

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 50 years ago and was our family Rebbe and close friend until his untimely death.

Devrei Torah are now Available for Download (normally by noon on Fridays) from www.PotomacTorah.org. Thanks to Bill Landau for hosting the Devrei Torah. New: a limited number of copies of the first attachment will now be available at Beth Sholom on the Shabbas table!

Mazel-Tov to Judy Frank and family on the second Bar Mitzvah of her husband Jerry at Beth Sholom in Potomac, MD. Mazel-Tov also to their children, Danny (Susan), Aaron (Laura), and Abbey (Marc Israel), and grandchildren Rachel, Ateret, Yanniv, Davi, Neri, Elianna, Micah, and Oren.

Parshat Shoftim focuses on government, the legal system, and their impact on individuals. As I have mentioned before, Rabbi David Fohrman and his scholars at alephbeta.org demonstrate that many of the specific laws (many of the 613 mitzvot) take incidents from earlier in the Torah and translate them into laws. For example, Moshe orders the people to establish cities of refuge where inadvertent killers may go to escape revenge for the dead person's relatives (ch. 19). Rabbi Fohrman explains that the precedent for cities of refuge was God's reaction after Kayin killed his brother Hevel (Bereshis 4:8). Since no one had ever died before, and obviously no one had ever killed another human, Kayin had no way to know that in striking his brother he would kill him. The killing lacked intent and thus legally was manslaughter rather than murder. God punished Kayin by forcing him to wander over the land, but He gave Kayin a mark on him warning others that He would punish anyone who harmed Kayin (4:10-15).

A Jewish court requires witnesses to convict – and a guilty verdict requires testimony of a minimum of two witnesses (17:6; 19:15). Daniel Lowenstein and Beth Lesch trace the requirement of two witnesses to Bereshit ch. 41, with Yosef interpreting Paro's dreams and noting that the repetition of a dream means that it is a true message from God. Rabbi Yitz Etshalom (in a Dvar Torah from much earlier in the Torah) takes this concept further by analyzing dreams in Avraham's family. The family tradition is that one dream is not necessarily meaningful, but two dreams with the same message mean that God is giving a prophecy. A prophet's repeated dream is equivalent to two witnesses – enough evidence to determine truth.

As Lowenstein and Lesch observe, in Shoftim, the Torah presents the concept of using two witnesses to establish guilt in the context of punishing idolatry. Moshe and subsequent Jewish leaders fought idolatry from the time of Avraham through the entire period of the prophets.

One who commits a crime without witnesses will escape Jewish court but will not escape punishment. God punishes the guilty who escape a human court.

When God brought B'Nai Yisrael out of Egypt, much of His effort (and Moshe's) involved teaching the people who Hashem was and especially teaching our ancestors that God loves the Jews. This understanding is the basis of every Torah law, and Hashem's love for us is the starting point of any true teshuvah during Elul, as we prepare for the High Holy Days.

We have an example of God's teaching us his love in the opening of Shoftim: "Shoftim and Shotrim shall you appoint in your cities" (16:18). The previous use of "Shotrim" in the Torah was the officers that Paro ordered to make the Jewish slaves gather their own straw to make bricks when Moshe asked for a three day holiday for the people (Shemot 5:6). Paro's shotrim punished B'Nai Yisrael. The main responsibility of Hashem's shotrim was to see that the people obeyed the shofrim and mitzvot – but look at the examples the Torah gives. The shsotrim are to send home soldiers who are waiting to get married, have a new home in which they have not yet lived, have planted a vineyard but have not yet enjoyed its fruits, or fear going into battle (20:5-9). God's shotrim are a tikkun for Paro's shotrim. Where Paro used his shotrim to punish the people, Hashem uses His shotrim to extend mercy. As with many other examples (as I have discussed over the weeks), God uses incidents in the memories of B'Nai Yisrael to show His divine love and mercy in comparison to similar incidents in which our ancestors were the victims of others.

Rabbi Yehoshua Singer illustrates Hashem's love for us with a recent story from New York. When a little boy was missing, hundreds of people dropped everything to search for him in pouring rain. Baruch Hashem, they found him, and the volunteers collectively spontaneously starting singing and dancing - in the pouring rain. The song, in Hebrew, translates as "Hashem's kindnesses, for they never end, for His mercies are never ending." Here is God's message for us for Elul.

As Moshe also warned the people, our enemies will always be nearby, ready to attack when we stop trusting in and building a close relationship with God. As international organizations continue to attack Israel and threaten Jews all over the world, it is nice to see occasional signs of improvement. We had one recently, when the African Union invited Israel to observe its sessions and address the union, after expelling Israel nearly 20 years ago:

(<https://www.timesofisrael.com/israel-joins-african-union-as-observer-state-after-being-kept-out-for-2-decades/>

My family observes the 14th yahrtzeit of my father, Shlomo ben David, Sam Fisher, on 7 Elul (Motzi Shabbat). My father, though not himself religious, was glad that our sons were both Jewish from birth, and he would have been glad to know that he has four Jewish grandsons. As my father's yahrtzeit approaches, I also recall my beloved Rebbe, Rabbi Leonard Cahan, z"l, because a person's Rebbe is like his father. May both their memories be for a blessing.

Shabbat Shalom,

Hannah & Alan

Much of the inspiration for my weekly Dvar Torah message comes from the insights of Rabbi David Fohrman and his team of scholars at www.alephbeta.org. Please join me in supporting this wonderful organization, which has increased its scholarly work during the pandemic, despite many of its supporters having to cut back on their donations.

Please daven for a Refuah Shlema for Mordechai ben Chaya, Hershel Tzvi ben Chana, David Leib ben Sheina Reizel, Uzi Yehuda ben Mirda Behla, Dovid Meir ben Chaya Tzippa; Zvi ben Sara Chaya, Eliav Yerachmiel ben Sara Dina, Reuven ben Masha, Meir ben Sara, Ramesh bat Heshmat, and Regina bat Allegra, who need our prayers. I have removed a number of names that have been on the list for a long time. Please contact me for any additions or subtractions. Thank you.

Hannah & Alan

Drasha: Shoftim: Battle Cry of the Jew

By Rabbi Mordechai Kamenetzky © 1998

[Please remember Mordechai ben Chaya for a Mishebarach!]

Approaching war correctly may be more difficult than waging war itself. In order to prepare Klal Yisrael for war a series of queries were presented to them. Soldiers who were newlywed or had recently built new homes or planted new vineyards were told by the officer in charge to leave the army and return home. Furthermore, soldiers who were faint of heart morally or spiritually were asked to return home so as not to weaken the hearts of others in battle.

But war must begin with encouragement. So before the officers ask the questions that may relieve some soldiers from active duty, the kohen gives a moral boosting speech. The kohen opens with Judaism's most famous words, "Sh'ma Yisrael – Hear Oh Israel! You are about to approach battle on your enemies. Let your hearts not waver and do not fear, tremble, or be broken before them. For Hashem who will go with you, fight with you, and save you" (Deuteronomy 20:3-4).

Rashi comments on the hauntingly familiar expression of "Sh'ma Yisrael – Hear oh Israel!" Those words are the national anthem of the Jewish nation whose doctrine of belief is contained in the declarative that follows. "The L-rd our G-d the L-rd is One" (Deuteronomy 6:4). Rashi connects the pre-battle pep-talk in Parshas Shoftim with the famous words read week's earlier in Parshas Va'eschanan. He explains that the expression, "Hear oh Israel" used in the kohen's prologue is actually used as a hint to Hashem. The kohen is in essence reminding Hashem of the unofficial anthem that Jews recite twice daily, world-over. The kohen is in essence declaring that "even if the Jewish people have only the merit of the words Hear oh Israel, they are worthy to be victorious and saved (from the ravages of war)."

I was wondering. Isn't the kohen talking to the people? If Rashi tells us that with this choice of words there is a subtle message to Hashem, can we not also presume that there is perhaps, an important, if only subtle message to His nation as well?

Refusenik Yosef Mendelevitch, imprisoned in a work camp by Soviet authorities refused to give up his religious convictions. He made a kipah, which he wore proudly in the work camp.

Once the KGB colonel in charge of the camp heard of Mendelevich's behavior, he summoned him to his office and threatened him.

"Take that off your head or I will kill you!" he demanded.

Mendelevich was not moved. "You can kill me, but I will not take it off." The officer was shocked by Yosef's calm attitude. In desperation he grilled him. "Are you not afraid to die?"

Mendelevich just smiled softly. "Those who will die by the commands of Brezhnev are afraid of death. However those who believe that our death will be by the command of G-d are not afraid of His command."

Perhaps the symbolism of using the words of the Sh'ma Yisrael, which connect to our sincere faith in the oneness and unity of the Almighty is profoundly significant.

The kohen is commanding the Jews to enter the battlefield without fear. There is no better familiar declaration than that of Sh'ma Yisrael. Those words kept our faith and calm-headedness throughout every death-defying and death-submissive moment throughout our history. During the Spanish inquisition, it was on our lips. During the Crusades it was shouted in synagogues about to be torched. And during the Holocaust Sh'ma Yisrael was recited by those who walked calmly to meet the Author of those hallowed words that captured the faith of Jewish souls more resolutely than the fetters that held the frail bodies.

The Chofetz Chaim would urge soldiers to constantly repeat the paragraph of the Sh'ma Yisrael during battle. It would sustain their faith as it would calm their fears. And the words Sh'ma Yisrael remain the battle cry of the simple Jew who maneuvers through a world filled with land-mines of heresy and temptation.

It is the battle-cry of our faith and in encouraging a nation to be strong and remembering that Hashem is with us. And no matter what the message is, there is no better introduction than, Sh'ma Yisrael. And there are no better words during the battle either.

Good Shabbos!

<https://torah.org/torah-portion/drasha-5758-shoftim/>

What is the Basis for Rabbinic Authority?

by Rabbi Dov Linzer, Rosh HaYeshiva, Yeshivat Chovevei Torah © 2016

What is the basis for Rabbinic authority? Why do we follow the Talmud? Why is the Rabbis' interpretation of Torah mitzvot binding on us? The Talmud tells us that the answer to some of these questions can be found in our parasha. Much of Parashat Shoftim is devoted to institutions of authority: the court system, the king, the prophet, and those whose job it is to interpret the true meaning of the mitzvot of the Torah. The Torah states that if something is hidden from you, "You shall arise, and get thee up into the place which the Lord thy God shall choose." It continues:

And you shall come unto the priests, the Levites, and unto the judge that shall be in those days and enquire; and they shall tell you the sentence of judgment. And you shall do according to the sentence, which they shall tell you from that place which the Lord shall choose, and you shall observe to do according to all that they inform thee. According to the sentence of the law which they shall teach you, and according to the judgment which they shall tell you, you shall do. You shall not deviate from the sentence which they shall tell you to the right, nor to the left (Devarim 17:8–11).

The Torah is investing this body with the power to interpret a law whose meaning is unclear. One who deviates from their interpretation violates both the positive mitzvah to follow the law that they shall teach, and the mitzvah to not deviate from it, to the right or to the left. This, then, would seem to serve as a basis for Rabbinic authority, if not in their capacity to legislate, at least in matters of interpretation. But the matter is far from clear.

First, in this case, the court is not analyzing the meaning of a law for its own sake. Rather, it is responding to a case brought before them. Just as the Supreme Court of the United States cannot rule on a law until a case is brought before it, there is nothing in the Torah giving this body any authority to initiate a ruling on their own accord. Moreover, the Torah does not describe an individual bringing a question to the court, say, on the scope of a melakha on Shabbat, but rather, a case of litigants, "a matter of dispute in your gates." Because each side is demanding justice, they must turn to a higher court for an authoritative decision. This is how a court that oversees the law of the land operates; it does not make proactive rulings or respond to inquiries of individuals. But this is not how the Talmud operates. The Talmud's ruling regarding Shabbat, kashrut, prayer, torts, and even murder all emerged from a group of rabbis discussing the issues among themselves—a far cry from "a matter of dispute in your gates."

Even if we were to assert that the court could initiate such rulings and decisions, we would still have a long way to go to connect the body described in these verses to the Rabbis of the Talmud. According to these verses, this body consists of a single judge and kohanim. The "judge" may refer to a sage or to someone knowledgeable in the law, but it may also refer to a political leader, typically referred to as judges in the book of Judges. Thus, the Talmud comments on the phrase, "the judge that you will have at that time": "Yiftach in his generation was like Shmuel in his generation" (Rosh HaShannah 25b). While Shmuel did indeed judge the people (Shmuel 1, 7:15–16), Yiftach was only a political leader, and yet the Rabbis see this verse as referring to him as well. More significantly, the kohanim are not sages. They seem to be playing the role of God's representatives, hence the location of this body on Temple grounds. It is true that, later in Devarim, the kohanim are entrusted with the responsibility of teaching Torah to the people (33:10), but there is no indication that this is the role they are playing here, or that a sage who is not a kohen could serve equally on this body.

Finally, as this body is the supreme judicial authority of the land, this court is singular, and it is located in a central location. While there did exist a single, central Sanhedrin in the time of the Second Temple, only a tiny fraction of the rulings of the Sages comes from that body. The vast majority of the rulings in the Talmud come from the post-Temple,

post-Sanhedrin period, when there was no single authoritative body. What, then, is the basis for the authority of the Rabbis of the Talmud?

Of course, it could be argued that none of these details matter, that after the Temple's destruction the Sages replaced the kohanim as the religious leaders of the people, and that the verse applies to them as well. Similarly, implicit in these verses is the idea that a local body can have authority for those who turn to it in the absence of a central body. While it is possible to interpret the verses in this way, it will not solve our problem, for what makes such a reading correct? The answer cannot be that the Talmud says it is so, for this is obviously circular: How do we know that the Rabbis have the right to interpret the Torah? Because they interpret the Torah to say that they have that right!

While this is clearly begging the question, it is worth noting that we find a similar instance in the history of the Supreme Court of the United States. Although the right of the court to determine if a law is constitutional is not explicitly granted in the Constitution, in *Marbury v. Madison* (1803), Chief Justice John Marshall maintained that this power was implicit in the Court's duty to uphold the Constitution. While a somewhat circular argument, there was at least never any question as to which body had the right to make the final legal decisions of the land. In contrast, there is nothing that obviously leads from the verses in the Torah to identifying the Talmudic Rabbis as such a body.

So we are back where we started. What is the basis for Rabbinic authority to interpret Torah law? Ultimately, an explicit answer cannot be found in the Torah, as history makes clear. Going back to the time of the Second Temple, there were sects that rejected Rabbinic authority while fully accepting the authority of the Torah: the Essenes, the Sadducees, the Karaites. So much of what distinguished these groups lay in who they believed held the ultimate authority to interpret and apply Torah law. Their answers were not found in verses; they were found in the practitioners' beliefs. A Rabbinic Jew believed in Rabbinic authority. This was an a priori belief; it was his point of departure.

In a way, this is no different than belief in the Torah itself. Why does a person believe that the Torah is from God? The answer can't be that the Torah says so. That's circular! (An old yeshiva joke: "How do you know that God exists? Rambam says so, and Ra'avad doesn't argue." So much for yeshiva humor...) If one steps outside the system, there is no objective evidence which proves a person's beliefs. One is a Torah Jew because she believes that the Torah comes from God and is binding on us. And one is a Rabbinic Jew because she believes that the Rabbis were invested with the authority to interpret the Torah.

Our parasha is devoted largely to laying the foundations for a system of authority—the king, the courts, the judges, and the prophet—and to severely punishing those who would challenge it. Of all these, the one that remains today, the authority to interpret the Torah, that is, rabbinic authority, is the one rooted in those who believe in it and accept it upon themselves. This parallels our contemporary condition: We live in a world in which, for the majority, religious practice is not imposed by the state but is fully voluntary. We live in a world in which, in practice, the only power that rabbis have is given to them by the people who turn to them and those who employ them. Some may bemoan this state of affairs, but for many, it is the ideal. It helps prevent—to some degree and in most, but not all, cases—gross abuses of power. It also helps create a dynamic wherein rabbis must be attuned to the needs of the populace if they hope to have people turn to them for their rulings and leadership. Such is the nature of an authority that emerges from belief, acceptance, and choice.

Who says the Rabbis have this authority? I do.

<https://library.yctorah.org/2016/09/says-who-what-is-the-basis-for-rabbinic-authority/>

Parshas Shoftim -- Beyond Recycling

by Rabbi Mordechai Rhine © 2014 Teach 613

Our generation has started to pay attention. As more and more disposable items enter the market, we have come to realize that we must pay attention to proper usage and to the Beyond Recycled disposal of items we have used. The concept of recycling finds its roots in the mitzvah of Baal Tashchis: Not to be wasteful. This undoubtedly teaches us to be responsible both with products we use, as well as regarding the world in which we live. I would like, however, to focus on something that comes even before recycling. That is: Using resources properly to begin with.

Rav Hirsch describes a miser as being an innovative example of Baal Tashchis (being wasteful). Rav Hirsch explains that what a miser keeps buried and unused in his coffers is destroyed for all mankind (Chorev 56). I would venture to say that anytime that we have untapped potential which doesn't get used in the first place, it is an example of Baal Tashchis, as it wastes the potential which Hashem has given us.

Interestingly, it is quite possible that a person can be made thoroughly unaware of their potential. Although we may have been on the path to self fulfillment, people around us could possibly derail us before we get very far. Consider, for example, a child who has the ability to succeed in science and medicine, and declares, "I am going to discover the cure for cancer." Sounds good. Except that he happens to have a close relative who says, "So many people greater than you have tried and failed. Do you really think you are going to be the one to make the discovery?" So he doesn't.

The Talmud (Sanhedrin 11) relates that Hillel was so great that he had the potential to have the Divine presence rest upon him, "But his generation wasn't worthy." One wonders: What does his generation have to do with this? If he is worthy, let him be.

I would like to suggest that personal growth and reaching ones potential is a dynamic process that includes those around us. The Talmud tells us that Hillel was so great that he was known never to get angry. Even when a person wagered that he could get Hillel angry, and called upon Hillel during bathing time before Shabbos, Hillel responded with equanimity. Hillel's words, "Ask my son, ask all the questions that you have because Hillel will not get angry with you," resound reassuringly in the Talmud declaring Hillel's greatness. However, his generation wasn't worthy. Because when they heard the level of Hillel's tolerance, they thought that Hillel had taken a good thing too far. Hillel was soaring in greatness, but he was not in an environment that supported his ascent. "He was worthy of the Divine presence; but his generation was not." So it didn't happen.

Similarly we find that when Choni Hamagal showed up to a new group of friends, he was profoundly disappointed because they did not believe that he was Choni. The commentaries wonder why he was so disappointed. If he was indeed great then they surely respected him. The commentaries explain that certainly the new friends respected Choni to the extent that they understood him. But they did not believe that he was the great Choni who could pray for rain- literally demand rain to end a drought- and be answered. When Choni realized that the new friends did not appreciate who he really was, and would not have great expectations for him, he declared with great conviction, "Either a real friend who appreciates me, or let me die." He felt that without someone to appreciate him, his life's potential had been taken from him.

The slogan of Elul (the month which precedes Rosh Hashana) is, "I am to my Beloved, and my Beloved is to me." The word Beloved is certainly referring to us and Hashem. In this month we look to rejuvenate our relationship with Him. But in an equally practical way this slogan tells us how to go about that rejuvenation, because the word "beloved" refers to each of us and to our interactions with one another. Are we encouraging enough to one another? Are we constructively demanding, such that we bring out the best in those we love? A person's greatness is not just the result of his own talent, willpower, determination, and creativity. Our greatness will often be determined by those we hang out with. It is the people who are closest to us that make sure that we do not commit Baal Tashchis of the highest order, and instead grow to become all that we can be.

With best wishes for a wonderful Shabbos.

<http://www.teach613.org/parshas-shoftim-beyond-recycling/>

The Dangers of "Groupthink": Thoughts for Parashat Shofetim

by Rabbi Marc D. Angel *

Several years ago, Professor Eliezer Schnall of Yeshiva University, and his student Michael Greenberg, presented a paper at the annual convention of the American Psychological Association in which they discussed an influential theory developed by the psychologist Irving Janis, known as "groupthink." Janis posited that tight-knit, smart and well-informed cliques can suppress dissent and create a "groupthink" phenomenon — where the general public goes along with the ideas of the inner power group. People either come to accept the dictates of the power group, or they are de-legitimized or ostracized. Dissent is crushed. Open and free discussion is not tolerated.

Dr. Schnall demonstrated how the deleterious effects of “groupthink” were consciously counteracted by the methods of operation of the Sanhedrin, the classic judicial system of ancient Israel. For example, when discussing cases in the Sanhedrin, the judges of lesser authority spoke first. The more senior judges offered their own opinions later. This system was adopted in order to ensure free and open discussion. If the veteran “expert” judges spoke first, the other judges might be reluctant to express disagreement with them. The result would be “groupthink”—control of discussion by a small, powerful clique.

The Sanhedrin sought to avoid becoming insular. Outside experts were consulted. Disciples who watched the proceedings were allowed to offer their opinions. If the Sanhedrin reached a unanimous guilty verdict in capital cases, the defendant was acquitted! It was assumed that absence of dissension meant that group conformity was operating and that the defendant did not have a fair trial.

“Groupthink” is a highly dangerous phenomenon. It arrogates considerable authority into the hands of a small inner circle, and essentially causes the public to conform to the views of this power clique. This is the method employed by tyrannies. This is the method that enables small elite groups to impose their views on a passive or frightened public. “Groupthink” is quite evident in anti-Jewish and anti-Israel propaganda and in the “politically correct” movement. Individuals stop thinking for themselves, stop demanding facts, stop evaluating the “truths” that are imposed on them. If they resist the pressures of “groupthink,” they risk being branded as social and intellectual outcasts. They risk being isolated and ostracized.

In this week’s Torah portion, we read that the courts are to pursue justice, *tsedek tsedek tirdof*. Many commentators have understood this phrase to mean: you must pursue justice in a just way. The search for truth must be conducted in an open and free environment, without coercion or intimidation. People must feel free to offer their insights and opinions, and must not succumb to “groupthink.” Discussion and dissension are to be encouraged, not stifled.

Manifestations of “groupthink” are ubiquitous in our society, and it requires considerable astuteness and courage to resist its pressures. “Groupthink” is increasingly evident in religious life, where small groups of clerics/intellectuals seek to impose their narrow views on the public. They state what is “true” and expect the public to go along with their pronouncements. Those who don’t follow the dictates of the power group are branded as heretics. The tyranny of “groupthink” is rampant in religious fundamentalist circles of whatever religion. Small cliques of “authorities” are granted incredible status, bordering on or including infallibility, and they proclaim what is “true” and what is “heresy.” Discussion, debate, and dissent are ruled out. Woe unto the person who does not conform in thought or behavior to the dictates of the “authorities.”

If “groupthink” is highly dangerous for society at large, it is perhaps even more pernicious for religious life. It injects a spiritual poison into religion, gradually sapping religious life of vitality, creativity, dynamism. Instead of fostering a spirit of discussion and free inquiry, it demands a ruthless conformity. Instead of empowering religious people to think and analyze and debate, it forces religious people to stop thinking independently, to refrain from analysis and debate, and to suppress any ideas that do not conform to the framework of “groupthink.” It insists on abject obedience to “authorities”—even when we don’t agree with them, even when we don’t acknowledge them as our “authorities,” even when we are convinced that these “authorities” are leading the public in an entirely incorrect direction.

If we are to be responsible individuals, we must resist the tyranny of “groupthink.” We must insist on the freedom to think for ourselves, to evaluate ideas independently, to stand up against coercion and intimidation. We must strive for a religious life that is alive and dynamic.

We must pursue truth and justice in a true and just way.

* Founder and Director, Institute for Jewish Ideas and Ideals.

<https://www.jewishideas.org/dangers-groupthink-thoughts-parashat-shofetim> The Institute for Jewish Ideas and Ideals has experienced a significant drop in donations during the pandemic. The Institute needs our help to maintain and strengthen our Institute. Each gift, large or small, is a vote for an intellectually vibrant, compassionate, inclusive Orthodox Judaism. You may contribute on our website jewishideas.org or you may send your check to Institute for Jewish Ideas and Ideals, 2 West 70th Street, New York, NY 10023. Ed.: Please join me in helping the Institute for Jewish Ideas and Ideals at this time.

Embracing Tradition and Modernity: Rabbi Benzion Meir Hai Uziel

By Rabbi Hayyim Angel *

Introduction

One of the great rabbinic lights of the twentieth century was Rabbi Benzion Meir Hai Uziel (1880–1953). Born in Jerusalem, he served as Chief Rabbi of Tel-Aviv from 1911 to 1921, and then was Chief Rabbi of Salonika for two years. In 1923, he returned to Israel and assumed the post of Chief Rabbi of Tel-Aviv. From 1939 until his death in 1953, he was the Sephardic Chief Rabbi, the Rishon le-Tzion, of Israel. He served as Chief Rabbi during the founding of the State of Israel and wrote extensively on the halakhic ramifications of the State and the staggering changes in Jewish life it would bring.

Rabbi Uziel believed that the purpose of the State of Israel on the world scene is to serve as a model nation, characterized by moral excellence. Just as individuals are religiously required to participate in the life of society, the Jewish people as a nation must participate in the life of the community of nations.

Tanakh and rabbinic Judaism have a universalistic grand vision that sees Judaism as a great world religion. Unfortunately, too many religious Jews overemphasize the particularistic aspects of Judaism, and lose sight of the universalistic mission of the Torah. We cannot be a light unto the nations unless nations see that light through Jewish involvement.[1]

Rabbi Uziel stressed the need for Jews to remain committed to Torah and the commandments. If Jews abandon their commitment to Torah, then they no longer are united under their national charter. Any vision not solidly rooted in the Torah and halakhah is untrue to Jewish experience. People who speak about “Jewish values” without commitment to Torah and halakhah misrepresent the Torah.[2]

Simultaneously, Rabbi Uziel was absolutely committed to Jewish unity. In 1948–1949, he joined many other rabbis to protest against Shabbat desecration in Israel. At a large rally, Rabbi Uziel gave an impassioned speech urging Shabbat observance. After the rally, he hailed a taxi to take him home. In those days there was a fuel shortage in Israel, so Israeli taxi drivers were allowed to drive only six days a week. On one’s windshield, a sticker would indicate which day the person would not drive. The particular taxi that Rabbi Uziel hailed did not have a shin (for Shabbat), meaning that this driver drove on Shabbat. Some of Rabbi Uziel’s followers were shocked that he would ride with this Shabbat-desecrating driver, especially only minutes after he spoke so passionately in favor of Shabbat at the rally. Without flinching, Rabbi Uziel got into the taxi and said, “I do not excommunicate any Jew personally, even if he is a Shabbat desecrator.”[3]

Rabbi Uziel craved peace with Israel’s Arab neighbors. In 1921, a group of Arabs were attacking Jews. Rabbi Uziel appeared, dressed in his rabbinic garb, and told the Jews to hold their fire. He then walked out and spoke to the Arabs in Arabic. He reminded them that the land had been desolate and disease-ridden for centuries, and now Jews were dramatically improving conditions as they rebuilt their homeland. These were all signs of God’s providence, and the improved conditions would benefit everyone.

Rabbi Uziel then addressed the Arab attackers: “Our cousins! Our mutual ancestor, Abraham, father of Isaac and Ishmael, when he saw that his nephew Lot felt constricted and complained that they could no longer live together... said to him: Let there be no feud between me and you nor between my shepherds and your shepherds, for we are brothers. So, too, do we say to you: The land will carry us all, will sustain us all. Let us stop the feuds between us. We are brothers.” For that moment, Rabbi Uziel won the day, and the Arabs stopped their attack.[4]

In 1939, when Rabbi Uziel was appointed as Chief Rabbi, he gave a radio address calling for peace and unity in the nation. He then addressed the Arab population:

We reach our hands out to you in peace, pure and trustworthy. We say: The land is stretched out before us, and with joined hands we will work it; we will uncover its treasures; and we will live on it as brothers who dwell together. Know and trust that the word of our God will rise forever. Make peace with us and we will make peace with you. Together all of us will benefit from the blessing of

God on His land; with quiet and peace, with love and fellowship, with goodwill and pure heart we will find the way of peace.[5]

Rabbi Uziel was an ardent religious Zionist who believed that rabbis had to apply halakhah in ways that would allow the fledgling State of Israel to thrive. When there were halakhic debates, he relied on lenient opinions when they would build industry and serve society. For example, he permitted grafted etrogim (citrons) grown in Israel since he wanted all Jews to use Israeli etrogim on Sukkot. He similarly relied on a minority halakhic opinion to permit milk from cows who receive inoculations to prevent stomach disease. If he did not rely on those permissive opinions, the cows would be considered terefah, non-kosher, and there would not be a dairy industry in Israel.

Of course, Rabbi Uziel found halakhic precedents for his permissive rulings, and relied on those positions in order to protect Israeli agriculture. He was not always lenient in his halakhic rulings, but in the case of building the State of Israel, Rabbi Uziel had a clear value system that guided his decision-making to the extent that he could improve life in Israel within the parameters of halakhah.[6]

Rabbi Uziel and Rabbi Abraham Isaac Kook[7]

It is instructive to contrast the rulings of Rabbi Uziel with another exceptional rabbinic leader of the early twentieth century, Rabbi Abraham Isaac Kook, the first Ashkenazic Chief Rabbi of Israel.

Rambam espoused a non-essentialist understanding of a Jew. There is nothing inherent in a Jewish soul that distinguishes it from a non-Jewish soul. Jews are a covenantal nation with a unique set of laws from God in the Torah, and also are part of the community of nations. There is no room for racism, since all humans are created in God's Image, and all people are part of one family.[8] In contrast, some Jewish mystical teachings espouse an essentialist position, maintaining that Jewish souls are fundamentally different from (and superior to) non-Jewish souls.[9]

Aside from the possibility of negative attitudes toward non-Jews that the essentialist position often promotes, it also has practical halakhic ramifications. For example, someone asked Rabbi Kook in 1931 whether Jews can perform autopsies in medical school since this process will help them save lives when they become doctors. Halakhah generally prohibits the desecration of a human body, but perhaps this concern should be waived on account of the future saving of lives. Rabbi Kook ruled that medical schools should obtain bodies of non-Jews. He argued that even though everyone is created in God's Image, this Image is particularly manifest in Jews because of the holiness of the Torah. Jewish attachment to the Torah not only characterizes the Jewish soul but also infuses a Jew's body with additional sanctity.

Rabbi Uziel vehemently disagreed with Rabbi Kook's ruling. Autopsies for medical school are not a desecration of human bodies if the cadavers are treated with care and the purpose is to help save lives. When asked whether it was preferable to use non-Jewish bodies, Rabbi Uziel retorted, "Certainly this should not even be said and more certainly should not be written, since the prohibition of desecration stems from the humiliation caused to all humans. That is to say, it is a humiliation to desecrate the body of a human being—created in the image of God."

Rabbi Uziel thereby advanced two arguments: An essentialist position is fundamentally wrong, and an essentialist position is shameful to publicize in any forum.

In another discussion over the interface between Torah and democracy, rabbis debated whether women were halakhically permitted to vote or hold public office. Rabbi Kook ruled in the negative, insisting that this behavior was immodest and would threaten Jewish family values and morality. Offering a broader context for Rabbi Kook's ruling, Dov Schwartz explains that Rabbi Kook opposed women's voting and holding office since the British government recognized the right for a Jewish homeland based on the authority of Tanakh. Rabbi Kook insisted that Jews had to behave according to Torah values—not only because that is God's will, but also because it was essential for continued British recognition of Israel. If Jews are not behaving modestly in accordance with Torah values, opponents of Israel would argue that Jews do not deserve their homeland.[10]

In contrast, Rabbi Uziel maintained that women may vote and hold office. We allow interactions between men and women in so many public areas, so there is no valid halakhic argument for the absolute separation of the sexes specifically in the realm of voting. Additionally, women should be allowed to vote for the people who will make the laws that they must obey. In terms of women holding office, classical sources indicate that halakhic objections to women holding positions of

authority (serarah) apply only when the community objects to women holding office. However, if women are democratically elected, that means that the public accepts them.[11]

Conclusion

Before he died, Rabbi Uziel composed a spiritual testament, describing his ultimate life goals:

To spread Torah among students, to love the Torah and its mitzvot, to love the land of Israel and its holiness, to love absolutely every Jewish man and woman and the people of Israel in its entirety; to love God, the Lord of Israel; to bring peace among all Jews physically and spiritually, in their words and actions, in their thoughts and in the ruminations of their hearts, in all their steps and deeds, at home and in the street, in the village and in the city; to bring true peace in the house of Israel, to the entire congregation of Israel in all its subdivisions and groupings; and between Israel and their Father in heaven. These goals are actually only one, since they stem from one source, namely the Torah of the living God and the King of the universe, Who is the King of Israel and its Holy One Who gave the true Torah to His people, a Torah all of whose ways are pleasantness and all of whose paths are peace.[12]

[1] R. Marc D. Angel, *Loving Truth and Peace: The Grand Religious Worldview of Rabbi Benzion Uziel* (Northvale, NJ: Jason Aronson, 1999), pp. 7, 46–47.

[2] Ibid., pp. 11–13.

[3] Ibid., pp. 14–15.

[4] Ibid., pp. 59–60.

[5] Ibid., p. 64.

[6] Ibid., pp. 102–105, 213–239. See also R. Marc D. Angel's translation of R. Haim David Halevi, *Asei Lekha Rav* 8:97 into English, "The Love of Israel as a Factor in Halakhic Decision-Making in the Works of Rabbi Benzion Uziel," *Tradition* 24:3 (Spring 1989), pp. 1–20.

[7] See R. Marc D. Angel, "A Discussion of the Nature of Jewishness in the Teachings of Rabbi Kook and Rabbi Uziel," in *Seeking Good, Speaking Peace: Collected Essays of Rabbi Marc D. Angel*, ed. Hayyim Angel (Hoboken, NJ: Ktav, 1994), pp. 112–123.

[8] See also *Mishnah Sanhedrin* 37a.

[9] See Menachem Kellner, *Maimonides' Confrontation with Mysticism* (Portland, OR: Littman Library of Jewish Civilization, 2006); and Menachem Kellner, *Maimonides on Judaism and the Jewish People* (Albany, NY: State University of New York Press, 1991).

[10] Dov Schwartz, *Religious-Zionism: History and Ideology* (Boston: Academic Studies Press, 2009), p. 36.

[11] See further in *Loving Truth and Peace*, pp. 204–209; Zvi Zohar, "Traditional Flexibility and Modern Strictness: A Comparative Analysis of the Halakhic Positions of Rabbi Kook and Rabbi Uziel on Women's Suffrage," in *Sephardi and Middle Eastern Jewries: History and Culture*, ed. Harvey E. Goldberg (Bloomington, IN: Indiana University Press, 1996), pp. 119–133.

[12] *Loving Truth and Peace*, p. 244.

* National Scholar of the Institute for Jewish Ideas and Ideals. This article appears in issue 27 of *Conversations*.

<https://www.jewishideas.org/article/embracing-tradition-and-modernity-rabbi-benzion-meir-hai-uziel>

Parshas Shoftim

by Rabbi Yehoshua Singer * © 2020

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 – אֱלֹא – we are told is an acronym for אָמֵן לְהָדֵן יְהוָה לִי – 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. Rabbi Singer's Dvar Torah is late this week but hopefully will be ready in time to add to the on line download this afternoon. Meanwhile, I am repeating his beautiful Dvar Torah from 2020.

Yes. That's "Holy" Also

By Rabbi Moshe Rube *

Should religion and government mix?

Our knee jerk reaction would be no. This is America after all.

And yet we know that our Torah, the same book that exhorts loving Hashem, keeping the Sabbath, and shaking a lulav tells us in our portion this week to "Set up judges and policemen in all your gates in the land that Hashem gave you."

Rabbi Hershel Schachter points out that the Torah tells us to build many cities of refuge for accidental murderers not because we assume that murders will be plentiful but because it's a sanctification of God's name to show the world that Israel has a righteous system of justice.

Rabbi Cary Friedman in his book "Spiritual Survival for Law Enforcement" states,

"A law enforcement officer protects God's world and his children. He is a partner -- nothing less -- with God in the perfection of that God created world. He protects the legal structure that ensures the property and safety of every citizen. In doing this, he acknowledges the humanity and dignity -- the Divine Spark -- of every citizen."

As Rabbi Cary told us when he hosted him, he was the only religious professional who succeeded in creating a spiritual training for the FBI that was not couched in the language of a specific theology. There's something about Judaism that is integrative of life instead of separating it out into "spiritual" and "physical." Of course, these are useful terms that we have to use, but we always have to wink to each other because we know that they are just separate parts of the same pattern. A right and left arm connected to the same body.

Within this definition, Judaism can absolutely mix with government, as to think Jewishly does not only mean being lost in mystical thoughts. Rather, when dealing with governmental/societal/judiciary issues, we adopt the mindset of strict analysis through reasoning within our civil halachic system (which also requires us to follow the civil laws of the land where we live. In Hebrew, this is called Dina Demalchusa Dina).

The Torah tells us not to exalt a poor person in court. If the rich person has a valid claim that according to the judges has merit, they must award the rich man the money of the poor man. Whatever mercy the judges want to show can be exercised outside the courtroom. What a mitzvah it would be to give charity to the poor man so he could pay the rich man. But that is an obligation that should be fulfilled when court ends.

The mark of a spiritual person is one who can play this game of "spiritual hopscotch." Can you traverse these different mindsets without losing respect and appreciation for the other? Can you be a righty but still love your left hand?

To take this a step further, can we appreciate the people who express one mindset more readily over the other? Let's say you're someone who prides themselves on only thinking what you consider to be reasonable. That's wonderful but should that stop us from celebrating and loving those who tend more towards what we call mysticism?

And if you're a mystic awash in the love of God, can you celebrate those who love the strictness of justice?

To be spiritual isn't just goo, and it's not just prickles. It's gooey prickles and prickly goo. Both serve the same purpose of perfecting God's world.

This is the key to respecting others, even those who are different than you. "A wise man learns from everybody" say the Sages. So if someone disagrees with you, rather than feeling annoyed, we should celebrate because we're about to learn something we didn't before. The right and the left hand are about to clap. That doesn't mean we'll end up being best friends or even that we have to be together.

But just because we are separate does not mean we can't appreciate.

Shabbat Shalom!

* Rabbi, Knesseth Israel Congregation, Birmingham, AL.

Rav Kook Torah **Shoftim: The Wisdom in Civil Law**

Three Types of Courts

The Torah commands that a system of courts and police be established in every town. The Torah's judicial system contains three levels of courts:

- Regular courts of three judges who deal with matters of civil law — litigation and other monetary cases (in Hebrew, *dinei mamonot*).
- Higher courts made up of 23 judges who hear cases relating to capital crimes (in Hebrew, *dinei nefashot*). These courts were called 'Minor Sanhedrins.'
- A supreme court consisting of 71 judges, called the 'Great Sanhedrin.' Located in the Temple complex in Jerusalem, this high court had two functions: (a) to clarify the law in new or unclear cases, and (b) to promulgate new decrees.

The Complexity of Civil Law

Acceptance to the bench of the Great Sanhedrin was certainly most prestigious. All judges are required to be wise and humble, to love truth and hate bribery, to be well-liked and respected. Members of the Supreme Court were expected to be among the greatest scholars of the generation. They needed to be proficient in many of the sciences, such as medicine and astronomy.

We would similarly expect that membership in a Minor Sanhedrin court would demand a greater level of scholarship than participation in a humble three-member court. However, the Talmud indicates that cases of civil law require greater expertise and wisdom than the capital crimes that are judged in the Minor Sanhedrins.

"A student who has humbly accepted his teacher's rebuke on two occasions will be worthy to distinguish between civil law and laws of capital crimes."

"As Rabbi Ishmael taught: One who wishes to be wise should study civil law, for no other area of Torah study is as intricate; it is like a flowing wellspring." (Berachot 63b)

This Talmudic statement raises a number of questions. What sort of reward is this for a suffering student? And why is civil law more complex than other areas of Torah?

Civil versus Criminal Law

For some students, proficiency in their studies comes easily and quickly. Other students must struggle in order to master the material. The student who perseveres in his studies, despite blunders in class, will be compensated for his efforts. As a reward for his diligence and determination, he will not only grasp the particulars of the law, but will also gain insight into its underlying principles. This insight goes beyond the actual details, which are taught directly. It reflects a much more profound understanding of the subject matter.

Civil and capital crimes are both areas of law, yet they differ fundamentally in their objectives. The primary goal of civil law is to resolve monetary disputes between individuals and restore property to its rightful owner. It is only as a secondary goal that current or future benefits to society as a whole are taken into consideration. Capital crimes, on the other hand, are usually cases where there is nothing that can be rectified or returned. Here the primary goal is to protect society from future offenses.

Because of this fundamental difference, monetary law is intrinsically more complicated. Since the judge must decide between conflicting claims of ownership in all of the numerous situations of interpersonal relations, this type of law inherently deals with many more intricate details and complex issues. Study of civil law is therefore one of the most challenging areas of Torah study. True mastery of this subject requires a profound understanding of the underlying issues — an understanding that can be attained only by the most diligent and persevering students.

(Sapphire from the Land of Israel. Adapted from Ein Eyah vol. II, p. 391.)

<http://www.ravkooktorah.org/SHOFTM58.htm>

To Lead is to Serve (Shoftim 5778)

By Lord Rabbi Jonathan Sacks, z"l, Former Chief Rabbi of the U.K.*

Our parsha talks about monarchy: "When you enter the land that the Lord your God is giving you, and have taken possession of it and settled in it, and you say, "I will set a king over me, like all the surrounding nations," set over you a king whom the Lord your God chooses." (Deut. 17:14-15). So it should be relatively easy to answer the question: From a Jewish perspective, is having a king a good thing or a bad thing? It turns out, however, to be almost unanswerable.

On the one hand, the parsha does say, "set over you a king." This is a positive command. Maimonides counts it among the 613. On the other hand, of no other command anywhere does it say that that it is to be acted on when the people say that they want to be "like all the surrounding nations." The Torah doesn't tell us to be like everyone else. The word kadosh, "holy", means, roughly, to be set apart, singular, distinctive, unique. Jews are supposed to have the courage to be different, to be in but not entirely of the surrounding world.

Matters are made no clearer when we turn to the famous episode in which the Israelites did actually ask for a king, in the days of Samuel (1 Samuel 8). Samuel is upset. He thinks the people are rejecting him. Not so, says God, the people are rejecting Me (1 Sam. 8:7). Yet God does not command Samuel to resist the request. To the contrary, He says, in effect, tell them what monarchy will cost, what the people stand to lose. Then, if they still want a king, give them a king.

So the ambivalence remains. If having a king is a good thing, why does God say that it means that the people are rejecting Him? If it is a bad thing, why does God tell Samuel to give the people what they want even if it is not what God would wish them to want?

Nor does the historical record resolve the issue. There were many bad kings in Jewish history. Of many, perhaps most, Tanakh says "He did evil in the eyes of God." But then there were also good kings: David who united the nation, Solomon who built the Temple, Hezekiah and Josiah who led religious revivals. It would be easy to say that, on the whole, monarchy was a bad thing because there were more bad kings than good ones. But one could equally argue that without David and Solomon, Jewish history would never have risen to the heights.

Even within individual lives, the picture is fraught with ambivalence. David was a military hero, a political genius and a religious poet without equal in history. But this is also the man who committed a grievous sin with another man's wife. With Solomon the record is even more chequered. He was the man whose name was synonymous with wisdom, author of Song of Songs, Proverbs and Kohelet. At the same time he was the king who broke all three of the Torah's caveats about monarchy, mentioned in this week's parsha, namely he should not have too many wives, or too many horses, or too much money (Deut. 17:16-17). Solomon – as the Talmud says[1] – thought he could break all the rules and stay uncorrupted. Despite all his wisdom, he was wrong.

Even stepping back and seeing matters on the basis of abstract principle, we have as close as Judaism comes to a contradiction. On the one hand, "We have no king but You," as we say in Avinu Malkeinu.[2] On the other hand, the closing sentence of the book of Judges (21:25) reads: "In those days, there was no king in Israel. Everyone did what was right in his own eyes." In short: without monarchy, anarchy.

So, in answer to the question: Is having a king a good thing or a bad one, the answer is an unequivocal yes-and-no. And as we would expect, the great commentators run the entire spectrum of interpretation. For Maimonides, having a king was a good thing and a positive command. For Ibn Ezra it was a permission, not an obligation. For Abarbanel it was a

concession to human weakness. For Rabbenu Bachya, it was its own punishment. Why then is the Torah so ambivalent about this central element of its political programme?

The simplest answer was given by the outsider who saw most clearly that the Hebrew Bible was the world's first tutorial in freedom: Lord Acton. He is the man who wrote: "Thus the example of the Hebrew nation laid down the parallel lines on which all freedom has been won ... the principle that all political authorities must be tested and reformed according to a code which was not made by man."^[3] But he is also the originator of the classic statement: "All power tends to corrupt, and absolute power corrupts absolutely."

Almost without exception, history has been about what Hobbes described as "a general inclination of all mankind: a perpetual and restless desire of power after power, that ceaseth only in death."^[4] Power is dangerous. It corrupts. It also diminishes. If I have power over you, then I stand as a limit to your freedom. I can force you to do what you don't want to do. Or as the Athenians said to the Melians: The strong do what they want, and the weak suffer what they must.

The Torah is a sustained exploration of the question: to what extent can a society be organised not on the basis of power? Individuals are different. Michelangelo, Shakespeare and Rembrandt needed no power to achieve creative genius. But can a society? We all have desires. Those desires conflict. Conflict eventually leads to violence. The result is the world before the flood, when God regretted that He had made man on earth. Hence there is a need for a central power to ensure the rule of law and the defence of the realm.

Judaism is not an argument for powerlessness. The briefest glance at two thousand years of Jewish history in the Diaspora tells us that there is nothing dignified in powerlessness, and after the Holocaust it is unthinkable. Daily we should thank God, and all His helpers down here on earth, for the existence of the State of Israel and the restoration to the Jewish people of the power of self-defence, itself a necessary condition of the collective right to life.

Instead, Judaism is an argument for the limitation, secularisation and transformation of power.

Limitation: Israel's kings were the only rulers in the ancient world without the power to legislate.^[5] For us, the laws that matter come from God, not from human beings. To be sure, in Jewish law, kings may issue temporary regulations for the better ordering of society, but so may rabbis, courts, or local councils (the shiva tuvei ha-ir).

Secularisation: in Judaism, kings were not high priests and high priests were not kings. Jews were the first people to create a "separation of powers," a doctrine normally attributed to Montesquieu in the eighteenth century. When some of the Hasmonean rulers sought to combine the two offices, the Talmud records the objection of the sages: "Let the royal crown be sufficient for you; leave the priestly crown to the descendants of Aaron."^[6]

Transformation: fundamental to Judaism is the idea of servant leadership. There is a wonderful statement of it in our parsha. The king must have his own sefer Torah, "and he shall read from it all the days of his life ... not considering himself superior to his kinsfolk, or straying from the commandments to the right or to the left" (Deut. 17:19-20). Humility is the essence of royalty, because to lead is to serve.

Failure to remember this caused what, in retrospect, can be seen as the single most disastrous political decision in Jewish history. After the death of Solomon, the people came to Rehoboam, his son, asking him to lighten the load that Solomon's projects had imposed on the people. The king asked his father's advisers what he should do. They told him to accede to their request: "If today you will be a servant to these people and serve them and give them a favourable answer, they will always be your servants'(1 Kings 12:7). Note the threefold appearance of the word 'serve' in this verse. Rehoboam ignored their advice. The kingdom split and the nation never fully recovered.

The radical nature of this transformation can be seen by recalling the two great architectural symbols of the world's first empires: the Mesopotamians built ziggurats, the Egyptians built pyramids. Both are monumental statements in stone of a hierarchical society, broad at the base, narrow at the top. The people are there to support the leader. The great Jewish symbol, the menorah, inverts the triangle. It is broad at the top, narrow at the base. The leader is there to support the people.

In contemporary terms, Jim Collins in his book From Good to Great^[7] tells us on the basis of extensive research that the great organisations are those with what he calls 'Level 5 leaders,' people who are personally modest but fiercely ambitious for the team. They seek, not their own success, but the success of those they lead.

This is counterintuitive. We think of leaders as people hungry for power. Many are. But power corrupts. That is why most political careers end in failure. Even Solomon's wisdom could not save him from temptation.

Hence the life-changing idea: To lead is to serve. The greater your success, the harder you have to work to remember that you are there to serve others; they are not there to serve you.

FOOTNOTES:

[1] Sanhedrin 21b.

[2] The source is Rabbi Akiva in Taanit 25b.

[3] Lord Acton, Essays on the History of Liberty, Indianapolis, LibertyClassics 1985, 8.

[4] Hobbes, The Leviathan, Book 1, Ch. 11.

[5] See, e.g., Michael Walzer, In God's Shadow: Politics in the Hebrew Bible, Yale University Press, 2012.

[6] Kiddushin 66a.

[7] James Collins, From Good to Great, Harper Business, 2001.

* Note: because Likutei Torah and the Internet Parsha Sheet, both attached by E-mail, normally include the two most recent Devrei Torah by Rabbi Sacks, I have selected an earlier Dvar. See

<https://rabbisacks.org/lead-serve-shoftim-5778/>

Witnessing the True Judge

by Chaya Mushka and Nechama Krimmer

***"Justice. Justice you shall pursue"* (Devarim: 17:20).**

In this week's Torah portion, parshas Shoftim, the Jewish people are instructed to establish courts of justice to determine guilt, innocence, and the appropriate punishments or monetary compensations when litigation is necessary.

Depending on the nature of the trial, a specific number of judges are required to adjudicate. Many may be familiar with the Sanhedrin HaGadol, the highest level of the Jewish court, consisting of seventy-one judges. This High Court was able to appoint a king, authorize offensive wars, and create lesser courts.

The laws of the lesser Sanhedrin teach us a powerful lesson about the Torah's unique concept of justice. The lesser Sanhedrin, consisting of twenty-three judges, was authorized to try capital cases.

How did the Torah choose this exact number of judges for the lesser Sanhedrin? Why not five judges or eleven or forty-seven? What is so special about the number twenty-three? It certainly isn't random.

In the Talmud, Hilchos Sanhedrin, it explains that there must be an equal number of potential prosecutors and potential public defenders in every capital case: ten prosecutors and ten public defenders. It goes without saying that judges were not assigned a specific role to view the facts of the case. All judges were required to be unbiased and impartial.

Two extra judges were added to the ten prosecutors and ten public defenders. Tie breakers, if you will. And in the unlikely case that eleven of the judges voted guilty and eleven of the judges voted innocent, one last judge was appointed to determine the verdict.

In a trial where all twenty-three judges voted innocent, the defendant was, of course, free to go.

But in the rare case where all twenty-three judges found the defendant guilty, the Torah comes to an astonishing and even counter-intuitive decision. The defendant is declared innocent!

How could this possibly be? If the evidence in a trial is so strong and so compelling that not one impartial, ethical, and unbiased judge saw the defendant as innocent, how could he possibly be?

The Torah concludes, that in this case, the judges must have been unduly influenced by some external factor, felt pressured, intimidated, or influenced by the opinions of the other judges, or that the judges, themselves, did not do enough to find favor in the defendant.

In essence, the Torah teaches an amazing lesson that G d, Himself, the True Judge, steps in to judge the soul of the defendant in this case and finds the defendant innocent.

As we approach Rosh Hashana, where all nations of the world and their inhabitants are judged, as much as we should endeavor to honestly assess and correct our actions, feel contrition for our shortcomings, and resolve to draw closer to G dliness, we should be both joyous and comforted that the True Judge, who sees all things clearly with all potential factors involved, is the one holding our lives in the balance.

May we all take advantage of the holy month of Elul, where G d's Thirteen Attributes of Mercy shine gloriously upon us, to turn our hearts to the One who loves each and every one of us like parents love a firstborn child conceived in their old age.

Note:

G d's Thirteen Attributes of Mercy:

1. Compassion before a transgression
2. Compassion after a transgression
3. Mighty in Compassion
4. Merciful
5. Gracious
6. Slow to Anger
7. Plentiful in Kindness
8. Plentiful in Truth
9. Keeping Kindness to Thousands
10. Forgiving Iniquity
11. Forgiving Transgression
12. Forgiving Sin
13. Pardoning

https://www.chabaddayton.com/templates/articlecco_cdo/aid/5216465/jewish/Shoftim.htm

Is Your Body Yours?
By Aharon Loschak *

Every four years, much of the world tunes in to the Olympic Games with rapt attention. A tradition stretching all the way back to ancient Greece, at its core, these games still pay homage to the greatness of the human body.

Indeed, those ancient Greeks were fascinated with the human body, glorifying it and marveling at its finesse and power. Seeing just how far they could push it was a near obsession, which they saw as part of their idolatrous worship.

While the terms may have changed in modern times, and you'd be hard pressed to find anyone who literally worships their body, the idea lives on in many different forms, and the pagan origin of the Olympics can still be seen in some of its modern iteration.

So, what is the Jewish approach to our bodies? The body, after all, is a marvelous thing; we can't just ignore it. But glorifying it seems a bit over the top, as well.

By Your Own Words

Among the many items in the Torah portion of Shoftim, we learn of the ironclad Torah rule that in a Jewish court of law, the only form of acceptable testimony is from two valid witnesses:

*One witness shall not rise up against any person for any iniquity or for any sin, regarding any sin that he will sin. By the mouth of two witnesses, or by the mouth of three witnesses, shall the matter be confirmed.*¹

But there's an exception: monetary disputes. Say, for example, Reuven claims that Shimon owes him \$100. If Shimon readily admits that he does owe the money, then his "testimony" is accepted. In the words of the Talmud,² "A person's own admission is like a hundred witnesses."

But this rule is limited to finances alone. In cases of capital punishment or other corporal punishment, a person's own admission is unacceptable. So, say Reuven is being tried in court for murder, a grave offense with a serious punishment that is only administered upon the testimony of two valid witnesses, and then, to everyone's surprise, Reuven shockingly admits to the crime.

Is his testimony accepted? Do we put him to death upon his own admission?

Absolutely not.

Why? What better proof can there be than the defendant's own admission that he or she did the crime? And why do we accept a person's own testimony with regards to their property, but not their own life?

It's Not Your Body

A classic rabbinic explanation: Your property belongs to you, so you're free to do with it as you please. If you want to give your money by admitting to your litigant in court, go right ahead.

But your body doesn't belong to you; it belongs to G d. It's not your property to do with as you please. It is a treasured loan that G d gives you for however long you're on this earth. It's absolutely not yours to do with as you please, and so a persons' own admission in court will be rejected if the outcome is death.³

Which leads us to a fascinating conclusion: According to Jewish tradition, you own your property more than your very body!

Your Body Is Holy

Think about that for a moment: Your car, your house, your computer, and your phone, they're all yours to do with as you wish. No one will stop you from tossing your phone off a bridge, and if you can find some sort of constructive reason for taking a hatchet to your freshly painted walls, go right ahead.⁴

But Judaism looks at your body in a completely different way. As the Torah tells us in the very beginning of the Creation story, the human body was fashioned in the "image of G d,"⁵ and it is really only given to you on loan.

Just as you wouldn't borrow your neighbor's car and ram it into a tree, you ought not to harm, mutilate, or otherwise disrespect your body.

So, the Greeks got it right ... and terribly wrong at the same time.

They were right that the human body is, in fact, a marvelous thing. But they got it egregiously wrong to think that the body is something to worship in its own right.

This is a narcissistic, base perspective that ultimately drags the human being down to primitive levels, unable to appreciate his or her body for anything more than the brute physical matter that it is.

You know why the human body is really marvelous? There are many reasons. For starters, because it is G d's gift to us. It's also marvelous because it's created in G d's image. It's even more marvelous because it houses a soul, something that makes you, me, and every other person special, unique, and Divine.

And that's how you ought to approach your workout regimen or your fitness class. Judaism has nothing against working out, being fit, eating healthy, or running the marathon. These are excellent activities.

The key is perspective. Why are you running the marathon? Is it because you're in love with your physique, or do you simply want to see how far you can push yourself?

Do better. Run that marathon because G d gave you a body that houses a soul, and you respect that gift and wish to take care of it. You know that you can better serve your Creator, you can be a better parent or friend, when you're feeling healthy, well-rested, and fit.

That's why you're following a food regimen and lifting weights. Not to compete in next year's Olympics, but to bring glory to G d by respecting the body He gave you.⁶

FOOTNOTES:

1. Deuteronomy 19:15.
2. Kiddushin 65b.
3. Rabbi David ibn Zimra, Radbaz, on Mishneh Torah, Laws of Sanhedrin 18:6.
4. Of course, the prohibition against bal tachshit, wanton waste, is also something to factor in.
5. Genesis 1:26-27.
6. This essay is based on Likutei Sichot 34, pp. 106-113.

* Writer, editor, and rabbi; editor of JLI's popular Torah Studies program,.

https://www.chabad.org/parshah/article_cdo/aid/5205487/jewish/Is-Your-Body-Yours.htm

Shoftim: G-d's True Witnesses

by Rabbi Mosdhe Wisefsky © 2021

Moses told the Jewish people the matter of innocence or guilt must be confirmed by the testimony of two witnesses" (Deuteronomy 19:15).

It is the Torah's position that creation itself testifies to the existence of the Creator, as well as to the fact that His power lies beyond our ability to comprehend. However, the notion that G-d's essence is not only beyond our ability to understand but beyond our ability to conceive does not follow from examining the world; this truth must be established by "external" witnesses.

The witnesses to the inconceivable nature of G-d's essence are the Jewish people. By studying the Torah and performing G-d's commandments, the Jewish people introduce the world to the ineffability of G-d's essence, paradoxically accomplishing the categorically impossible feat of expressing what is by nature inexpressible.

* From *Daily Wisdom #1*

Rabbi Yosef B. Friedman

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Shoftim: Torah Law – Elevating Our Physical Lives

This week's parsha opens up with two seemingly unrelated topics. First we are commanded to appoint judges and policemen and to ensure justice is upheld righteously. We are then commanded against planting an *Asheirah* (a tree used in idol worship) next to an altar. The Gemara in Sanhedrin (7b) quotes Reish Lakish who explains the connection between these two topics. Part of ensuring righteous justice is upheld is being careful in choosing our judges, only appointing righteous, wise and learned judges. The Torah is teaching us here that Hashem considers this so fundamental and important that one who appoints an unworthy judge is viewed as if they have planted an *Asheirah* and engaged in idol worship!

The Maharsh"a (ibid.) expounds on this comparison to idol worship and explains that the Torah is highlighting the reason justice is so important. The Gemara in Shabbos (10a) teaches us that any judge who judges who truthfully and honestly judges properly for even one moment is viewed by the Torah as if he has become a partner with G-d in the act of creation. When justice is properly upheld this ensures the healthy functioning of society, which in turn ensures that G-d's world can thrive and achieve its ultimate intended purpose. As such, when a judge truthfully and honestly upholds justice, he is partnering with G-d in ensuring the success of creation and the ultimate fruition of G-d's intended goal for the world.

These sentiments are echoed in the laws of judges where we find very strict laws pertaining to the appointment of judges, the different types of courts and which judge can judge in each level of court and for different cases. The Tur and Shulchan Aruch (books of practical Torah law) rarely engage in discussing the severity of a particular violation. However, in this instance they quote both the Gemara in Shabbos and the Gemara in Sanhedrin, ensuring we understand that justice is a fundamental element of Torah life and that we are dealing with creation itself when we are appointing judges. (See Tur Shulchan Aruch Siman 8)

With this background, there is one particular law included in this sentiment which seems out of place. The Tur and Shulchan Aruch begin their discussion by stating that in addition to the traits of integrity, humility and wisdom required to be a judge, judges must also be well-versed in Torah law, with a thorough and deep understanding of Torah reasoning. It is following this requirement that they reference these Gemaras. It seems that a judge who is honest, humble, wise and fair, but is not fluent in Torah law is not properly upholding G-d's world. This is a very difficult statement. While perhaps he should not be sitting on a Torah court, if a judge is consistent and fair in his judgements, isn't he ensuring the healthy functioning of society? Why doesn't he also deserve credit for ensuring that G-d's goals in creation can be brought to fruition?

Perhaps this can be understood based on another Gemara in Sanhedrin (7a) which has a slight variation of the Gemara in Shabbos. The Gemara there states that one who judges properly causes G-d's Divine Presence to dwell among the Jewish people. It seems that there is another element to a Jewish court beyond simple function of society. A Torah court is intended to ensure that Jewish society is a Torah society.

The Tur and Shulchan Aruch are teaching us here that in order for G-d's world to reach its intended goal, it is not enough that justice is upheld. It is critical that G-d's justice is upheld. The physical world was created and exists for a higher purpose. In order for that purpose to be achieved, the physical world must be used in the manner that G-d prescribes. When we engage in monetary disputes and handle our finances the way that G-d intended, we are doing more than ensuring a healthy society – we are ensuring a healthy G-dly society of nobility and holiness. When we use every physical element of our lives properly, as G-d intends, we are setting a foundation for us to recognize G-d in our lives and to find the G-dliness within ourselves.

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Covenant and Conversation Rabbi Jonathan Sacks, z"l

Learning and Leadership

The parsha of Shoftim is the classic source of the three types of leadership in Judaism, called by the Sages the “three crowns”: of priesthood, kingship and Torah.^[1] This is the first statement in history of the principle, set out in the eighteenth century by Montesquieu in *L'Esprit des Lois* (The Spirit of Laws), and later made fundamental to the American constitution, of “the separation of powers.”^[2]

Power, in the human arena, is to be divided and distributed, not concentrated in a single person or office. In biblical Israel, there were Kings, Priests and Prophets. Kings had secular or governmental power. Priests were the leaders in the religious domain, presiding over the service in the Temple and other rites, and giving rulings on matters to do with holiness and purity. Prophets were mandated by God to be critical of the corruptions of power and to recall the people to their religious vocation whenever they drifted from it.

Our parsha deals with all three roles. Undoubtedly, though, the most attention-catching is the section on Kings, for many reasons. First, this is the only command in the Torah to carry with it the explanation that this is what other people do: “When you enter the land the Lord your God is giving you and have taken possession of it and settled in it, and you say, ‘Let us set a King over us like all the nations around us...’” (Deut. 17:14).

Normally, in the Torah, the Israelites are commanded to be different. The fact that this command is an exception was enough to signal to commentators throughout the ages that there is a certain ambivalence about the idea of monarchy altogether.

Second, the passage is strikingly negative. It tells us what a King must not do, rather than what he should do. He should not “acquire great numbers of horses,” or “take many wives” or “accumulate large amounts of silver and gold” (Deut. 17:16-17). These are the temptations of power, and as we know from the rest of Tanach, even the greatest – King Solomon himself – was vulnerable to them.

Third, consistent with the fundamental Judaic idea that leadership is service, not dominion or power or status or superiority, the King is commanded to be humble: he must constantly read the Torah “so that he may learn to revere the Lord his God ... and not consider himself better than his fellow Israelites” (Deut. 17:19-20). It is not easy to be humble when everyone is bowing down before you and

when you have the power of life and death over your subjects.

Hence the extreme variation among the commentators as to whether monarchy is a good institution or a dangerous one. Maimonides holds that the appointment of a king is an obligation, Ibn Ezra that it is a permission, Abarbanel that it is a concession, and Rabenu Bachya that it is a punishment – an interpretation known, as it happens, to John Milton at one of the most volatile (and anti-monarchical) periods of English history.^[3]

There is, though, one positive and exceptionally important dimension of royalty. The King is commanded to study constantly:

“...and he is to read it all the days of his life so that he may learn to revere the Lord his God and follow carefully all the words of this law and these decrees and not consider himself better than his fellow Israelites and turn from the law to the right or to the left. Then he and his descendants will reign a long time over his kingdom in Israel. (Deut. 17:19-20)

Later, in the book that bears his name, Moses’ successor Joshua is commanded in very similar terms:

Keep this Book of the Law always on your lips; meditate on it day and night, so that you may be careful to do everything written in it. Then you will be prosperous and successful. (Josh. 1:8)

Leaders learn. That is the principle at stake here. Yes, they have advisors, elders, counsellors, an inner court of Sages and literati. And yes, biblical Kings had Prophets – Samuel to Saul, Nathan to David, Isaiah to Hezekiah and so on – to bring them the word of the Lord. But those on whom the destiny of the nation turns may not delegate away the task of thinking, reading, studying and remembering. They are not entitled to say: I have affairs of state to worry about, so I have no time for books. Leaders must be scholars, Bnei Torah, “Children of the Book,” if they are to direct and lead the people of the Book.

The great statesmen of modern times understood this, at least in secular terms. William Gladstone, four times Prime Minister of Britain, had a library of 32,000 books. We know – because he made a note in his diary every time he finished reading a book – that he read 22,000 of them. Assuming he did so over the course of eighty years (he lived to be 88), this meant that he read on average 275 books a year, or more than five each week for a

lifetime. He also wrote many books on a wide variety of topics from politics to religion to Greek literature, and his scholarship was often impressive. For example he was, according to Guy Deutscher in *Through the Language Glass*,^[4] the first person to realise that the ancient Greeks did not have a sense of colour and that Homer’s famous phrase, “the wine-dark sea” referred to texture rather than colour.

Visit David Ben Gurion’s house in Tel Aviv and you will see that, while the ground floor is spartan to the point of austerity, the first floor is a single vast library of papers, periodicals and 20,000 books. He had another 4,000 or so in Sde Boker. Like Gladstone, Ben Gurion was a voracious reader as well as a prolific author. Benjamin Disraeli was a best-selling novelist before he entered politics. Winston Churchill wrote almost 50 books and won the Nobel Prize for Literature. Reading and writing are what separate the statesman from the mere politician.

The two greatest Kings of early Israel, David and Solomon, were both authors, David of Psalms, Solomon (according to tradition) of *The Song of Songs*, Proverbs and Kohelet/Ecclesiastes. The key biblical word associated with Kings is *chochmah*, “wisdom.” Solomon in particular was known for his wisdom:

When all Israel heard the verdict the King had given, they held the King in awe, because they saw that he had wisdom from God to administer justice. (I Kings 3:12)

Solomon’s wisdom was greater than the wisdom of all the people of the East, and greater than all the wisdom of Egypt ... From all nations people came to listen to Solomon’s wisdom, sent by all the Kings of the world, who had heard of his wisdom. (I Kings 5:10-14)

When the Queen of Sheba saw all the wisdom of Solomon... she was overwhelmed. She said to the King, ‘The report I heard in my own country about your achievements and your wisdom is true. But I did not believe these things until I came and saw with my own eyes. Indeed, not even half was told to me; in wisdom and wealth you have far exceeded the report I heard...’ The whole world sought audience with Solomon to hear the wisdom God had put in his heart. (I Kings 10:4-24)

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We should note that *chochmah*, wisdom, means something slightly different from *Torah*, which is more commonly associated with Priests and Prophets than Kings. *Chochmah* includes worldly wisdom, which is a human universal rather a special heritage of Jews and Judaism. A Midrash states “If someone says to you, ‘There is wisdom among the nations of the world,’ believe it. If they say, ‘There is *Torah* among the nations of the world,’ do not believe it.”^[5] Broadly speaking, in contemporary terms *chochmah* refers to the sciences and humanities – to whatever allows us to see the universe as the work of God and the human person as the image of God. *Torah* is the specific moral and spiritual heritage of Israel.

The case of Solomon is particularly poignant because, for all his wisdom, he was not able to avoid the three temptations set out in our *parsha*: he did acquire great numbers of horses, he did take many wives and he did accumulate great wealth. Wisdom without *Torah* is not enough to save a leader from the corruptions of power.

Though few of us are destined to be Kings, Presidents or Prime Ministers, there is a general principle at stake. Leaders learn. They read. They study. They take time to familiarise themselves with the world of ideas. Only thus do they gain the perspective to be able to see further and clearer than others. To be a Jewish leader means spending time to study both *Torah* and *chochmah*: *chochmah* to understand the world as it is, *Torah* to understand the world as it ought to be.

Leaders should never stop learning. That is how they grow and teach others to grow with them.

[1] Mishnah Avot 4:13. Maimonides, Mishneh Torah, Hilchot Talmud Torah, 3:1.

[2] Montesquieu's division, followed in most Western democracies, is between legislature, executive and judiciary. In Judaism, primary legislation comes from God. Kings and the Sages had the power to introduce only secondary legislation, to secure order and “make a fence around the law.” Hence in Judaism the King was the executive; the priesthood in biblical times was the judiciary. The “crown of *Torah*” worn by the Prophets was a unique institution: a Divinely sanctioned form of social criticism – a task assumed in the modern age, not always successfully, by public intellectuals. There is today a shortage of Prophets. Perhaps there always was.

[3] See Eric Nelson, *The Hebrew Republic*, Harvard University Press, 2010, 41-42.

[4] *Through the Language Glass: Why the World Looks Different in Other Languages* (New York: Metropolitan Books/Henry Holt and Co., 2010).

[5] Eichah Rabbati 2:13.

Shabbat Shalom: Rabbi Shlomo Riskin

“When a matter shall arise for you too wondrous for judgment, whether it be capital, civil, or ritual, you shall go up to the judge of those times, and according to the law which they shall teach you, and according to the judgment which they shall tell you to do, do

not stray neither from the right nor the left of the word that they declare to you” (Deut. 17:8–11).

In an era when strict interpretations of Jewish Law are in vogue, and when Orthodox rabbis who render decisions with a broader perspective face withering personal and professional attacks, we would do well to revisit the concepts of freedom of thought and the right of dissent within the realm of Jewish Law. Is there, in fact, room within the Jewish legal system for individual freedom and conscientious objection to majority opinions?

For guidance, let us look at the model of the Sanhedrin in Jerusalem. To what extent did the sages of that august legal body admit pluralism into the halls of their debates? In truth, the Sanhedrin always encouraged dissenting opinions, even beginning their judicial inquiry with the views of the youngest and least learned, to encourage everyone to state his opinion without being intimidated by the views of more senior colleagues.

But there are limits to this pluralistic spirit. For instance, a member of Sanhedrin must not oppose the authority of the judicial majority. One who does is categorized as a rebellious elder (*zaken mamreh*), and his offense is considered a capital crime [Babylonian Talmud, Sanhedrin 87a], assuming that he proactively attempts to influence others to defy the court in practice.

However, the law of the “rebellious elder” is shaded with subtleties. The aforementioned passage in the Talmud points out that one is not condemned as a *zaken mamreh* if the disagreement is limited to verbal preaching against the decision, while accepting the ruling in practice. Furthermore, not only does one who disagrees have a right to do so, he is obligated to explain the reasons for his disagreement. After all, if he is correct, he may eventually convince others to see things his way.

What happens, however, if the dissenter is a “conscientious objector”? Fascinatingly, the first mishna in Tractate Horayot forbids a scholar from performing an act that the Sanhedrin permitted but which he believed was prohibited, noting that if a recognized scholar knows that a decision of the Sanhedrin is incorrect, but he nevertheless acts in accordance with the majority, he has committed a transgression and must bring a sacrifice! In other words, not only may he go against the majority, but failure to do so is a sin that requires ritual atonement.

Our sages add, “One might think that even if they tell you that right is left and that left is right, you must nevertheless listen to them? It is for this reason that the Torah specifies [do not stray from] right and left, in order that you may understand that only when they tell you about the right this is right and the left that is

Likutei Divrei Torah

left, then must you listen to them” [Jerusalem Talmud, Horayot 1:1].

These sources clearly guide the sage to follow his conscience when he is firmly convinced of the correctness of his position. If he ignores his own knowledge as to what constitutes a correct practice, his transgression in following the incorrect view of the Sanhedrin obligates him to bring a sacrifice. [An important exception to this rule of freedom of dissent is the calendar, since nothing ensures the unity of the Jewish people and threatens our fragmentation more than the calendar. In that regard, there must be unanimity.]

Support for the Sage's right to dissent is further found in Tractate Eduyot [5:6], where we read that the sage Akavya ben Mahalalel disagreed with the majority opinion on four issues. He was offered the coveted position of Av Beit Din, second-in-command of the Sanhedrin, but only on condition that he change his mind on his dissenting opinion. Akavya's response was that he would rather be called a fool all his days and not be considered wicked before God for even one moment for having sacrificed his vision of truth for the lure of high rabbinic office.

The mishna goes on to record one view that maintains that Akavya was excommunicated and that when he died the court threw stones upon his coffin. However Rabbi Yehuda vehemently disagrees: “Heaven forfend that Akavya would have been excommunicated, for the courtyard of the Holy Temple was never closed in the face of a Jew as great in wisdom and in fear of sin as Akavya ben Mahalalel.”

Rabbi Yehuda names a different sage whom the court excommunicated and whose coffin was pelted with stones. The conclusion of this mishna courageously affirms the right of conscience of an individual scholar granting accolades to Akavya for refusing to bend to the will of the majority.

Perhaps the confusion between Akavya and the other figure is the mishna's subtle way of stating that going against the majority demands a price. Many will not understand what you are doing; your coffin may be pelted with stones. But in the end, your name will be cleared and your courage will be praised. As long as wisdom, reverence for God, and fear of sin motivate your decisions, you dare not mute your individual conscience when you enter the courtyard of the Holy Temple of Jewish law.

The Person in the Parsha
Rabbi Dr. Tzvi Hersh Weinreb

Tree-like

I love metaphors. An apt metaphor can help stimulate boundless creativity and can lead to a deeper and richer understanding of the concept being studied.

Take, for example, the metaphor of a tree as representing a human being. We find this

metaphor in this week's Torah portion, Shoftim, in the following verse:

"When you besiege a city for many days to wage war against it, to seize it; do not destroy its tree, by swinging an ax against it; for from it you will eat, and you shall not cut it down; because man is a tree of the field, to come against you in a siege." (Deuteronomy 20:19)

I am aware that there are alternative translations of the phrase under consideration, and that some render it as a question, "Is a tree of the field like a man?" But the literal meaning of the phrase is declarative. Man is like a tree of the field.

How? Let us count the ways.

For starters, King David himself in the very first chapter of Psalms compares the righteous person to a tree. "He is like a tree planted beside streams of water, which yields its fruit in season, whose foliage never fades, and whatever he does prospers." Of all the metaphors available to the psalmist to paint the picture of the good man, the tree is the one he finds most fitting.

The rabbis also use the metaphor of the tree to capture the essence of one aspect of humanity. Thus, Rabbi Elazar ben Azariah would say, "He whose wisdom exceeds his deeds, to what can he be compared? To a tree whose branches are many but whose roots are few, so that any wind can come and uproot it and turn it over on its face... But he whose deeds exceed his wisdom, to what can he be compared? To a tree whose branches are few but whose roots are many, so that even if all the winds of the worlds beset him, they cannot move him from his place..." (Avot 3:22)

The righteous person is like a tree beside a stream. The ethical man of action who puts his wisdom into practice has deep roots which give him confidence and security.

There are so many other ways in which we resemble the tree. The tree regenerates, and the wind carries its seeds to great distances. So too, mankind is perpetuated over the generations, and sometimes our descendants take root in corners of the earth that are far removed from us.

When I close my eyes and try to imagine the tree, two different images compete for my mind's attention. One is the tree standing alone in the field, with long and drooping overhanging branches, providing shade for those who sit under it. So too, I can imagine human beings in my own life and in the history of humanity who stood apart and were misunderstood, yet provided physical or spiritual shelter to so many others.

The other image I have is of one tree, not alone, but together with many others constituting an impenetrable and mysterious

forest. And so too, human beings band together into social groups which contain their own idiosyncrasies, which seem impenetrable to the outsider.

There is a lesson in the metaphor of the tree for that most important human process: education. This lesson is so well-expressed in the lines of the poet, Alexander Pope:

"'Tis education forms the common mind:
Just as the twig is bent, the tree's inclin'd."

Trees left to their own devices grow wildly. Proper cultivation can direct their growth positively and productively. So too, humans benefit from proper "bending," discipline and training.

And then there is the sad, but ultimate, connection between the tree and the human being. Trees wither, and trees die. They are subject to the forces of nature: fire, wind, deterioration and decay. Yes, we know of trees that have endured for centuries, but even those lengthy life spans eventually come to an end.

I would like to end this brief contemplation of the many analogies between mankind and the trees with a passage from the ancient Greek poet, Aristophanes, which is so reminiscent of more than one passage in our High Holiday liturgy:

"Mankind, fleet of life, like tree leaves, weak creatures of clay,
unsubstantial as shadows, wingless,
ephemeral,
wretched, mortal and dreamlike."

But there is a happier connection between people and trees, and that is through the Torah, which is itself compared to a tree, the tree of life; "eitz chaim hi."

Indeed, "Man is like the tree of the field," withering or able to thrive, depending on one's own life circumstances.

Torah.Org: Rabbi Yissocher Frand

"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

Likutei Divrei Torah

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 Rebbi, 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 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 Yochiel [Ezra 10:2] and Shachnaya ben Yochiel 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

Likutei Divrei Torah

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.

Dvar Torah

Chief Rabbi Ephraim Mirvis

Where is there a mitzvah to wash your hands of something? It appears at the end of parashat Shoftim, and it’s a disturbing scenario: A corpse is out in the open and it’s obvious that

this person has been murdered. But the identity of the victim is not known and nobody has a clue what happened. So the Torah tells us that the elders and the judges come out – and they measure the distance from the corpse to each of the settlements in that area. Once they have determined which is the closest town or city to the corpse, then the elders of that place must then take the life of a heifer – hence the process is called ‘eglah arufah’ (a decapitated calf). Then the Torah tells us that they must wash their hands over the deceased. This is the Biblical origin of the saying, to wash one’s hands of something. And then they declare “yadeinu lo shafchu et hadam hazeh” – our hands have not spilled this blood. They are washing their hands of it – they are saying ‘we are guiltless.’

However, they are engaged in the process as an act of atonement. The message here is that this person probably walked through their town on the previous evening. Nobody noticed this person. Nobody brought them into their homes. Nobody showed them kindness – and now this person is dead.

Rav Aaron Lichtenstein zt”l gave a beautiful insight on the passage of ‘eglah arufah’. He pointed out that the passage immediately preceding it in parashat Shoftim is about going out to war, and the passage immediately after is ‘ki tizei la’milchama’. It’s the beginning of the following sedrah – when you go out to war! ‘Eglah arufah’ is sandwiched between them. And the message is that, when you go out to fight a battle in order to save your country or to save the lives of your people, you might be forced to take the lives of many enemies, and there is a danger that the value of life could become diminished in your eyes. That must never affect your overall outlook on life. From ‘eglah arufah’ we learn that every single life is precious. Even the life of somebody you’ve never met – a total stranger. Even if you don’t know how that person passed away – you need to feel culpable – somehow or other you should have been there for the sake of that person.

And if we need to relate to total strangers in that way, then how much more so should we reach out with love and care – and value the life of members of our families, members of our communities and our society. Certainly from parashat Shoftim we learn, that when it comes to all human life, that is not something to wash your hands of.

OTS Dvar Torah

Crony Capitalism and How to Be a King in Israel - Rabbi Avishai Milner

The King of Israel – mission impossible? Well, nearly impossible... One of the main motifs of the Book of Deuteronomy is how the Israelites prepare to enter the Promised Land. Their leadership, when they were in the desert, was divine and miraculous, but that leadership would become more natural once they entered the land. They would require a new, more

human and more natural type of leadership. One of the forms of leadership discussed in this week’s parsha is kingship. The Torah states the following: “If, after you have entered the land... you decide, ‘I will set a king over me, as do all the nations about me’... You shall be free to set a king over yourself, one chosen by the Hashem your God.”

The Torah sanctions the idea of a king ruling over the people (and it might even be commanding us to do; an idea disputed among biblical commentators). Yet the text immediately attaches a series of warnings, limitations and reservations regarding the chosen king. He shall not have many horses. He shall not have many wives. And he shall not amass silver and gold to excess. In the ancient world, a king was a unbridled ruler, who ruled alone with unlimited powers – like a “god incarnate”, and very often, personal interests, family ties and, above all, evil tendencies took precedence over the good of the people. Therefore, the Torah lists and underscores its requirements from a king of Israel, by setting these three restrictions.

He shall not have many horses – thus limiting his military strength. An unlimited military could result in needless wars and an overreliance on military power. He shall not have many wives – having too many wives, and treating them as status symbols and sexual objects, marked the beginning of a process of moral depravity, prostitution, and the belittling of human life. And he shall not amass silver... Throughout history, people have amassed wealth and pursued a carnal desire to get rich. This led to arrogance, and eventually, to the exploitation of the people, as rulers became out of touch with their subjects. All too often, greed marked the beginning of a decline and a trajectory that ended with the dissolution of the monarchy.

The Torah clearly articulates that we must be wary of the dangerous phenomenon of crony capitalism. The Torah knows that even the most deserving people whose rise to power was driven by ideology and a will to do things to benefit the people may “lose their way”, stop following their moral compass, become accustomed to the pleasures of governance, and mistakenly assume they are allowed to get personal benefits out of the wealth and honor that come along with being in power. They will believe that they were always destined to rule forever, and will come to forget that they serve the people.

The Torah attaches one more restriction to kings – this time, a positive one: Kings are commanded to write a Torah scroll, and read from it, so that “he shall learn to fear God”.

“Serving a holy nation, on holy ground”

Can anyone resist exceeding wealth and power, yet accept the challenge of ruling with responsibility, honesty and loyalty?

Likutei Divrei Torah

Our sages were clearly aware of this formidable challenge. However, they believed that this is not a “mission impossible”. One of the most prominent examples of this is the character and personality of “Rebbe” – who was none other than Rabbi Judah the Prince, one of the greatest scholars and the chief redactor of the Talmud.

Rebbe was very wealthy. He was born into a well-to-do family with many assets, and even earned himself a small fortune from trade, agriculture and close ties with the Roman authorities. He was even a close confidant of Emperor Antoninus himself. The gemara states, in Tractate Gittin (59): “From the days of Moses and until the days of Rabbi Judah the Prince we do not find such greatness in Torah knowledge and such greatness in secular matters, including wealth and high political office, combined in one place, i.e., in a single individual.” The gemara (Tractate Ktobot) tells us that when Rabbi Judah the Prince passed away, he lifted his arms toward Heaven and said “Master of the Universe, it is revealed and known before You that I toiled with my ten fingers in the Torah, and I have not derived any benefit from the world even with my small finger.” This prompts a question: did Rabbi Judah the Prince really gain no personal benefit from worldly pleasures? After all, we know that he carried himself like royalty in the way he dressed, participated in feasts laden with food fit for a king, and more. What, then, did he mean before he died, when he said that he hadn’t derived any benefit from this world?

He wanted to teach us an important lesson. Wealth and leadership don’t come along with great privilege and luxury. On the contrary, leadership and the power associated with it must imbue leaders with a sense of calling and responsibility. Leadership and presidency are a burden, a duty and a calling.

Undoubtedly, Rabbi Judah, who was a prince, lived a life of wealth and wellbeing, but he never lost site of his moral compass. He never forgot that all of the bounty he was fortunate enough to have been given required him to take on even greater responsibility. This type of leadership is always cognizant of its calling.

“Rabbi [Judah the Prince] would honor the wealthy” says the gemara, in Tractate Eruvin, page 76. The text states that the rabbi would say “Anyone who possesses wealth and gives of that [wealth] to the poor – the Torah states that this person [is considered to have] kept all of the commandments”. Wealth and leadership are an opportunity. This is why Rabbi Judah the Prince honored the wealthy. He didn’t do it out of admiration for their wealth or their high office. He did it because he admired what they did for their people and subjects.

In the Book of Ecclesiastes, King Solomon wrote: “A worker’s sleep is sweet, whether he has much or little to eat; but the rich man’s

abundance doesn't let him sleep." The pshat, or simple reading of this verse, indicates that King Solomon wished to praise the commoners, the laborers who toiled all day, those who worked for their sustenance, supporting their family through honest work, even if their wages were meager. Those people slept well and enjoyed peace of mind. "A laborer's slumber". In contrast, the wealthy can't sleep, because their great wealth and property trouble them with constant worry.

Here, in the Midrash, Rabbi Judah the Prince uses his own approach to voice a very different interpretation of this verse! Rabbi Judah the Prince tells us how he once saw a poor man who fell asleep in the middle of the day because of his idleness, because he didn't feel any responsibility or commitment toward his work. However, we, the wealthy, claimed Rabbi Judah, deal with the needs of the public, and since we must be so committed to all of the needy, we can't ever sleep, as our minds are constantly occupied with this heavy responsibility. Leadership and wealth actually deprive us of peace of mind, because of this feeling of being burdened, taking responsibility for others by fulfilling our calling.

From the Midrash to real life

Our Torah is the Torah of life. Without question, these lessons are relevant to our lives today. Occasionally we feel the urge to preach these insights to the clerks at the National Insurance Institute or anyone else providing services at a government ministry, and, of course, the same would apply to our leaders and ministers. However, these lessons seem to be directed primarily at each and every one of us. We are all leaders, in our families, our communities, and workplaces. We all have the capacity, the responsibility and the privilege of being on the giving and helping side, and by doing so, we will deserve to enjoy all of the good things that the Hashem has bestowed upon us.

We pray that we'll merit leaders worthy of ending their letters the way that Rabbi Kook would end his igrot: "A servant of a holy nation, on holy ground". Indeed, Rav Kook's entire life was a faithful testimony to this phrase.

OU Dvar Torah

"If a corpse will be found on the land" –

The Mitzvah of Eglah Arufah

Rabbi Immanuel Bernstein

כִּי יִפְאַת אָחָל בְּאֶרְכָּה אֲשֶׁר הָאֱלֹהִים נִמְנָה לְכַרְשָׁתָה נִפְלָא בְּשֻׁבָּה לֹא נָזַע מֵהַפְּנִים

If a corpse will be found on the land that Hashem, your God, gives you to possess it, it was not known who smote him.[1]

Introduction

The final section of our parsha discusses the mitzvah of eglah arufah – the decapitated calf. As the verses describe, if a person should be found slain and the identity of his killer is

unknown, the elders of the city closest to where the victim was found bring a calf down to a valley and decapitate it there. They then declare that they had no part in the death of this victim and ask for atonement for the people of Israel. However we understand the procedure and details of this mitzvah, the underlying message is that a tragedy of this sort cannot be allowed to pass without response from those nearby – even if it was in no way of their doing. Although the identity of the killer is unknown, and that of the victim perhaps equally so, a fellow Jew's life has been cut short and that loss needs to be felt and addressed.

Between the Wars – Location of the Mitzvah
It is most interesting to consider, in this regard, the place where the Torah chooses to discuss this mitzvah. As we know, immediately following this section is the parsha of Ki

Seitsei, which begins, "When you shall go out to war against your enemy." [2] What is equally important to note, however, is that the section that precedes eglah arufah begins in exactly the same way – "when you shall go out to war against your enemies"! [3] It turns out that the mitzvah of eglah arufah is sandwiched "between the wars." We may ask: Why not put all the laws relevant to war together? Why interject with a private matter?

Apparently, the Torah seeks to highlight the gravity and significance of a single life under all circumstances. As we know, in times of war, people's sensitivities toward an individual's plight can unfortunately become somewhat jaded in the face of broader danger and tragedy. To this end, the Torah places this discussion of an individual tragedy in the midst of its discussion of war, as if to say, the one can never be allowed to be eclipsed by the other.

Understanding the Mitzvah

The mitzvah of eglah arufah itself is somewhat elusive. What is behind its many details and how does it effect atonement for what has happened? Ultimately, the Rambam informs us that this mitzvah is classified among the chukim – those whose understanding is beyond us. [4] Nevertheless, in the Moreh Nevuchim, [5] he elaborates upon one aspect of the mitzvah that can be appreciated on a rational level. By the elders of the city performing the eglah arufah procedure with all of its details, awareness of what has happened will spread to the surrounding cities, and it will become the topic of conversation and discussion. This, in turn, may encourage someone who saw or knows something pertaining to the incident to come forward and provide information which might lead to identifying and apprehending the killer.

Measuring Out Justice

This explanation will shed new light on the requirement, mentioned in verse 2, of measuring to the nearest city. Seemingly, this procedure is done purely in order to ascertain

Likutei Divrei Torah

which city is closest. However, the Gemara [6] states that even if the corpse is found right next to a city, so that there is no doubt that it is the closest one, there is still a mitzvah to measure toward it. This formal procedure publicly marks that city as the closest one, effectively placing it under a cloud of association and thereby further encouraging it to make an effort to get to the bottom of what happened. Indeed, according to some commentators, even in this situation where the closest city can be clearly and visibly determined, the elders proceed to measure to all the surrounding cities, as the simple reading of verse 2 indicates. The effect of this is that, in addition to highlighting the responsibility of the closest city, the other cities are also formally enlisted in this situation, thereby widening the net of people who could potentially shed light on the situation. [7]

"Our hands did not spill this blood"

After the calf has been decapitated, verse 7 states that the elders of the city need to wash their hands and declare, "Our hands did not spill this blood." Understandably, this declaration is somewhat baffling. As the Gemara [8] expresses it: Does anyone imagine that the elders of city are the culprits?

The Gemara explains that what the elders are required to declare is that they did not see this person leave the city and allow him to go without provisions and accompaniment. How would doing so be tantamount to bloodshed? These are things that affect a person's mood and morale. If he had left town with food and accompaniment in positive spirits, perhaps he would have been better able to defend himself against his attacker; whereas without them, his subdued disposition may have left him less able to fend off an attack – and may even have invited it. [9]

A fascinating alternative explanation of the elders' declaration is found in the Talmud Yerushalmi. [10] It begins by noting that the above interpretation is indeed the one offered in Bavel, but then proceeds to say that in Eretz Yisrael they explained this declaration as relating, not to the victim, but to the perpetrator:

He [the killer] did not come before us and we exempted him from judgment, ignoring his liability.

According to the Yerushalmi, what the elders are required to declare is that they did not have a killer in custody and then released him! If they were to have done so, then he may well have been the one behind this attack and, having had him in their custody, the elders would also be liable for the spilling of the victim's blood.

The Final Verse

It is fitting to conclude our discussion with the Torah's own concluding words in this section. The final verse reads:

וְאַתָּה תִּפְרֹעַר הַקּוֹם תְּגַנֵּן מִקְרָבְךָ כִּי מַעַשָּׂה קִיְשָׁר בְּעֵינֶךָ

You shall remove the innocent blood from your midst, when you do what is upright in the eyes of Hashem.

To what is this verse referring and what does it add to the parsha? Having performed the procedure of eglah arufah as set forth in the preceding verses, what more is there to do in this situation?

Rashi[11] explains that the entire procedure of eglah arufah only effects atonement to the extent that the identity of the killer is unknown. Should the killer be found, however, he will need to be brought to justice, and we do not say that the matter has already been dealt with through the eglah arufah. Thus, the final verse serves to qualify the effectiveness of the procedure, alerting us to the fact that further action may yet need to be taken in the event that new developments arise.

What's in a Word – The Meaning of "ve'nikaper"

The words which conclude the eglah arufah procedure read: "וְגַנְגַּפֵּר לְבָם וְגַנְגַּפֵּר", which is commonly translated as "and the blood shall be atoned for them." Actually, the word "וְגַנְגַּפֵּר" is very unusual, for it does not fit into any established grammatical form:

- On the one hand, the vowelization of the word is appropriate for the hispael (reflexive) form.
- However, a reflexive word always contains the letter tav after the nun. Here, the letters of the word indicate the nifal (passive) form.

So which is it?

We have discussed elsewhere the fascinating idea that there are times when the Torah blends together different forms into one word in order to reflect the blended nature of the situation being described. Here, too, the atonement achieved by the eglah arufah is not absolute and unequivocal; it is effective if the killer remains unknown, but not if he should be found. How is this conditional element expressed in the word?

- The nifal form always reflects something that has actually happened.
- The hispael form can sometimes reflect something which is apparent, but not necessary actual.[12]

Therefore, the Torah combines both of these elements into the word that expresses the effect of the eglah arufah, reflecting the two possible outcomes subject to subsequent developments. If the killer is never found, the eglah arufah will indeed provide some atonement (nifal); but if he is found, then it will no longer actually fulfill that role (hispael).[13]

Beautiful!

Ibn Ezra – A Message to the City's Populace
According to the Ibn Ezra, however, the final verse does not relate to dispensing justice to the killer, but rather seeing to it that catastrophes such as this do not occur in the first place. There is a principle of "שְׁכַר מְצֹהָה מְצֹהָה" – the reward for a mitzvah is another mitzvah." [14] This means that being faithful to the mitzvos results in bringing about further good deeds, and vice versa. As such, even though no one in the city was guilty regarding this particular individual, nevertheless, in a more general sense, the entire city is implicated. The fact that this tragedy could occur in their environs is an indication that the city in a general sense is lacking, for had they been sufficiently engaged in good deeds, the positive effects would have precluded such a disaster. Thus the section concludes: If you wish to prevent tragedies like this from happening in the future, reinforce your commitment and dedication to doing that which is just in Hashem's eyes.

Although the Ibn Ezra has referenced the spiritual concept of "the reward for a mitzvah is a mitzvah," it is also possible to apply his basic approach in a more down-to-earth way. Often, a person's ability and readiness to commit a crime will be influenced, not only by the laws themselves, but also by the attitude among the populace in enforcing those laws and identifying with their values. While the Torah court formulates the laws, it is the citizens who create the climate that either tolerates violations or excoriates them. Does a potential attacker feel that his actions will be swiftly responded to by vigilant individuals to whom life is precious and an assault on it abhorrent to the core? Or will it perhaps be met with apathy and indifference? The answer to this question will often be decisive in terms of whether or not the crime itself will occur.

Thus, the section of eglah arufah serves as a fitting conclusion to Parshas Shoftim. The parsha begins with the command to set up courts in every city. However, it concludes by alerting us to the mistake of thinking that maintaining law and order lies solely in the hands of those few individuals that make up the judiciary. Rather, creating a lawful society requires the participation of the entire people. It is a sacred partnership between the judges and the community, with the latter promoting and protecting the laws handed down by the former, striving together to do "that which is upright in Hashem's eyes."

[1] Devarim 21:1.

[2] Ibid. verse 10.

[3] Ibid. 20:1.

[4] Hilchos Me'ilah 8:8. See also Commentary of Ramban to verse 1.

[5] 3:40.

[6] Sotah 45a. [See Rashi Devarim loc. cit. s.v. u'madeu with commentary of Mizrachi ibid. and Mishneh Lemelech, hilchos rotzeach 9:1.]

[7] R' Yissachar Ber Eilenberg, Commentary Be'er Sheva to Sotah ibid.

Likutei Divrei Torah

[8] Sotah 45b, cited in Rashi to our verse.

[9] Heard from my father, R' Isaac Bernstein zt"l.

[10] Sotah Chap. 9 halachah 6, cited in Hamek Davar.

[11] S.v. ve'ata, based on Sotah 47b.

[12] For example, the verse states in Mishlei (13:7): "בְּבָבָל מִתְּרוֹשָׁשׁ אֶחָד כִּי מִתְּרוֹשָׁשׁ הַהֲזָה" – There are some who pretend to be rich but have nothing, while others pretend to be poor but have great wealth."

[13] Hakesav ve'Hakabbalah. See, similarly, his commentary to Bereishis 41:8.

[14] Pirkei Avos 4:2.



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date: Aug 12, 2021, 12:44 PM

subject: Rav Yissocher Frand - Parshas Shoftim - Discharged from Service for Talking While Donning Tefillin?!

Discharged from Service for Talking While Donning Tefillin?!

These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Series on the weekly portion: #1258 – Brachos on the Tefillin – One or Two Brachos?

Speaking Between Tefillin Shel Yad and Tefillin Shel Rosh – Reason to Return Home from Battle

The Torah in Parshas Shoftim enumerates various situations which entitle—or perhaps require—a Jewish young man to be excused from military service. The final situation mentioned is someone who is “fearful and soft-hearted” (Bamidbar 20:8). The Mishna (Sotah 44a) cites two opinions as to the nature of this fear. Rabbi Akiva says it simply means that he is terrified by the sights and sounds of battle. Rabbi Yossi HaGlili says it refers to someone who is afraid that he will now be punished for sins he has previously committed. The Talmud elaborates on Rabbi Yossi HaGlili’s opinion, and says that one who speaks between putting on his hand Tefillin and his head Tefillin has sinned, and it is for such a sin that a person returns home from the battlefield.

In a sefer published many years ago, called Heimah Yenachamuni, the Tolner Rebbe of Yerushalayim asks why this particular infraction was cited as the classic example of a sin the Jewish soldier fears may cause him to fall in battle. There are many “minor sins” out there that the Talmud could have cited. Speaking between donning the Tefillin shel Yad and Tefillin shel Rosh happens to be a very uncommon aveirah. Why did Chazal—out of the thousands of “small aveiros” that a person can do—pick this particular infraction?

The Tolner Rebbe suggests the following: When Jews go to war, they need to go with the assumption that “Hashem will fight for you...” (Shemos 14:14) – that the Ribono shel Olam is fighting our war for us. The thought

that “My power and the strength of my hand has brought me this great valor” (Devorim 8:17) (i.e., we have better soldiers, better weapons, better generals, we are smarter, braver, more technologically advanced, etc., etc.) is not a Jewish concept! If the Ribono shel Olam is not on our side, then the greatest army and the greatest set of weaponry will not help us!

On the other hand, the Jewish army as a whole, and every Jewish soldier individually, must undertake legitimate hishtadlus (personal effort).

Legitimate hishtadlus means finding the best soldiers, the bravest soldiers, and the most efficient soldiers. We dare not take the attitude that “We don’t need an army. We will just go ahead and pull people off the street and tell them, ‘Go fight the war!’” That is not the way it works. Derech ha’teva hishtadlus (‘way of nature’ effort) means preparing a proper army and air force, and all the latest military equipment. We are forbidden to rely on miracles.

The challenge is to create proper balance in the Jewish army: Great soldiers, great equipment, great training, great efficiency – but it should not go to their head that “My power and the strength of my hand has brought me this great valor.” This is the tension that must always exist with Jewish soldiers going out to do battle.

Tefillin shel Yad represents the power of a person. It is placed on his arm – representing his might and his strength. Tefillin shel Rosh corresponds to a person’s intellect (mo’ach). Putting on both Tefillin shel Yad and shel Rosh represent the concept of melding the two forces that make up a personality: A person’s own strength is represented by the hand Tefillin and a person’s spirituality is represented by the head Tefillin that are placed upon one’s mo’ach – brain). It is the brain, the intellect, which impresses upon the person the idea that “He is the One who gives you strength to do acts of valor” (Devorim 8:18).

The soldier must thus enter battle with that which is represented by the Tefillin shel Yad (“my strength”) but they also need to go in with the Tefillin shel Rosh, which tells them that it is the Ribono shel Olam that gives them strength.

Thus, says the Tolner Rebbe, someone who interrupts to converse between the Hand Tefillin and the Head Tefillin has sinned grievously. Separating the two – the icon of personal strength and the icon of Divine Assistance, which wins the battle for us, invalidates a Jewish soldier from taking his place on the battle front. That is why Chazal cite “Sach bein Tefilla l’Tefilla” as the prototype sin, which would lead to defeat in war.

The True Story of a Unique Shofet (Judge) For Parshas Shoftim

There was a certain fine Jew in the town of Shklov who had a beautiful daughter. He married her off to one of the young Torah scholars in the city. Two years after they were married, witnesses came and told the husband that his wife was seen secluding herself in a private room with another man. The husband, suspecting his wife of adultery, wanted to divorce her.

He came to the Rav of the city – Rabbi Yehoshua Zeitles (1743-1822), and asked him what he should do in this case, feeling that his wife was a “safek Sotah” and that he could no longer live with her. The woman’s father, as well as the woman herself, denied all charges and said that she never secluded herself with another man and never did anything wrong.

The Rav had to travel from Shklov to Peterburg, and he decided that on the way he would stop in Vilna and consult with the Vilna Gaon about this perplexing case. The Gaon told Rabbi Zeitles, “I am not a prophet, nor the son of a prophet. I cannot tell you what to pasken unless I hear with my own ears the words of the witnesses.” Rabbi Yehoshua Zeitles arranged for the husband and the wife and the father and the two witnesses to come before the Vilna Gaon. The woman and her father repeated their denial of the charges. The witnesses repeated their accusation that the woman secluded herself with another man.”

The Gaon, as halacha demands, questioned the witnesses individually. He took one of the witnesses into a side room and asked him to repeat the story. The witness repeated the story to the Gaon. The Gaon then sent him out and called in the second witness. The second witness repeated his story to the

Gaon. The Gaon then came out of the room and screamed “These are false witnesses! (Eidei sheker heim!)”.

If the Vilna Gaon screams at you, “Eidei Sheker...” you had better not contradict him! The witnesses started crying. They confessed that they were indeed false witnesses. They admitted that there was someone in their city who hated the husband, was jealous of him, and paid them to come to the local Beis Din with these trumped-up charges against his wife.

The students of the Gaon were amazed. They said, “Ruach HaKodesh!” They felt this was clear proof that the Gaon spoke with Divine Inspiration. How else could he have known—given that their two stories jived completely—that they were false witnesses?

The Gaon repeated, “I am not a prophet, nor am I the son of a prophet. I was not given this insight through Ruach HaKodesh – but I know how to learn a Mishna! The Mishna [Sanhedrin 3:6] states: “How do they check out the witnesses? They bring them into a room and threaten them, and send everyone out of the room leaving only the senior witness. We say to him – tell us on what basis you know that this person is guilty... and afterwards you bring in the second witness and check him out. If their words match (im nimitze'u divrei hem mechuvanim)... you can proceed to adjudicate based on this testimony.”

The Gaon said that Rabbi Yehudah HaNassi, the author of the Mishna, did not use one extra word. Why did he write here, “im nimitze'u divrei hem mechuvanim”? (If it is found that their words match) Why didn't the Mishna simply say, “if their words match” (im divrei hem mechuvanim)? The Gaon explained: No two people tell the same story exactly the same. We see this all the time with witnesses. They witness the same event and they tell over the story in court. Their stories basically match. But it is not word for word! The Judges hear the story from the first witness and then they here the story from the second witness. If it is found—i.e. through the judges having to fill in the blanks and matching the discrepancies between the two narrations—that the story is true, then they are to be believed.

The Gaon said “With these two witnesses, it was not “nimitze'u” (found to be) the case that the stories match. They verbatim told the same exact story as if they were reading it from a memorized script. This proves that they rehearsed the story together and they were liars!

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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 complete catalogue can be ordered from the Yad Yechiel Institute, PO Box 511, Owings Mills MD 21117-0511. Call (410) 358-0416 or e-mail tapes@yadyechiel.org or visit <http://www.yadyechiel.org/> for further information. Rav Frand © 2020 by Torah.org. Join the Jewish Learning Revolution! Torah.org: The Judaism Site brings this and a host of other classes to you every week. Visit <http://torah.org> to get your own free copy of this mailing or subscribe to the series of your choice.

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subject: **Rabbi Yisroel Reisman's Weekly Chumash Shiur**

A Thought on the Parsha.

Parshas Shoftim has many lessons that are important for Tanach and I would like to mention one or two of them time permitting. In our Parsha we have the Parsha of the Nevi'a Sheker. In 18:20 (**בְּבִיאָא אֲשֶׁר יִזְיַע לְבָרֶךְ בְּשָׁמְיָה**). The Navi that speaks falsely in my name is Chayuv Misah. Of course the Navi, there are numerous incidents of Nevi'a Sheker. Not just a kook getting up on

the corner on a chair and announcing that he has messianic views or prophetic vision. But people to who it really affected the history of Klal Yisrael.

We find by Tzidkiyah the last king of Klal Yisrael, that there were Nevi'a Sheker competing with Yirmiya. Nevi'a Sheker all over the place. It is very important to know a Yesod regarding Nevi'a Sheker it is not just an Aggadata Yesod it is a Halacha Yesod.

The Minchas Chinuch brings in Mitzvah Taf Kuf Yud Zayin in Os Ches that a Navi Sheker is not a kook. A Navi Sheker is a good person, a Talmid Chochom. It would be possible for him to be a Navi. But Stam an ordinary fellow who says that he had a vision, it is Narishket, it is silliness. A Navi means somebody who has a certain level of Kedusha, a certain level of Zehirus in Mitzvos, he is a Talmid Chochom. This idea is a concept brought in numerous places.

The Michtav Eliyahu in Cheilek Daled on page 289 explains how does it happen that someone who is Rau'i to be a Navi becomes a Navi Sheker? Why would someone do that? Somebody who is a Talmid Chochom and is Zahir B'mitzvos. The Michtav Eliyahu explains it is when people are caught up in their silliness. They want something so badly that they fool themselves into thinking that it is Nevua. The lack of intellectual honesty. People want something so badly they convince themselves of these types of things. It is a dangerous thing. We have to serve HKB" H the way He taught us to serve Him. Not the way our heart tells us to serve HKB" H.

That idea, that concept, is an important concept not only by Nevi'a Sheker but in serving HKB" H in general. We have to be sure that we don't come up with our own dreams, our own Chalomalos of this or that being Ratzon Hashem, without a source. Just because we heard a story in a story book or because we heard a cute Gematriya that doesn't make a person know how to behave. It has to be clearly a behavior that is Ratzon Hashem.

Rav Hutner in the Pachad Yitzchok on Pesach says this Yesod as well and I believe that it is in Maimar Pei Bais. With this he answers a Ramban's Kasha. Listen to this. The Yesod of (פֶּקֶד יִפְלֶךְ אֶלְרִים אֶתְכֶם) that is found in Parshas Vayechi in 50:24. Klal Yisrael was told that the Navi who comes with the language of (פֶּקֶד יִפְלֶךְ אֶלְרִים אֶתְכֶם) a language of Pekida he is the redeemer. Freight the Ramban it is very interesting. It is nice to have a Siman to know who is the real Go'el. But if you are going to advertise the Siman ahead of time, that the Go'el who comes with the Lashon of (דָּקְקָה פֶּקֶד) is the true Go'el what does it help? You want to know if he is fake or not see if he says (דָּקְקָה פֶּקֶד). Well you told him say (דָּקְקָה פֶּקֶד) is the trick so what does it help, what kind of Siman is that?

Answers the Pachad Yitzchok beautifully. He says that a kook who comes and says he is a Go'el won't fool anybody. Sometimes there are people who are indeed Talmidai Chachamim, they are Mazir people B'teshuva, they do Mitzvos, they teach and they fool themselves into thinking that they are the Moshiach. They fool themselves into thinking that they are the Go'el. So HKB" H promised Klal Yisrael that the Ruach Sheker that will come in people's minds won't be with (דָּקְקָה פֶּקֶד). It won't be with that language. It will be in a different way. Mimeila, we are not talking about people who are conniving to be a Navi Sheker, we are talking about people who fool themselves. So HKB" H promised that the language of (דָּקְקָה פֶּקֶד) won't be that Lashon. But again the Yesod is important that the Nevi'a Sheker in Tanach are just that they are Nevi'a Sheker who are good people that fool themselves. An important Yesod for Navi.

2 – Topic – A Netziv on the beginning of the Parsha.

One other quick Yesod is a beautiful Netziv in the beginning of Parshas Shoftim. The end of Parshas Re'eh 16:17 (זֹא כְּבָרֶכֶת יְרוּר אֶלְלִיָּה, אִישׁ כְּמַתְנָתָה) ends with Bracha. The beginning of Parshas Shoftim is 16:18 (בְּשָׁפְטִים וְשָׁפְרִים, תְּהִמָּה-לְהִמָּה). Says the Hameik Davar, the Netziv says beautifully (דְּבָרָכָה מְזוּזָה בָּזְמָן שְׁמַכְבָּדִין אֶת הַדִּינִים). In a society in which people show respect to Dayanim, show respect to the rule of the land, show respect to integrity of financial dealings, such a society has Bracha. A society in which it is the Wild West that people do what they want. They cheat others, they convince themselves that they are allowed to take this money without a clear

Psak that it is Muttar. They go and think that they could apply for government benefits to which they are not entitled and they have no source for being allowed to take it. They go and they take money of others or cheat others and they are Melamed Heter on themselves. Such a society is not Bracha Metzuya, doesn't have a Bracha found there. So therefore, (שְׁפָטִים, תְּפִלָּה, אָשָׁר, קְמַתְנָתָה, אָלָרִים, לֹא תִּתְּחַלֵּל, וְשִׁיאָתְנָתָה) is right next to the Bracha of (וְשִׁפְרִים, תְּפִלָּה, אָלָרִים, לֹא תִּתְּחַלֵּל, וְשִׁיאָתְנָתָה). And he refers back to Parshas Mishpatim (אָלָרִים, לֹא תִּתְּחַלֵּל, וְשִׁיאָתְנָתָה) to show respect for a Nasi, for a Beis Din is right next to the Posuk of (מְלָאָתָה, שְׁעָרָה).

A third source. The Netziv says (גַּזְבָּן, בְּאַרְצָה, בְּיַמִּים, וְיִהְיֶה רָעָב, שְׁפָטִים) Rus begins in the days that the judges judged, there was a hunger. Says Rashi, Dor Sheshoftim Es Shoftov. It was a generation that didn't show respect for the Dayanim. They second guessed their Dayanim. Such a place, (גַּזְבָּן, בְּאַרְצָה) there was a hunger in the land. The point again being that in order to have a society that has Birchash Hashem there must be a society that shows respect for the rule of Bais Din.

With this it explains why in Navi there was a great king Yoshiyahu Hamelech – Vayikonein Yirmiyahu Al Yoshiyahu when we talk about him in Kinnos. He was a great king. He became king at the age of 8. The first thing he did before getting Klal Yisrael to get rid of Avoda Zorah the first thing he did was to straighten out the Batei Dinim, straighten out the places of judgement that there should be Bracha by Klal Yisrael. There has to be integrity and honesty in financial dealings.

We should be Zocher to have that integrity and honesty and IY" H it will bring Bracha and Hatzlacha to all of us. May it be a Gebentched Elul, a Gebentched Elul where we have an Aliyah IY" H. A Gutten Shabbos to one and all!

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date: Aug 11, 2021, 2:17 PM

subject: Learning and Leadership (Shoftim 5781)

Covenant and Conversation

The parsha of Shoftim is the classic source of the three types of leadership in Judaism, called by the Sages the "three crowns": of priesthood, kingship and Torah.^[1] This is the first statement in history of the principle, set out in the eighteenth century by Montesquieu in L'Esprit des Lois (The Spirit of Laws), and later made fundamental to the American constitution, of "the separation of powers."^[2]

Power, in the human arena, is to be divided and distributed, not concentrated in a single person or office. In biblical Israel, there were Kings, Priests and Prophets. Kings had secular or governmental power. Priests were the leaders in the religious domain, presiding over the service in the Temple and other rites, and giving rulings on matters to do with holiness and purity. Prophets were mandated by God to be critical of the corruptions of power and to recall the people to their religious vocation whenever they drifted from it. Our parsha deals with all three roles. Undoubtedly, though, the most attention-catching is the section on Kings, for many reasons. First, this is the only command in the Torah to carry with it the explanation that this is what other people do: "When you enter the land the Lord your God is giving you and have taken possession of it and settled in it, and you say, 'Let us set a King over us like all the nations around us...'" (Deut. 17:14). Normally, in the Torah, the Israelites are commanded to be different. The fact that this command is an exception was enough to signal to commentators throughout the ages that there is a certain ambivalence about the idea of monarchy altogether.

Second, the passage is strikingly negative. It tells us what a King must not do, rather than what he should do. He should not "acquire great numbers of horses," or "take many wives" or "accumulate large amounts of silver and gold" (Deut. 17:16-17). These are the temptations of power, and as we know from the rest of Tanach, even the greatest – King Solomon himself – was vulnerable to them.

Third, consistent with the fundamental Judaic idea that leadership is service, not dominion or power or status or superiority, the King is commanded to be humble: he must constantly read the Torah "so that he may learn to revere the Lord his God ... and not consider himself better than his fellow Israelites" (Deut. 17:19-20). It is not easy to be humble when everyone is bowing down before you and when you have the power of life and death over your subjects.

Hence the extreme variation among the commentators as to whether monarchy is a good institution or a dangerous one. Maimonides holds that the appointment of a king is an obligation, Ibn Ezra that it is a permission, Abarbanel that it is a concession, and Rabenu Bachya that it is a punishment – an interpretation known, as it happens, to John Milton at one of the most volatile (and anti-monarchical) periods of English history.^[3] There is, though, one positive and exceptionally important dimension of royalty. The King is commanded to study constantly:

"...and he is to read it all the days of his life so that he may learn to revere the Lord his God and follow carefully all the words of this law and these decrees and not consider himself better than his fellow Israelites and turn from the law to the right or to the left. Then he and his descendants will reign a long time over his kingdom in Israel. (Deut. 17:19-20)

Later, in the book that bears his name, Moses' successor Joshua is commanded in very similar terms:

Keep this Book of the Law always on your lips; meditate on it day and night, so that you may be careful to do everything written in it. Then you will be prosperous and successful. (Josh. 1:8)

Leaders learn. That is the principle at stake here. Yes, they have advisors, elders, counsellors, an inner court of Sages and literati. And yes, biblical Kings had Prophets – Samuel to Saul, Nathan to David, Isaiah to Hezekiah and so on – to bring them the word of the Lord. But those on whom the destiny of the nation turns may not delegate away the task of thinking, reading, studying and remembering. They are not entitled to say: I have affairs of state to worry about, so I have no time for books. Leaders must be scholars, Bnei Torah, "Children of the Book," if they are to direct and lead the people of the Book.

The great statesmen of modern times understood this, at least in secular terms. William Gladstone, four times Prime Minister of Britain, had a library of 32,000 books. We know – because he made a note in his diary every time he finished reading a book – that he read 22,000 of them. Assuming he did so over the course of eighty years (he lived to be 88), this meant that he read on average 275 books a year, or more than five each week for a lifetime. He also wrote many books on a wide variety of topics from politics to religion to Greek literature, and his scholarship was often impressive. For example he was, according to Guy Deutscher in Through the Language Glass,^[4] the first person to realise that the ancient Greeks did not have a sense of colour and that Homer's famous phrase, "the wine-dark sea" referred to texture rather than colour.

Visit David Ben Gurion's house in Tel Aviv and you will see that, while the ground floor is spartan to the point of austerity, the first floor is a single vast library of papers, periodicals and 20,000 books. He had another 4,000 or so in Sde Boker. Like Gladstone, Ben Gurion was a voracious reader as well as a prolific author. Benjamin Disraeli was a best-selling novelist before he entered politics. Winston Churchill wrote almost 50 books and won the Nobel Prize for Literature. Reading and writing are what separate the statesman from the mere politician.

The two greatest Kings of early Israel, David and Solomon, were both authors, David of Psalms, Solomon (according to tradition) of The Song of Songs, Proverbs and Kohelet/Ecclesiastes. The key biblical word associated with Kings is *chochmah*, "wisdom." Solomon in particular was known for his wisdom:

When all Israel heard the verdict the King had given, they held the King in awe, because they saw that he had wisdom from God to administer justice. (I Kings 3:12)

Solomon's wisdom was greater than the wisdom of all the people of the East, and greater than all the wisdom of Egypt ... From all nations people came to listen to Solomon's wisdom, sent by all the Kings of the world, who had heard of his wisdom. (I Kings 5:10-14)

When the Queen of Sheba saw all the wisdom of Solomon... she was overwhelmed. She said to the King, 'The report I heard in my own country about your achievements and your wisdom is true. But I did not believe these things until I came and saw with my own eyes. Indeed, not even half was told to me; in wisdom and wealth you have far exceeded the report I heard...' The whole world sought audience with Solomon to hear the wisdom God had put in his heart. (I Kings 10:4-24)

We should note that *chochmah*, wisdom, means something slightly different from Torah, which is more commonly associated with Priests and Prophets than Kings. *Chochmah* includes worldly wisdom, which is a human universal rather a special heritage of Jews and Judaism. A Midrash states "If someone says to you, 'There is wisdom among the nations of the world,' believe it. If they say, 'There is Torah among the nations of the world,' do not believe it."^[5] Broadly speaking, in contemporary terms *chochmah* refers to the sciences and humanities – to whatever allows us to see the universe as the work of God and the human person as the image of God. Torah is the specific moral and spiritual heritage of Israel.

The case of Solomon is particularly poignant because, for all his wisdom, he was not able to avoid the three temptations set out in our parsha: he did acquire great numbers of horses, he did take many wives and he did accumulate great wealth. Wisdom without Torah is not enough to save a leader from the corruptions of power.

Though few of us are destined to be Kings, Presidents or Prime Ministers, there is a general principle at stake. Leaders learn. They read. They study. They take time to familiarise themselves with the world of ideas. Only thus do they gain the perspective to be able to see further and clearer than others. To be a Jewish leader means spending time to study both Torah and *chochmah*: *chochmah* to understand the world as it is, Torah to understand the world as it ought to be.

Leaders should never stop learning. That is how they grow and teach others to grow with them.

[1] Mishnah Avot 4:13. Maimonides, Mishneh Torah, Hilchot Talmud Torah, 3:1.

[2] Montesquieu's division, followed in most Western democracies, is between legislature, executive and judiciary. In Judaism, primary legislation comes from God. Kings and the Sages had the power to introduce only secondary legislation, to secure order and "make a fence around the law." Hence in Judaism the King was the executive; the priesthood in biblical times was the judiciary. The "crown of Torah" worn by the Prophets was a unique institution: a Divinely sanctioned form of social criticism – a task assumed in the modern age, not always successfully, by public intellectuals. There is today a shortage of Prophets. Perhaps there always was.

[3] See Eric Nelson, *The Hebrew Republic*, Harvard University Press, 2010, 41-42.

[4] *Through the Language Glass: Why the World Looks Different in Other Languages* (New York: Metropolitan Books/Henry Holt and Co., 2010).

[5] Eichah Rabbati 2:13.

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date: Aug 12, 2021, 7:34 PM

subject: Rabbi Mordechai Willig - Rabbinic Error

Rabbi Mordechai Willig

Rabbinic Error

I "That they [the Rabbis of the Sanhedrin in Yerushalayim] will teach you and the judgment that they will say to you shall you do. Do not stray from the word that they will tell you, right or left" (Devarim 17:11).

The Ramban, based on Rashi, explains that even if it is obvious to you that the Rabbis are mistaken, you must do as they command; what Hashem

commanded is to perform His mitzvos as understood by the Sanhedrin, even if they err in your eyes as one who exchanges right for left. Moreover, you should think that they are correct, as Hashem protects them from mistakes. There is a great need for this mitzvah for otherwise there will be many (unresolved) disputes and many Torahs.

The Chinuch (496) adds that even if they err we should act according to their error. It is better to suffer one error and have everyone subject to their leadership always, than have everyone act according to his own opinion. This would destroy the religion, split the people and undo the nation completely. The Chinuch concludes that we must obey the gedolim in Torah wisdom and our judges in our generation. Earlier (495) he concludes that one who does not follow the advice (atzas) of the gedolim of the generation in Torah wisdom violates this mitzvah. His punishment is great, since this mitzvah is the strong pillar on which the Torah rests.

II "If all of Israel will err, and a matter was hidden from the eyes of the people, and they ruled that a serious Kares violation is permitted, and the people sinned based on their ruling" (Vayikra 4:13 with Rashi). The possibility that the Sanhedrin (the eyes of the people) err is thus acknowledged by the Torah. Since the people properly followed the Sanhedrin, each "sinner" is exempt from the korban chatas required of one who commits such a sin unintentionally. Instead, when the mistake becomes known, a single offering is brought for the entire nation, with the participation of members of the Sanhedrin (4:14-15 with Rashi). This reinforces the ideas expressed by the Ramban and the Chinuch in Parshas Shoftim, regardless of whether such a serious error ever happened or not. The Gemara (Gittin 56a) attributes the destruction of the second Bais Hamikdash to an apparent[1] rabbinic error by R' Zecharya ben Avkulas. He should have allowed a blemished offering to be brought as pikuach nefesh demands, or ordered Bar Kamtza killed (Rashi) as a rodef. Some explain that he was exceedingly humble (anvesanuso), and felt he was not qualified to make such a difficult decision (Maharatz Chayos). Others suggest that he was by nature indecisive (as in Tosefta Shabbos 17:4).

The Chasam Sofer defends R' Zecharya by explaining that until that incident it was unthinkable that a Jew would react to a small indignity by actually slandering the Jews with a false accusation that they rebelled against the Roman authorities. In retrospect, Bar Kamtza should not have been embarrassed by another Jew, and R' Zecharya should have recognized that there was in fact real danger to life. Henceforth, one should always fear the consequences of his action or inaction (55b, Tosfos d.h. Ashrei).

The Kovetz He'aros (49:7,8) suggests a halachic error. The Rabbis wanted to offer the blemished animal for the sake of peace with the Roman kingdom, i.e. pikuach nefesh. R' Zecharya responded, "They will say a blemished animal may be offered." If so, a violation will occur when life is not in danger. This halachic argument, however, is incorrect, since causing a sin (lifnei iver) is also set aside for pikuach nefesh.

In sum, R' Zecharya's error may have been halachic, similar to one of Sanhedrin in Parshas Vayikra. Or, it may have been excessive humility, indecisiveness, or a faultless inability to imagine an unprecedented threat to life.

III Later (56b), R' Yochanan ben Zakai (RYB"Z) asks the Roman general Vespasian for Yavne and its scholars, R' Gamliel's family, and a doctor to heal R' Tzadok. R' Akiva criticized RYB"Z, arguing that he should have asked Vespasian to spare Yeushalayim. RYB"Z thought Vespasian would not have agreed to such a great request, and settled for a small salvation (hatzala purta).

R' Akiva invoked the pasuk (Yeshayahu 44:25), "Hashem turns wise men backwards and their thinking foolish." In his view, RYB"Z made a colossal error in judgement, not in halacha. Usually, the advice of gedolei Torah is unerring. One who learns Torah lishma merits many things. From him is the benefit of counsel (eitzta) and wisdom (Avos 6:1). Only Hashem's intervention caused RYB"Z to make an unwise decision.

But was it really unwise? Perhaps R' Akiva was wrong, and Vespasian would not have granted a request to spare Yerushalayim! This can never be proven

or disproven. On his deathbed, RYB"Z did not know his fate in the afterlife (Brachos 28b). He was still unsure if his momentous decision was correct or not (Rav Soloveitchik, Chamesh Derashos, p. 35).

Errors have been attributed to great rabbanim over the generations, in halacha and in advice. Yet, as the Chinuch writes, we are duty-bound to follow gedolei Torah in every generation in both areas, as the alternative is halachic anarchy and, usually, poorer advice. Major errors are the exception, and, per R' Akiva, result from Divine Intervention. During the past century, such mistakes of great Rabbonim, in the face of unprecedented dangers, may be errors only retrospectively, as the Chasam Sofer explains.

IV Parshas Shoftim concludes with the egla arufa. The elders, i.e. the Sanhedrin (Rashi 21:2), say "Our hands have not spilled this blood (of the victim, 21:1) and our eyes did not see (21:7)." Would you think that the Sanhedrin are murderers? Rather, [they are declaring that] we did not see him leaving and did not send him off without food and without escort (Rashi, from Sotah 45b).

Sforno (21:4) writes that the killer was unknown to the Sanhedrin. Had they known, they would have eliminated him. They did not spill blood (21:7) means that they did not leave any known murderer in the land.

What if they did not escort the victim, or eliminate a known murderer? R' Chaim Kanievsky (Nachal Eisan 15:2) rules that in such a situation they cannot say "Our hands etc.," and perhaps cannot perform the egla arufa ritual at all.

In a recent letter (24 Tishrei 5781) R' Asher Weiss wrote: We are ashamed that each day people, including great rabbis, pass away from COVID-19, and we cannot say "Our hands did not spill this blood." This presumably refers to rabbanim who did not take and require precautions in the face of the plague, as their illustrious predecessors, from Talmudic times through the 19th century, did with alacrity. We must be more strict than the government, not less.

Rabbinic error, then, can be responsible for the loss of life r"l. Whatever the reason, we must learn the bitter lesson and be vigilant in the face of the recent uptick in COVID-19 (through the Delta variant). Proper medical and halachic rulings, and advice, must be followed (see Rabbi Mayer Twersky, Do not be Exceedingly Righteous).

The Chinuch applies the mitzvah to obey the Sanhedrin to the rulings and advice of gedolim in Torah wisdom of every generation. While the definition of a gadol b'Torah is not precise, practices not sanctioned by any gadol may not be adopted.

In the absence of the Sanhedrin, there is no majority rule amongst gedolim. One can choose a gadol, or his disciple, as his rav (see Pillars). In communal matters, the greatest gedolim should be our guides, in strictly halacha as well as in halachic policy decisions. Recent gedolim, from the Chazon Ish (Pe'er HaDor vol. 5 p. 52,53) to Rav Soloveitchik, (Yalkut Hamoadim p. 711, Divrei Hagos V'Ha'arach, p.187) have expressed this notion (even though they differ in their reaction to those who only defer to gedolim on strictly halachic matters.)

Notwithstanding rabbinic fallibility, obeying the rulings and advice of one's rav is the better alternative, as the Chinuch teaches. May we learn these lessons and thereby merit the return of the Sanhedrin with the coming of the Mashiach.

[1]See Contemporary Halachic Problems, vol. 3 p. 82.

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Shofetim: Building and Defending a Just Society

by **R. Gidon Rothstein**

From its start, Parshat Shofetim turns our attention to the steps needed to develop and sustain the kind of society Gd wants. The first words of the

parsha start us off, shofetim ve-shoterim, the obligation to establish judges and enforcers.

Justice in Israel and Out

Ramban points out the verse, 16:18, speaks of such judges be-chol she'arecha, in all your gates. We might have thought the term limited the commandment to Israel, except Bamidbar 35:29 speaks of cities of refuge (also in our parsha, although we will not have the space to discuss them) as a law that applies to all our habitations, implying a functioning legal system outside of Israel.

Makkot 7a instead says the words in this parsha tell us the every city in Israel means must have a court, where outside of Israel, only every region of Jewish habitation must. Ramban adds the obligation is only in full force when judges have the semicha given by Moshe to his students, from there by teacher to student through the generations. Lost in the time of the Talmud, Ramban says the mitzvah of appointing judges will not return fully until that semicha is recovered (he probably meant by the arrival of Eliyahu in the run-up to the Messianic era; Rambam had offered another idea as well).

The Delicacy of Justice

Several of the Torah's comments and warnings to judges show why we would need them to be well-trained. The first verse of the parsha defines their job as to judge mishpat tzedek, a phrase Onkelos renders din de-keshot, true justice. Tzedek would usually mean righteous or proper, Onkelos seems to want to stress the need for reaching the truth.

One way to lose the truth comes when 16:19, the next verse, says bribery blinds the eyes of the discerning, vi-salef divrei tzaddikim. Where translations take it to mean will stop litigants who are correct from presenting their claims well, Onkelos says it destroys words that should have been well-formulated. Even before the judges know where the truth lies, a bribe will stop them from registering well-presented claims as they should have.

Rashi ratifies both of Onkelos' ideas, the concern with allowing for proper presentation of evidence and of avoiding the insidious effects of a bribe. When 16:19 warns lo takir panim, do not favor a litigant, Rashi says treating either litigant better—speaking more softly, allowing him/her to sit—will interfere with the other litigant's ability to present his/her case in the best way.

The same verse says bribes blind the discerning, to Rashi a reminder a bribe will color how the judge sees the evidence, will make it harder if not impossible to see the truth.

Preserving the System with Public Justice

In two cases in the parsha, the Torah makes a point of the importance of the populace at large hearing of the punishment. For a zaken mamrei, 17:13, a Torah scholar who refuses to accept the judgment of the Sanhedrin, and for edim zomemim, 19:20, witnesses put to death for having presented false testimony in a capital case, the Torah tells us to be sure the nation hears about it.

In these instances, at least, punishment comes also to teach a lesson to others. Some of whom, Rashi reads 19:13 to indicate, might think there's no point in the death penalty, especially for a murderer, since it will not bring back the victim.

Justice is worth it even if it seems to cause damage in the short term to build a society where justice reigns.

It's Not All In Our Hands

Humans cannot control all of society's needs, however, such as in knowing the future. After a series of prohibitions of forms of divination, 18:13 commands Jews to be tamim, whole, with Gd. Rashi thinks it urges us to leave the future to Gd, not to work too hard to figure out how it will look, to accept all Gd sends with equanimity.

Ramban focuses the command as a reminder to look only to prophets for predictions, to keep in mind Gd can change even what seems the most certain path of event. As he had said for judges, Ramban thinks the Land of Israel has an advantage in terms of prophets. When 18:15 says Gd will establish a prophet mi-kirbecha, from among you, Ramban says it only

happens in Israel . Me-ahecha, from your brethren, means only Jews, non-Jews such as Bil'am in this view more sorcerers than prophets.

Side by side with an assiduous concern with human-administered justice, the Torah limits Jews to prophecy as the only method of accessing information about the future.

Gd Helps Us in War

The end of the parsha teaches us about going to war, another human activity where Jews are supposed to keep Gd in mind. The kohen who exhorts the people on their way out reminds them not to be afraid of the battle, because your Gd is "going with you, to fight for you." Onkelos consistently translates le-hillahem, to fight, as le-agaha lechon kerav, to wage war for you, without worrying about the element of physicality he usually avoids. Gd producing victory on our behalf is waging war, however it happens.

Ramban emphasizes the faith element, the confidence Gd can help us win without any casualties, should we merit it. Armed with such certainty, the Jew would engage without any fear, as the kohen adjures.

Some people will not reach that level of certainty about Gd. After the kohen finishes, the shoterim, the law-enforcers, announce exemptions. Most have to do with people in the middle of an important life event (betrothed a woman but not yet married her, for example); 20:8 also has them discharge a man who is afraid.

Ramban records the two views in Sotah 44a, R. Yose HaGlili thinks this man must know of a personal sin that would exclude him from Gd's protection, otherwise the kohen's words should have assuaged his fears. R. Akiva took it more literally, someone who was still afraid, for whatever reason.

The verse ends with an apparent explanation, to avoid him infecting fellow soldiers with fear. Ramban notes Behag took this as a prohibition against staying, the fearful Jew must leave the camp to be sure he not spread his negativity.

The end of the passage, verse nine, brings back the mundane in a most casual way, after the shoterim finish their list of exemptions, they appoint officers for the upcoming war. Ramban emphasizes the point, despite our being obligated to trust Gd will conduct the war for us, we also must act as if we are engaging an ordinary human war, with a chain of command .

It pulls us two ways. If we truly trust Gd, how do we motivate ourselves to ordinary efforts? On the flip side, if we make those efforts and win, how will we remember Gd's role?

The Problematic Enemy

Divrei Ha-Yamim II:28;15 tells of a war between the two later Kingdoms of Israel. The Northern Kingdom won this war, then clothed and fed the captives they had taken, brought them to Yeriho, and freed them. Rashi says 20:3 stresses the wars of conquest of the Land will be against oyeyeichem, your enemies, to remind us we cannot expect such beneficent treatment.

Wars with non-Jews cannot expect such treatment.

Jews also seek to avoid unnecessary killing. Before every war, the Jews would call for peace, 20:10-11, to hold out the option of tribute and servitude (for faraway cities; ones in Israel would also have to commit to relinquishing worship of powers other than Gd). Ramban assumes this option was given to all cities, and the people of Giv'on—who tricked Yehoshu'a into a treaty—either misunderstood, thought their deadline for accepting peace had passed, or were unwilling to accept the terms the Torah tells Jews to offer. The default, though, is to offer ways to avoid killing and death.

If those do not work, we indeed must kill any members of that society (unless they flee). The Torah, 20:18, says it is that they not teach or lure us to adopt the abominations they did to their gods. For Ramban, the Torah means they will convince us to worship Gd the way they worshipped their gods.

One non-Jew would be enough to introduce a form of worship we will find attractive and convince ourselves makes sense to use in serving Gd, he says. It is that danger that precludes leaving even one such non-Jew around.

Start to finish, the parsha lays out ways for Jews to build a successful and successfully Gd-focused society, in law and order within the society and when our society encounters another one, in war.

From: Michael Hoenig <MHoening@herzfeld-rubin.com>

Date: Tue, Aug 10, 2021, 6:16 PM

Subject: Mitzvah Connection -- Parshas Shoftim -- LEMA'AN TICHYE

The following is a Mitzvah Connection from Parshas Shoftim (16:20) :
LEMA'AN TICHYE ----

Parshas Shoftim opens with Moshe directing B'nai Yisrael to appoint Judges and Officers of the Court " in all your cities " to render (and enforce) righteous judgments in resolving disputes . (16:18) (VeShoftu Es HaAm Mishpat Tzedek .) A judgment may not be " perverted " by bribe or other favoritism . (16:19)

Then comes one of the most famous adages in Chumash : " Tzedek ,Tzedek Tirdof , LEMA'AN TICHYE ". (Righteousness ,Righteousness Shall You Pursue, SO THAT YOU WILL LIVE And Possess The Land That Hashem ... Gives You .) (16:20) What does LEMA'AN TICHYE , SO THAT YOU WILL LIVE, have to do with the pursuit of righteousness within a justice system ? Is there some cause-and-effect relationship between the pursuit of righteousness and the ability to LIVE ? Artscroll's Commentary on Chumash (Stone ed., Shoftim, 16:20) cites the Gemara in Sanhedrin 7a that the " implication is that the judge who perverts justice will die ." It further cites Maharal to explain that " God is very harsh with a judge who knowingly tampers with justice because to deprive someone of his money unjustly can be a matter of life and death, for his life can depend on his livelihood ."

Interestingly, the words, Tzedek, Tzedek (Righteousness, Righteousness) are repeated to emphasize that not only must justice be done, it must be achieved in a just way, not through injustices or inappropriate means . " The Torah teaches here the principle that the end does not justify the means ." (Rav Elie Munk, Kol HaTorah, at 16:20). Artscroll's Chumash commentary attributes to R' Bunam of P'shis'cha the homiletical message that " one should pursue righteousness [only through] righteousness ; it must be done through honest means; the Torah does not condone the pursuit of a holy end through improper means." (Artscroll Chumash, at 16:20)

Rav Shamshon Raphael Hirsch explains that the concept of Tzedek (Right, Justice) is the "highest unique goal, to be striven for purely for itself, to which all other considerations have to be subordinated ." It forms " all private and public matters IN ACCORDANCE WITH GOD'S TORAH " and is to be kept in the mind of the whole nation . (16:20)

To pursue this goal unceasingly with all devotion is Israel's one task -- LEMA'AN TICHYE VeYarashta -- that Israel has done everything to secure its physical (TICHYE) and political (VeYarashta) existence .

Rav Hirsch notes too that , in Sanhedrin 32b, the repetition of Tzedek, Tzedek is further explained that " every judicial activity even if it is not to make a decision but only to arrange a compromise must be guided entirely by impartiality " (Tzedek , Tzedek Tirdof, Echad LeDin VeEchad LePeshara) . Thus, even in compromise, Peshara , the arrangement of an amicable agreement between the contending parties, the Judge may not favor one party more than another .

Although Sanhedrin 7a links LEMA'AN TICHYE , SO THAT YOU WILL LIVE , to the implication that the perverting judge will die, others suggest a broader view of " life " in this context . Thus, Rashi, quoting Sifre, declares that the appointment of honorable judges is " so important that in itself it is sufficient to KEEP ISRAEL ALIVE and to ensure that they will live upon their Land ." (Rav Munk, Kol HaTorah, at 16:20, citing Rashi .) Justice is the backbone of the state. Without it, the state cannot survive . (Ibid.) Rav Hirsch also, as above noted, suggests that LEMA'AN TICHYE relates to Israel's survival, the nation's physical existence . Tzedek forms all private and public matters IN ACCORDANCE WITH GOD'S TORAH . According to these broader views, the LIFE to be sustained by pursuing righteousness is that of Yisrael the nation . The connection between Tzedek and Life and Torah is pervasive .

LEMA'AN TICHYE equals 613 . Mitzvah Number 613 is : VeAtoh Kisvu Lochem Es HaShira HaZos . --- " And Now, Therefore, Write This song For Yourselves ." It is a Mitzvah for every Jewish male to write a Torah scroll

for himself . If one is not skilled to write one himself, he can fulfill this Mitzvah by hiring a qualified Sofer (scribe) who can write one for him . Since the main purpose of this Mitzvah is to have every Jew be personally involved and thoroughly familiar with all the Torah's Mitzvos, Chazal teach that those who cannot afford to hire a Sofer to write a Sefer Torah should at least buy Seforim (sacred religious books) from which they will study Torah . 613 is also the number of explicit Torah Mitzvos , signifying that our LIVES are to be lived in accord with Torah obligations.

The Torah is the blueprint for all manner of righteous behavior, within the justice system and outside, in our relationships with others and Bein Adam LeMokom . We acknowledge in our prayers that Torah is an EITZ CHAYIM HI LEMACHAZIKIM BOH --- A Tree Of LIFE For Those Who Grasp It . It is a source of and sustainer of LIFE . Torah's relationship to Tzedek, indeed the ultimate form of Tzedek, is reflected in the same Prayer : Hashem Chofetz LeMa'an TZIDKO, Yagdil TORAH VeYa'Adir -- " Hashem Desired For The sake of ITS [ISRAEL'S] RIGHTEOUSNESS , That The Torah Be Made Great And Glorious ." In the Prayer when we return the Torah to the Ark, we again recognize the basic and primary linkage between Torah and its nature as a Tree of Life . (U'Venucha Yomar) Since the relationship between Tzedek, Torah and a wholesome LIFE is palpable and a core of the nation's existence , the Mitzvah Connection to LEMA'AN TICHEYE seems quite strong .

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Parshas Shoftim In The Shadow Of Hashem

"You shall observe the festival of Sukkos...Judges and officers you shall appoint..." (16:13,18)

Although Ezra the Scribe divided the Torah into the weekly portions as we know them, there is another system which is used to divide the Torah, that of "pesuchos" and "stumos", literally "open" and "closed". A pesucha is roughly translated as a new chapter and a stumah as a new paragraph. A pesucha begins as a new line, while a stumah begins on the same line. The section of the laws of judges is a parsha stumah, a new paragraph, but not a new chapter.[1] Therefore, there must be a significant connection between these laws and the laws of Sukkos, which concludes last week's parsha.[2] The judicial system in Israel requires that every city contain a minor Sanhedrin consisting of twenty-three judges. The Talmud teaches that a city must be populated with a minimum of one hundred twenty people to warrant a judicial system. Each judge has two understudies.[3] What is the rationale for requiring a city of one hundred twenty people to have sixty-nine judges? Why the need for so many courts throughout the land?

The function of the Jewish court system is not only to dispense justice and restore order; a judge is the conduit for the word of Hashem and must create a society where Hashem's presence is felt. A Jewish law-abiding citizen must observe the law, not due to a fear of retribution, but a fear of sin. A system which is predicated upon the notion that people will not violate the law due to their fear of the consequences cannot succeed. The reason for this is as follows: If a person perceives the rewards for violating the law to be worth the risk of being caught, he will violate the law. The only effective system is one where a person perceives that it is intrinsically wrong to violate the law. This can only be achieved if people feel the presence of Hashem in their midst. The function of the judge is to create this atmosphere. If the purpose of the judicial system were to create fear of punishment, there would be no need for so many judges. Bolstering the police force would be more effective. Since the purpose of the judge is to create a society where Hashem's presence is tangible, we understand the need for such a large number of judges.

A major theme pertaining to the festival of Sukkos is that we leave our houses in order to go into the "shadow of Hashem".[4] The Sukkah is a place

where Hashem's presence manifests itself. Therefore, the connection between the festival of Sukkos and the judicial system is clear. The judicial system serves to create the same atmosphere throughout society, which is found in the Sukkah.

1.Yad Hilchos Sefer Torah 8:1,2 2.16:13-17 3.Yad Hilchos Sanhedrin 1:2
4.See Bnei Yissoschor Maamer Chodesh Tishrei #9

Protection For The Way

"If a corpse will be found on the land..." (21:1)

When a Jew is murdered and the perpetrator is not found, the city closest to the corpse assumes the responsibility of performing the ritual which will bring atonement to Bnei Yisroel for this heinous act. During the procedure, the elders of the city declare, "Our hands have not spilled this blood." [1] The Talmud questions the need for this statement. How could we suspect the elders for culpability in this crime? The Talmud explains that they must declare that if this individual had visited their city he would have received the necessary "hachnasas orchim"- "hosting guests" and would not have departed unescorted and without provisions.[2] Implicit in the Talmud's answer is that if the victim would have been accompanied and supplied with provisions, he would not have been killed.

The Maharal notes that the mitzva of "levaya"- accompanying a guest, only requires accompanying the guest eight feet out of the house, one does not require escorting him to the next city. Additionally, we do not find anywhere that one must be armed when accompanying a wayfarer. Therefore he asks: How would accompanying the guest have helped protect him? [3] The Rambam in his Yad Hachazaka comments that of all various components of "hachnasas orchim", the "livui" – "the accompanying of the guest" is the greatest part of the mitzvah. How can livui be more important than feeding or giving the guest a place to rest? [4]

A visitor to a city or someone who is lost is generally more susceptible to being mugged or robbed than someone who lives in that city. The reason for this is that there is a certain profile which a mugger searches out to identify his "mark". Someone who is unfamiliar with his surroundings tends to project his lack of confidence in the manner by which he carries himself. Thus, he is more prone to being attacked.. When we accompany a guest for even a short distance, we convey the message that we are disappointed that he is leaving us and we wish we could be with him. This gives a person a strong sense of belonging. He feels connected to the community from which he just departed. Such a person walks with an air of confidence which will dissuade most muggers from attacking. In contradistinction, even if we give him to eat but do not accompany him a few steps when he leaves a city, he feels disconnected and emotionally weak. This will be expressed by a gait that projects his lack of confidence, resulting in a greater propensity for a crime to be perpetrated against him.

1.21:7 2.Sotah 45b 3.Chidushei Aggados Sotah 45b 4.Hilochs Avel 14:2
Body And Soul

"You are children to Hashem, your G-d – you shall not cut yourselves..." (14:1) The Torah juxtaposes the statement "banim atem laHashem" – "you are children to Hashem" to the prohibition "lo sisgodedu" – "you shall not lacerate yourselves". Rashi explains that since we are Hashem's children we should not deface our bodies.[1] The Talmud teaches that there are three partners in the creation of a human being, the father, the mother and Hashem. Parents supply the child with physical characteristics and Hashem supplies the child with a soul.[2] Why does the verse describe our relationship with Hashem as His children in the context of safeguarding our physical form?

From the expression "lo sisgodedu" the Talmud derives the prohibition against separate factions observing divergent Halachic practices within the same community ("aggudos" – "groups").[3] Since the prohibitions against lacerating ourselves and having separate factions are both derived from the same expression, a unifying thread between them must exist. What do they have in common?

In the first paragraph of the Shema we are commanded to teach our children Torah, "veshinantam levanecha".[4] Rashi comments that "your children"

refers to “your students” for a person’s students are considered as his children. To support this notion Rashi cites our verse in Parshas Re’eh, “banim atem laHashem” – “you are children to Hashem”.[5] How does this verse indicate that a person’s students are his children? It is apparent from Rashi’s comments that he understands that through the study of Hashem’s Torah we become His students, and can therefore be referred to as His children.

The Mishna teaches that a person is obligated to return his teacher’s lost object prior to returning an object lost by his father, for his father provides him with a finite existence while his teacher offers him an infinite existence.[6] The Torah taught by his teacher not only guarantees the soul an infinite existence, but also elevates the body given to him by his father from a physical and finite state to a spiritual and eternal state.

Although Hashem is clearly the source of the soul, Torah study enables the body to be perceived as a product of the same source. This message is punctuated by the commandment against lacerating our bodies because we are Hashem’s children; through Torah study we become His students and thereby His children, body and soul. The reconciliation between body and soul is the ultimate proof that we emanate from one source. Since only the Torah is able to accomplish this reconciliation, it is of the utmost importance that the Torah itself be viewed as emanating from one source. Any action distorting this truth undermines the efficacy of the Torah to unite and reconcile all apparent divergent forces in creation. It is therefore self-evident that separate factions observing divergent Halachic practices within the same community cannot be tolerated.

1.14:1 2.Niddah 31a 3.Yevamos 13b 4.6:7 5.Ibid 6.Bava Metziah 33a

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<http://peninim.org/2021/08/11/>

Rabbi A. Leib Scheinbaum

You shall not slaughter for Hashem, your G-d, an ox or a lamb or kid in which there will be a blemish. (17:1)

5781

The animal that is brought up as an offering to Hashem must be without blemish. Chazal (Sifri) detail a variety of disqualifications which invalidate a sacrifice. The shoresh, root, of this mitzvah is quite understandable. A person who brings a korban, sacrifice, is to focus his thoughts towards Hashem. A human being is affected by the strength of his actions. Hence, it is only proper that the sacrifice he offers be without blemish. This reflects the idea that the intentions of a man neither rest – nor become focused – upon a lesser sacrifice as they would upon a more important sacrifice. The distinguished and perfect in its species arouse and inspire hearts. In other words, one who offers the korban will be inspired to a greater extent by an unblemished animal, because, in his mind, it has greater value. Furthermore, it demonstrates greater reverence for the Temple and its service when the subject of the sacrifice is unblemished.

The concept of baal mum, blemished, does not apply exclusively to the animal species. Human beings can also be categorized as blemished. I do not refer to physical impediments, but rather, the character defects brought on by a lack of refinement. Chazal (Megillah 29a) state: One who is conceited is a “blemished person.” Our sages view conceit in a human being as a failing on par with a blemish. Why is arrogance viewed as a blemish? How does conceit compare to a physical impediment?

Horav Yitzchak Zilberstein, Shlita, explains that the most significant shortcoming of one who has a physical impediment is manifest primarily in his ability to move about, to locomote with ease and comfort. One whose limbs do not permit him to go where he pleases and do what he wants is impeded. When we consider the “affliction” of arrogance from a practical point of view, we note that an arrogant person has, due to his conceit, impeded himself from serving Hashem properly. He refuses to ask someone for help in understanding a Torah passage, because this would be an indication that his Torah knowledge is deficient. Likewise, he would rather daven in the seclusion of his own home than go to shul where he will not be

granted the honor that he feels he deserves. The conceited person limits where he goes, functions that he attends, because he has convinced himself that they are below his standard. If it does not match up to his preconceived demands, then he sits in seclusion. Without kavod, honor, it is just not worth going out. There is no greater encumbrance than one who suppresses himself. Such a pitiful person is truly blemished.

No more “perfect” person exists than one who adheres to the strictures of humility. Indeed, the less one thinks of himself, the less that can go wrong and the less that can be pointed out concerning him. He has diminished himself to the point that no one focuses on his purported deficiencies. On the other hand, one who positions himself in the centerpiece of another fellow’s scrutiny is asking for trouble. The anav, humble person, is out of sight, while the arrogant person is looking for attention which may not always be positive.

Rav Zilberstein relates that Horav Shmuel Rozovsky, zl, represents humility at its apex. He was the premier maggid shiur, lecturer in Talmud, not only in Ponovezh, but throughout Eretz Yisrael. The Brisker Rav, zl, referred to him as the Rosh Roshei Yeshivos, the head (premier) of the Roshei Yeshivah. When Ponovezh had just opened its doors the yeshivah had no operating fund, because it had no money. The student body was small, numbering about fifty students. Due to the lack of funds, it was impossible to secure the services of someone to maintain the sanitary conditions of the yeshivah. The Ponovezher Rav, zl, traveled throughout the globe fundraising for the yeshivah, and Rav Shmuel was left to assume the responsibility of providing for the spiritual sustenance of the young men. It is difficult to focus on learning when the environmental conditions are far from appealing. Thus, during this period, Rav Shmuel would come to the bais hamedrash early in the morning, lock the doors and pull down the shades, take out a broom and dustpan, and sweep the floors. He would take a mop and water and wash the floor. When the students entered the study hall for morning davening, the room was spotless. No one had the faintest idea of the identity of the new maintenance crew.

When Rav Shmuel lay on his deathbed surrounded by his family, he cried out in pain and said, “With what am I ascending to the Heavenly Throne?” (He was intimating that he was unworthy of any spiritual reward.) This was a question posed by the preeminent Rosh Yeshivah, whose lectures served as the lodestar for navigating the difficult subjects of Talmud. Finally he said that perhaps the merit earned by maintaining the cleanliness of the bais hamedrash would serve on his behalf.

Horav Aharon Leib Shteinman, zl, was asked concerning a choice of surgeon for a major procedure. One surgeon was highly-skilled but he had an arrogant bedside manner that left much to be desired. The other surgeon was skilled, but not in the same league as his colleague. His character was impeccable, however, manifesting unparalleled humility and warmth both to the patient and his family. Does skill trump character refinement? Rav Shteinman replied that concerning the surgeon who was arrogant, Hashem says, “I and he cannot live together.” Hashem does not tolerate arrogance. Why would anyone choose a surgeon who does not have Hashem’s support? On the other hand, while the second surgeon may be less skilled, having Hashem at his back will grant him a successful outcome.”

And he shall not have too many wives. (17:17)

Shlomo Hamelech thought that his superior wisdom would protect him from the pitfalls which the Torah specifies await the king who transgresses its limitations on horses, wives and wealth. Chazal (Midrash Rabbah Shemos 6:1) teach that when Shlomo violated the mitzvah of Lo yarbeh lo nashim, “He shall not have too many wives,” the letter yud of the word yarbeh (too many) came before the Almighty, bowed and said, “Ribon HaOlomim, Master of the Universe, Did You not say that no letter of the Torah will ever be abrogated? Yet Shlomo stands here and has nullified me. Perhaps today he is nullifying only one mitzvah, but tomorrow he might decide to do likewise with another mitzvah until, Heaven forbid, he will nullify the entire Torah!” Hashem replied, “Shlomo and thousands like him will be nullified

(come and go), but not one point of you will ever be nullified." (The yud will never be abrogated.)

The commentators ask the obvious question: Yarbeh is comprised of four letters. Why was the yud the one letter that took a stand? The Chida, zl, offers an insightful explanation which is as brilliant as it is simple. The sole reason that Hashem permitted David Hamelech and his son, Shlomo, to gain entry into Klal Yisrael was the yud. When Rus married Boaz, some protested that the Torah prohibits a convert from Moav from being accepted into the Jewish fold. Lo yavo Amoni u 'Moavi b'k'hal Hashem; "An Amoni or Moavi shall not enter the congregation of Hashem" (Devarim 23:4). Chazal (Yevamos 76b) expound that this prohibition applies only to the males, and not to the women: Amoni v'lo Amonis; Moavi v'lo Moavis. Had it not been for the yud at the end of each word, which designates only the male converts as unacceptable, David and Shlomo would not have been permitted into the fold. Thus, it was for good reason that the yud claimed its honor. After all, it was the reason that Shlomo achieved status as a Jew.

The Lev Simchah observes (based on a commentary of the Sfas Emes) that one who sins annuls his letter in the Torah. This is based on the Sifrei Chassidus, which note that the Torah contains 600,000 letters, just as Klal Yisrael contains 600,000 neshamos. Thus, each Jew has his personal letter designated in the Torah, from which he receives spiritual sustenance. Shlomo Hamelech was endangering his letter yud by ignoring the Torah's prohibition.

The Chafetz Chaim, zl, explains this further, asserting that even if one Jew were to violate or ignore one of the 613 mitzvos, it would not be negated because someone else would perform the mitzvah. The mitzvos that apply to the melech Yisrael pertain to one – and only one – person: the melech. Thus, if Shlomo would not fulfill the mitzvah, no one else could step in and save the day. If Shlomo ignored the prohibition, the mitzvah would be vacated, and, with it, a letter of the Torah.

Who is the man who is fearful and fainthearted? Let him go and return to his house. (20:8)

Who is the man who is fearful and fainthearted? Let him go and return to his house. (20:8)

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Weekly Parsha SHOFTIM 5781

Rabbi Wein's Weekly Blog

This week's Torah reading envisions for us an efficient, organized system of law and order, justice, and fairness. The Torah set a very high bar regarding the selection of judges and police. They are to be free of prejudice, bias and personally held agendas and social ideals. They are literally to be blind, without knowledge as to the nature and personalities of the litigants who appear before them and whose cases they must decide. The judges must be free of any form of corruption, from open graft to simple courtesy.

The Talmud records for us that the great Mar Shmuel, the head of the Academy of third century, Nehardea in Babylonia, was walking across a narrow bridge when the person coming towards him honorably made way so that the Rabbi could pass. Later in the day, this very same person appeared as a litigant before Mar Shmuel in a case before his court. Afraid of being influenced by the courtesy extended to him by this person, by allowing him to pass first on the narrow bridge, Mar Shmuel disqualified himself from judging the matter.

While such standards of justice that are outlined in this week's reading are almost impossible for human beings to achieve, we all are influenced by great and small things that occur to us, and by previous prejudices that have been instilled into us by events and societies. Though justice may be blind, the justices themselves rarely, if ever, are able to obtain the necessary level of fairness that the Torah seems to demand. Yet, we are aware that the Torah

was not granted to angels, but rather, to human beings, and human beings are never perfect and always have, within themselves, prejudices and preconceived ideas regarding policies and judgments.

The Torah set standards for us to try and achieve. It never demands the impossible from human beings. So, the requirements set forth in this week's reading are the goals that we must try to achieve. We must pick the best, wisest, least prejudice, most honest people of integrity, that we can find in our midst, and appoint them as judges and police. Yet, the Torah reminds us that ultimate justice belongs to the Lord.

Mistakes that we make here on earth, in the long run of time and eternity, are always rectified by Heaven. We should be comforted by this. The Talmud teaches that a judge can only judge what he sees and understands, with the human condition appearing before him. Heaven, however, has the ability to see everything, in terms of eternity, in terms of ultimate justice and fairness to all. It is without limited knowledge, therefore, that we are to do our best, and realize that ultimate justice is not done here on earth, but, rather, subject to the guidelines of Heaven. We can only attempt to create the best system of justice that is possible, within the constraints of human behavior and society.

Shabbat shalom Rabbi Berel Wein

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 councillors' (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, BAMAOKOM 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 of 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 leadership 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

=====

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.

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."

- Who forms the first standing army?
- Who first decides to construct the Bet HaMikdash?
- Who is the first to levy taxes?
- 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 "chalah" [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'chein 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'veayr" [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'chein 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 creative 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 "eglal arufa") from occurring in the first place.

A GOOD TEACHER

If we follow Ibn Ezra's approach, this finale pasuk to the laws of "eglal 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 "eglal arufa" are not quite ritual, but rather a set of very wise steps to increase the chances that the true murderer 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 "eglal 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-darasha"], 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.

QUESTIONS:

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 (mitzvah asei) to obey the Great Court, and a negative command (mitzvah 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 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 [Hazal] 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-HINUHKH, 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 ELIYAHU 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 out 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

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 *Egla 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 Hevron, 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-geared 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 owning 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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