court], and they do one of the mitzvot of Y-HVH which is not supposed to be done [i.e., a negative command] . . . they shall bring a bull of the flock for a sin-offering . . .

#### **BEMIDBAR 15:24 --**

It shall be, that if from before the "eyes of the congregation" [see above] it is done inadvertently, then the entire congregation shall bring a bull of the flock for a burnt-offering . . . and one goat for a sin-offering . . .

These two sections prescribe the procedure to follow in case the Great Court rules mistakenly and the entire nation (or a significant part of it) follows that ruling. A special korban (sacrifice) or set of korbanot is to be brought. In any event, these passages confirm that the Court can indeed make mistakes.

**If you remember the Yerushalmi passage above, you will see that it, too, assumes that the Court can err.**

With all this in mind, let us return to the Ramban. Surely, the Ramban is aware of all this; therefore, when he says that "the Spirit of God rests on the servants of His Temple, and does not abandon His righteous ones; they are forever protected from error and stumbling," we must interpret his words in light of the evidence we have just seen. The Ramban's position is certainly complex, to say the least, but perhaps the following summary will help us to understand his words:

1) The Court is almost always correct in its verdicts. Non-experts are therefore required to obey it, because they have no expertise based on which to disagree with the Court. Even if it seems to their untutored senses that the Court is obviously wrong, they must submit to its expertise and its divine guidance.

2) Sometimes, the Court is indeed wrong. But non-experts are still required to obey it because

- a) they have no way of knowing with any reliability when the Court is halakhically wrong.
- b) it is necessary for the unity of the community for there to be one source of authority, and for it not to be OK for everyone to follow his or her own instincts in serving Hashem.

3) Now for the Big Expert who \*knows\* the Court is wrong: the expert is supposed to stick to his guns; eventually, the Court will consider his opinion. If they reject it, he is no longer allowed to tell people they can follow his ruling. (It is a matter of disagreement whether he is supposed to continue to follow his own ruling in private, but it is certain that he can no longer publicly follow his own ruling). If he refuses to knuckle under, it is "curtains" for him.

The Ran, Rabbi Nissim of Gerondi, relates to this last point in his Derashot (a fascinating sefer, which everyone should read; yes, I know that the Ran's authorship of it is at issue, but whoever wrote it, it is an important work). He assumes that the Torah's command to swerve neither "right nor left" refers to the Big Expert, not just to all of us Joe Nobodys:

#### **DERASHOT HA-RAN, DERUSH 11 --**

. . . "Even if they tell you right is left and left is right," even if it is clear to you that the truth is not like the words of the ruling of the Sanhedrin [Great Court], nevertheless, obey them, for so commanded Hashem, that we should behave with regard to the laws of the Torah and its mitzvot according to what they [the Court members] decide, whether they coincide with the truth or not! This is like the matter of Rabbi Yehoshua and Rabban Gamliel, that Rabban Gamliel commanded him to come to him, with his walking-stick and his money, on the day that he [Rabbi Yehoshua] believed was truly Yom Kippur -- and so he did! Since Hashem gave over decision-making power to them, **WHATEVER THEY DECIDE IS WHAT HASHEM COMMANDS** about that thing. On this do we rely in the mitzvot and judgments of the Torah, that we fulfill the will of Hashem in doing them [the mitzvot] so long as we rely on whatever the gedolei ha-dor [sages of the generation] agree upon.

Once Rabban Gamliel had heard Rabbi Yehoshua's opinion and rejected it, Rabbi Yehoshua was bound, like the Big Expert whose opinion has been heard by the Great Court and rejected, to accept the opinion of Rabban Gamliel, who was in a position of greater authority than he. The Ran, you may have noticed, appears to expand the authority of the Great Court beyond the Court itself, extending it to Rabban Gamliel and to the "gedolim" of each generation. According to the Ran, the section of Humash we have been studying is not history about a Court that once was, it is law which applies here and now. Whatever the great sages of the generation rule, we are commanded to obey them and forbidden from disobeying. The Ran makes this a bit clearer later on in his sefer:

#### **DERASHOT HA-RAN, DERUSH 12 --**

We are commanded to obey . . . the sages of the generations who come after the [Sanhedrin] . . . in whatever they explain in the laws of the Torah . . . But the 'fences' and rabbinic enactments they make . . . rely on the verse, "You shall not turn aside [from what they tell you, right or left]." Just as He gave this power to the Sanhedrin, since they are the teachers and great sages of Torah, so is it appropriate that this power be given to all sages of Israel . . .

The great sages of this generation, for instance, are empowered by "Lo tasur," "Do not turn aside," according to the Ran. Who the sages of this generation are . . . is not for me to say.

The final source we will see on this issue is also probably the most expansive. The Sefer Ha-Hinukh (author unknown, although some conjecture that it was written by the Ra'ah) extends the authority of the Court to the sages of all generations, even when there is no Court -- like the Ran above -- but he also may extend their authority beyond what is defined as strictly halakhic:

#### **SEFER HA-HINUKH, MITZVAH 495 --**

It is an obligation to obey the voice of the Great Court and to do whatever they command in matters of Torah -- the forbidden and permitted, the impure and pure, the guilty and the innocent, and in ANY THING THEY BELIEVE STRENGTHENS AND IS CONSTRUCTIVE FOR OUR RELIGION . . . . Included in this obligation is to obey -- in all ages -- the command of the judge ["shofet"]; that is, the greatest sage among us IN OUR DAYS; as they [Haza] interpreted, may their memory be blessed, "Yiftah in his generation is as Samuel in his generation."

[It is worth mentioning that the Hinukh's language here is similar to that of the Rambam in Sefer HaMitzvot, Positive Mitzvah #174.]

#### **SEFER HA-HINUKH, MITZVAH 496 --**

. . . And in every generation also, that we listen to the CONTEMPORARY SAGES, who have received their [the earlier sages'] words by tradition and have drunk water [=Torah] from their books . . . . Even if they tell you right is left and left is right, do not stray from their command. In other words, even if they are wrong about a particular thing, it is not worthwhile to argue with them, and instead, we should follow their error. It is better to suffer one error and still have everyone under their good guidance than to have everyone do as he pleases, for this would cause the destruction of the religion, the splitting of the heart of the people, and the total destruction of the nation.

#### **AUTHORITY IN NON-HALAKHIC AREAS --**

As long as we have mentioned that the Sefer Ha-Hinukh may feel that the sages are empowered also in non-halakhic areas, let us briefly consider several statements made by great sages over the generations about rabbinic authority in non-halakhic areas. I will not comment on these statements; I put them forward for you to consider. I consider it too controversial a topic for me to comment on in this forum:

##### **1) THE HAFETZ HAYYIM** [From "Hafetz Hayyim on the Torah," p. 30]:

(Note that this is not the Hafetz Hayyim writing, it is a student of his.)

"He used to say, 'One whose opinion (da'at) is the opinion of the Torah (da'at Torah) can solve ALL OF THE PROBLEMS OF THE WORLD, IN GENERAL AND IN PARTICULAR.' But he added a condition: 'The Da'at Torah must be pure, without any ulterior motive and any leaning. If you have a person who has Da'at Torah, but it is mixed even a little with other opinions from the marketplace or the newspapers (press), his Da'at Torah is clouded, mixed with refuse, and it is unable to descend to the depths of the matter.'

##### **2) RABBI ELIAHU DESSLER**, "Mikhtav me-Eliyahu," ["A Letter from Eliyahu"], vol I, pp. 75-76:

(The following is an "Editor's note" in a footnote in "Mikhtav me-Eliyahu"; it explains the context of Rabbi Dessler's words:)

"The one who asked the question [to Rabbi Dessler] was influenced by those who have already forgotten that the Land of Israel was saved from German attack from Africa only by a miracle which shocked the strategists. These people have argued that if all the Jews of Europe, may God avenge their blood, had come to Israel before the war, they would have been saved, and they blamed the gedolei ha-dor for this [as if they had the power to convince the people to move]."

(So much for the editor's note. Anyway, the following are Rabbi Dessler's words:)

"From your words I can see that you think that all of the gedolim of Israel -- whose actions were for the sake of Heaven, the geniuses of intellect and pillars of righteousness at once, about whom, there is no doubt, that in all of their judgments and rulings, God was with them . . . --that all of them made a complete mistake. Heaven forbid! It is forbidden to hear such things, let alone to say them!

"First of all, I will say that I knew some of these gedolim personally, and I saw them at assemblies dealing with matters of national significance . . . and I can tell you with certainty that even to pygmies like us, their brilliance was astounding, the depth of their intelligence penetrated into the deep itself. It is impossible for someone like us to measure the full degree of their understanding . . . and anyone who had the privilege of standing before them at these times, was sure that the Divine Presence was among their dealings, and the Holy Spirit rested on their gathering . . . Hazal have already told us to obey the wise ones even when they tell us left is right, and not to say, God forbid, that they have surely erred, for even tiny I can see their error. Instead, our own senses must be totally nullified, like the dust of the earth, before their brilliance and the divine assistance they receive . . . This is the Da'at Torah about emunat hakhamim."

### 3) RABBI SHNEUR ZALMAN OF LIADI (first Lubavitcher Rebbe), "Holy Letters," Letter 22:

"My beloved, my brothers, and my friends -- 'from a hidden love comes an open rebuke'; 'come now and let us judge.' 'Remember the days of old, consider the years of each generation.' Was it ever like this, from days of old? Where, indeed, did you find this custom in even one of the books of the sages of Israel, whether the early ones or the later ones, that it be a custom and an established way of life to ask for advice on the physical -- i.e., how to behave with regard to matters of this physical world -- to even the greatest of the first sages of Israel, like the Tanna'im and Ammora'im, from whom 'no secret is hidden' and for whom 'the paths of Heaven are clear'? Only to actual prophets, who once existed among Israel, like Samuel the Seer, to whom Saul went to seek God about his father's lost donkeys. For in truth, all human matters besides the words of the Torah and the fear of Heaven are available only through prophecy, and 'the wise do not have the bread'; as our sages say, "All is in the hands of Heaven except the fear of Heaven," and "Seven things are hidden . . . man does not know from what he will make money . . . and when the Kingdom of David will be re-established" -- notice that these things are compared to one another. And what it says in Isaiah, "A counselor and a wise one . . .", and also what the sages have said, "And one benefits from him [the Torah sage] advice and counsel" -- this all refers to the words of the Torah, which are called "counsel," as the sages have said, "A counselor is one who knows how to intercalate the years and to set the months...", for the principles of intercalation are called "counsel" and "secret" in the terminology of the Torah, as it says in Sanhedrin 87[a], see there the commentary of Rashi.

AND, last but not least, just to end with a surprise,

### 4) RABBI YOSEF DOV HALEVI SOLOVEITCHIK ("The Rav"):

(From The Jewish Observer, May 1992. Note that while The Jewish Observer claims that the following text is printed in the journal HaPardes (14:7, 1940), the text is actually only a paraphrase of a Hebrew text in HaPardes. If you check the HaPardes version, you will find that the JO edition just extracts the gist of the Rav's words but is not actually the words themselves. Be that as it may, I think the general point made is the same.)

Two of the garments worn by the Kohen Gadol (High Priest) are given special emphasis by the Torah: the Tzitz and the Hoshen.

Each of these vestments represents a different function that the Kohen Gadol fulfilled. The Tzitz was "holy to Hashem" and was worn upon the head, for it represented the Kohen Gadol as decisor of questions relating to individual holiness and purity. The Kohen Gadol would rule on matters of defilement and marriage, kashrut and monetary disputes and all individual concerns.

The Hoshen rested upon the heart and it contained the names of every one of the shevatim (tribes). With the Urim veTumim, which was an integral part of the Hoshen, the Kohen Gadol gave guidance for the issues facing the nation as a whole: to go to war or not; to react to an enemy's taunts or to be silent; to call public meetings or to remain still. These are the questions that only the heart that felt the pain of the nation could decide. These are the issues that only the sensitive soul of the Kohen Gadol could address.

For millennia, the rule was clear. The same Kohen who wore the Tzitz, who decided upon mikvah and nidah, the laws of Shabbat and Yoreh De'ah, also wore the Hoshen and answered the questions of the nation as a whole. He decided the matters of war and peace, our relations with our neighbors, and set the national agenda and tone.

Only the Kohen, whose mind was saturated with the holy Torah of Rabbi Akiva and Rabbi Eliezer, Abaye and Rava, the Rambam and the Ra'avad, the Beit Yosef and the Rama, could also solve the political and national dilemmas of the nation. That very Kohen was the one to stand before kings, who knew when to speak softly and when to make demands, when to bend and when to be willing to give up life and limb.

In the last generation, a wedge has been driven, for the first time, between the Tzitz and the Hoshen, between the Gaon of the generation and its national leader. Gedolei Yisrael have been shoved into the corner to render judgments on "their" areas of expertise while self-professed "experts" lead the nation on matters of global concern.

This cannot be. There can be no heart devoted to the nation without the holiness of the Tzitz. And there can be no holiness without the overflowing and loving heart of the Kohen Gadol. The Tzitz cannot be severed from the Hoshen. The Hoshen must be carried on the same body that is crowned by the Tzitz.

\*\*\*\*\*END\*\*\*\*\*

I am well aware that this statement of the Rav's is a very early one in his career, made while he was part of Agudat Yisrael (and in fact the statement was made at an Aguda convention), before he had broken with Aguda. I am also well aware that many other statements of the Rav exist on this matter (some of them contradictory!).

I suppose you will have what to think about over Shabbat!

Shabbat shalom