

Potomac Torah Study Center
Vol. 9 #49, September 2, 2022; 6 Elul 5782; Shoftim 5782

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 more than 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 archives.

Because I have extra obligations and some travel this week, I must post my Devrei Torah early. For lack of time, I am using my message from last year with a few additional comments. Moreover, the Internet Parsha Sheet will not be ready until after midnight on Thursday. You will be able to find and download it on Friday morning at www.parsha.net
Although Alan could not include it in the emailed Devrei Torah, I held the web version until the Internet Parsha Sheet was available, and it is included here. -BL

Parshat Shoftim focuses on government, the legal system, and their impact on individuals. 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 prophesy. 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 Jewish shshotrim 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 story from New York from last year. 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 last year, when the African Union invited Israel to observe its sessions and address the union, after expelling Israel nearly 20 years ago. The UN this year accepted the delegate from Israel to be a vice president. More countries, perhaps even the United Kingdom, are considering moving their embassies to Jerusalem. Are things looking up for Israel?

Unfortunately, there are many counter examples. For example, when I was studying for my Ph.D. at the University of California (Berkeley), I took a course in the law school. Ten student groups at the law school earlier this week pledged (with by-law changes) not to permit any Zionist or pro-Israel speakers at the school. The Dean of the law school "blasted" the groups' anti-Israel by-law and said that the language would prevent him from speaking at the school. BDS hate campaigns violate the Torah's proclamation to pursue justice justly. The atmosphere of hate against Jews individually and collectively in many parts of the world reminds us that Amalek still threatens our security. While there are some signs of improvement, there seem to be at least as many signs of worsening conditions.

My family observes the 15th yahrtzeit of my father, Shlomo ben David, Sam Fisher, this Shabbat (7 Elul). 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.

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 Shlemah for Yehoshua Mayer HaLevi ben Nechama Zelda, Yonatan Ophir ben Ilana, Leib Dovid ben Etel, Asher Shlomo ben Ettie, Mordechai ben Chaya, Hershel Tzvi ben Chana, Uzi Yehuda ben Mirda Behla, David Moshe ben Raizel; Zvi ben Sara Chaya, Eliav Yerachmiel ben Sara Dina, Reuven ben Masha, Meir ben Sara, Oscar ben Simcha; Sharon bat Sarah, Noa Shachar bat Avigael, Kayla bat Ester, and Malka bat Simcha, who need our prayers. Please contact me for any additions or subtractions. Thank you.

Shabbat Shalom,
Hannah & Alan

Dvar Torah: Shoftim: What Makes Us Holy
by Rabbi Label Lam © 2007

*If a matter eludes you in judgment, between blood and blood, between judgment and judgment,
or between lesion and lesion, words of dispute in your cities, then you shall rise and go up to the*

place HASHEM your G-d chooses. And you shall come to the Kohanim, the Leviim, and to the judge who will be in those days, and you shall inquire, and they will tell you the words of judgment. And you shall do according to the word they tell you, from the place HASHEM will choose, and you shall observe to do according to all they instruct you. According to the law they instruct you and according to the judgment they say to you, you shall do; you shall not divert from the word they tell you, either right or left. (Devarim 17:8-11)
and to the judge who will be in those days: Although this judge may not be [of the same stature] as other judges who preceded him, you must listen to him, for you have only the judge [who lives] in your time. — [Rashi]

It's a big wonder. In many instances we make a blessing before the performance of a Mitzvoh reciting the words, "...Who has sanctified us with His Mitzvos, and commanded us to..." That would be all and well if we were only talking about Torah Commandments. However, in many instance this is the same intro to a Brocho, for example on lighting Chanukah Candles or Shabbos Candles, or washing our hands. The big wonder is that those who would otherwise dispute or belittle the Oral Torah find themselves making that very declaration, "and commanded us" when they light candle on Chanukah. Where were we commanded in the Written Torah to light Chanukah Candles or to wash our hands before eating bread? Who says?

We are asked are mandated by the verses above to follow the sages and not to depart from whatever they tell you. This is the source in the Torah lending power and credence to Rabbinical authority.

It was the sages who instituted Takanas and Gezeiros. Takanas are the equivalent of positive or the "do" -- active Mitzvos, like lighting Shabbos Candles. Gezeiros align with what's called the negative or "don't do" -- refraining Mitzvos, like Mukzah on Shabbos. It was Rabbinical Law that took the proverbial hammer out of our hands on Shabbos. Therefore, every Rabbinical Law is really, in fact, a Torah Commandment. We are commanded by the Written Torah to be obedient to the directives of the Rabbis. How is it then that they are allowed to add or subtract from the Torah? Didn't Adam create a great problem himself by telling Chava not to touch the tree when the caution was only with regard to eating?!

Let us go to Paris and visit the Louvre. There you will find some the most prized and priceless painting in the world. As we approach, for example the Mona Lisa, we begin to realize that she is placed out of reach. Her value is so high that a thick glass veil has been placed before her and electric beams signals when someone has encroached on her space. However, when you stand at the proper distance you can enjoy the authentic article as the artist, Leonard De Vinci had intended. The heavy glass is there to protect the integrity of the original painting. The electronic beams establish protective boundaries. It's all there, not to add to or alter the artist's intention, but to preserve it.

So it is with the Mitzvos generated by the Rabbinical authority. Also, when Adam told Chava not to touch the tree, he did not tell her that it was additional boundary. It was that misunderstanding that opened the door to a tragic error. Therefore since either right or left, Even if this judge tells you that right is left, and that left is right. How much more so, if he tells you that right is right, and left is left! -- [Sifrei] they are established by sages whose primary concern was preserving the integrity of the Torah, they are therefore an extension of Mitzvos. It makes perfect sense then that we say, "Who has sanctified us with His Mitzvos, and commanded us..." This is what makes us holy.

<https://torah.org/torah-portion/dvartorah-5774-shoftim/>

Can We Tolerate Dissent? Can We Not?

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

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

The Torah commands not only the appointment of judges and officers of the law throughout the land, it also sets up a High Court and takes serious measures to protect the authority of this court. We are told that when a matter cannot be resolved otherwise, we are to take it to the place that God has chosen – Jerusalem – and bring it before the "priests and

the judge who will be at that time" (17:9). This body, understood to be the Sanhedrin or High Court, will issue a ruling, and that ruling must be followed without deviation. Dissent will not be tolerated: "And the person who acts presumptuously, and will not listen to the priest who stands there to serve before the Lord thy God, or unto the judge, that man shall die, and you shall eradicate the evil from Israel" (17:12). The court will act harshly and decisively to stamp out any threat to its authority.

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

As far as the death penalty is concerned, the Rabbis have significantly limited its scope. While making it clear that the duty to follow the rulings of the court is incumbent upon everyone, the Rabbis have said that the death penalty of the verses is reserved for the *zaken mamre*, the rebellious elder. Only a great sage, a great legal scholar, can receive such a punishment. If he acts in opposition to the court, and not only acts, but – add the Rabbis – rules for others in this manner, then he has positioned himself as a competing legal authority. Theoretical debate is fine, but to rule in practice against the court is not fine. This can truly undermine the court, and must be stopped.

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

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

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

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

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

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

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

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

Shabbat Shalom!

<https://library.yct Torah.org/2014/08/can-we-tolerate-dissent-can-we-not/>

Righteous Judgment: Thoughts for Parashat Shofetim

by Rabbi Marc D. Angel *

“Justice, justice you shall pursue.”

Many have commented on the Torah’s repetition of “justice,” (tsedek). Repeating the word is a way of emphasizing how important justice is and how careful one must be in pursuing it. It has also been suggested that one must pursue justice in a just way, i.e., means do not justify ends, means must themselves be just and moral.

While the verse refers to judges, it also applies to everyone. We are all called upon to make judgments, and we all need to be very careful to be just in our deliberations.

In their book, *Noise*, Kahneman, Sibony and Sunstein point out how our decisions are impacted by many seemingly extraneous things. Although we think we are being objective, our evaluations can be skewed by how we are feeling, by the weather, by the time of day. It has been shown that judges tend to be more lenient if cases are decided early in the day or right after lunch. Doctors are more likely to prescribe opioids to patients they see late in the day. The authors point out:

“You are not the same person at all times. As your mood varies...some features of your cognitive machinery vary with it....Among the extraneous factors that should not influence professional judgments, but do, are two prime suspects: stress and fatigue” (Daniel Kahneman, Olivier Sibony and Cass Sunstein, *Noise*, Little, Brown Spark, New York, 2021, p.89).

When we’re stressed or tired, our objective powers of reason are compromised. When we feel elated, self-satisfied and optimistic, we also compromise our objectivity.

In other words, we are almost always at risk of making judgments that are not fully objective.

The authors point out another threat to our ability to judge fairly: “informational cascades.” A person of assumed expertise or authority makes a statement. The next person, not wanting to disagree with the expert, goes along. And then the others also fall into line. They set aside their own judgment, and defer to the first person’s views. A “cascade” ensues in which it is difficult for anyone to stand up against the prevailing view.

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 “informational cascade.” Discussion and dissension are to be encouraged, not stifled.

Manifestations of informational cascades are ubiquitous in our society, and it requires considerable astuteness and courage to resist the pressures. It is increasingly evident in religious and political life, where small groups of clerics/pundits 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 demeaned.

If “informational cascades” are highly dangerous for society at large, they are perhaps even more pernicious for religious life. They inject a spiritual poison into religion, gradually sapping religious life of vitality, creativity, dynamism. Instead of fostering a spirit of discussion and free inquiry, there is a demand for a ruthless conformity. Instead of empowering religious people to think and analyze and debate, religious people are pressured to stop thinking independently, to refrain from analysis and debate, and to suppress any ideas that do not conform to the framework of the “authorities.”

If we are to be responsible individuals, 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.

This week’s Torah portion reminds us of the importance of not letting external factors improperly mar our judgment. “Lo takir panim” — do not show favoritism. The Torah teaches not to favor the rich because they are rich, and not to favor the poor out of pity for the poor. Judgment must be fair, based on objective facts. “Lo tikah shohad” — do not take bribes. Bribery refers not only to monetary gifts, but to any favors that could tilt your judgment on behalf of one of the parties. The Torah states that bribery “blinds the eyes of the wise and perverts the words of the righteous.” Even people who are generally deemed to be wise and righteous can succumb to the influence of bribes.

The Torah requires us to seek mishpat tzedek, righteous judgment. This is best attained if we are aware of the factors that can impact on the clarity of our judgment — stress, tiredness, informational cascades...and more. We must strive for a justice...that is just, fair and righteous.

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

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.

<https://www.jewishideas.org/article/righteous-judgment-thoughts-parashat-shofetim>

Prophetic Holiness and Ethics

by Dr. Steven Kepnes *

It is well known that the classic yeshiva curriculum is dominated by the Talmud, not by the Torah and its rabbinic and philosophical exegetes. When Torah is studied, it is largely limited by a focus on Humash, or Pentateuch, and does not go beyond this to the Ketuvim (Writings) and Neviim (Prophets). Given the theological and ethical treasures in these books, it is certainly a shame and a loss to the observant world. It is also somewhat odd that these texts are not systematically studied, given that we read from these books in the Haftarot every Shabbat and Festival. Of the many Haftarot that we read, the book that we read most often is Yeshayahu or Isaiah. If Orthodox Judaism ignores Isaiah, Devarim Rabba places Isaiah alongside Moses as the greatest of the prophets (2:4). Isaiah has a central standing among the prophets of

Israel and it is noteworthy, given our concerns with kedusha that the most common epithet for God that Isaiah uses is K'dosh Yisrael "The Holy One of Israel")Is 1:4(.

According to Isaiah and most of the other classical prophets, holiness is articulated in terms of social justice and political ethics. In focusing on social morality, the prophets, at times, appear to be opposing the centrality of the cult and issues of ritual purity. Despite this however, Jewish critics like Yehezkel Kaufmann, Moshe Weinfeld and Shalom Paul, argue that the prophets did not seek the end of sacrifices and traditions or ritual purity any more than they wanted the monarchy to end. Rather, they were critics of these institutions who sought to rid them of corruption and place them in their rightful place in service to God. That Isaiah's vision of the angels proclaiming God's holiness: Kadosh, Kadosh, Kadosh, occurred in the Temple)Is 6:3(and that the prophet Ezekiel was himself a priest, certainly suggests that the prophets did not intend to do away with the priesthood. However, with Isaiah, we do have one of the most forceful critics of excessive concern for the intricacies of ritual purity and holiness alone. That Isaiah refers to God as "the Holy One of Israel" and uses this appellation consistently throughout his text, suggests that ethics is not only required by the Holy One of Israel, but that the Holy One Himself is morally righteous and that human righteousness is grounded in God. In verse 5:16 Isaiah says: "And God the Holy One is sanctified through righteousness")Holy Scriptures, JPS translation, 1950(; or an alternative translation could be "The holy God shall make Himself holy)n'qadesh b'tzedeq (through righteousness." So Isaiah's view, following the Torah's view, is that the moral law is underpinned and founded in God. Let us hear the words of Isaiah, which as he says, are the word of God.

*Hear the word of the Lord...
"What need have I of all your sacrifices?"
Says the Lord.
"I am sated with the burnt offerings of rams,
And suet of fatlings,
And blood of bulls...
Who asked that of you?
Trample my courts no more;
Bringing oblations is futile,
Incense is offensive to me,
New moon and Sabbath
Proclaiming solemnities
Assemblies with iniquity
I cannot abide. ...
Though you pray at length,
I will not listen
Your hands are full of blood —
Wash yourselves clean
Put your evil doings
Away from My sight,
Cease to do evil,
Learn to do good
Devote yourselves to justice;
Aid the wronged,
Uphold the rights of the orphan;
Defend the cause of the widow."
IS 1:10-17*

The words of Isaiah here, uttered with so few Hebrew words are a wonder to behold. Isaiah rips through the fabric of sacrificial life, the very nexus of the relationship with God established by the Levitical priests, "Your hands are full of blood." Here, the expiatory power of the blood of sacrifice is mocked and the line seems to suggest instead that there is an excess of bloodshed. The extent of the verbal charge against the sacrificial cult is comprehensive, from daily sacrifice, to Shabbat, to the festivals, and even unto verbal prayer. "What need have I of all this? Who asked this of you?" The answer could be easy: "What do you mean?" the people might say. "Certainly, it was You, God, who asked this of us. It was You, God, who established the sacrificial cult, who determined the rules of Shabbat and the festivals as the very vehicle to make us holy. Now you are telling us you have no use for it all!" Without answering these questions, God uses the language of purity, "wash yourselves clean," and directs it in a thoroughly moral and non-ritual direction. Here, Isaiah makes a move that we often see in the prophets, to use ritual purity, as a metaphor for moral purity.

Then, through Isaiah, God presents the people with what simply could be called an ethical manifesto, which, following the short form of the Hebrew, could be put this way.

*Cease evil,
Learn good
Seek justice;
Correct oppression,
Defend orphans,
Plead for widows.*

Here, in short, is an ethical doctrine which begins in stopping evil in oneself, moves to education in the ways of goodness, and then extends human efforts outward to seek justice. Justice, here, is seen in countering oppression against those that are powerless, the orphan and the widow, thereby representing all who are marginal and have no obvious figures of power to protect them.

Isaiah is not alone in speaking the words of social ethics. His contemporary Amos, who prophesied in the Northern Kingdom, also put forth a doctrine of social justice:

*Hear this, you who trample on the needy
And bring the poor of the land to an end,
Saying when will the new moon be over
That we may sell grain?
And the Sabbath that we may offer wheat for sale
That we may make the ephah small and the shekel great,
And deal deceitfully with false balances,
That we may buy the poor for silver,
And the needy for a pair of sandals,
...
I will make the sun set at noon,
I will darken the earth on a sunny day
I will turn your festivals into mourning
)Amos 8:4-10(.*

Is this a new instruction, a new Torah replacing the old? Is this a new way to holiness dispensing with all the laws of sacrifice, of Shabbat, of the festivals, and of dietary laws and ritual purity? Certainly, this is the position of Protestant Christianity.

Yet here I would suggest that the prophets are speaking to their contemporary moment in the strongest way possible. They mean to correct abuses in Israelite religious life and the cult, and were not attempting to abolish its institutions and structures. Certainly, from the position of rabbinic tradition, the Torah and its rituals laws of holiness and purity will never be abrogated. The Torah is given as an eternal covenant, *berit olam*, between God and Israel, and all of rabbinic Judaism is built on the divinely sanctioned status of the laws and rituals that are given in the Torah.

The great Jewish biblical critic, Yehezkel Kaufmann, while recognizing real innovation in the texts of Isaiah and the classical prophets, argues that Isaiah works upon already existing moral themes in the Torah. Kaufmann states that “the prophetic demands for social justice echo, for the most part, the ancient covenant laws”)1960, 365(. He reminds us that, in the flood story, God dooms a whole society for moral corruption.” Sodom and Gomorrah were also destroyed for lacking ten righteous men, and the Canaanites lost their land because of their corrupt sexual ways”)1960, 366(.

However, if Kaufmann believes that the prophets did not want to abolish sacrifices and the cult, he is also clear that what we have in the classic Israelite prophets is not just a repetition of the morality of the Torah but an innovation beyond it. Here, Kaufmann argues that the prophets offer a heightened sense of morality. Where the Torah equated destruction of Israel with the heinous sins of idolatry and incest committed by a large group of people, we see that God “threatens national doom and exile for everyday social sins”)1960, 366(. Kaufmann states that it is remarkable how few times Isaiah refers to the sin of idolatry and how sensitive he is to moral slights to the poor and the powerless. Indeed, it is these

“small sins” of social justice that bother the prophets and not the “venal sins” of murder, idolatry, incest, and inhuman cruelty that the Pentateuch is concerned with.

Rabbi Abraham Joshua Heschel also points us to the heightened moral sensitivity of the prophets. “Indeed, the sort of crimes and even the amount of delinquency that fill the prophets of Israel with dismay do not go beyond that which we regard as normal, as typical ingredients of social dynamics. To us a single act of injustice — cheating in business, exploitation of the poor — is slight; to the prophets, a disaster. To us injustice is injurious to the welfare of the people; to the prophets it is a deathblow to existence: to us an episode; to them, a catastrophe, a threat to the world” (1962, 4).

As to why the prophet is so sensitive to what appears to be trivial moral concerns, Heschel sees this as a reflection of the acute moral sensitivity and highest moral standards of God. The God of the prophets is concerned with the details of little human lives, his compassion is so great that he is fundamentally concerned with the seemingly insignificant poor. “Prophecy is the voice that God has lent to the silent agony, a voice to the plundered poor, to the profaned riches of the world” (1962, 5).

It is a shame that the curriculum of our Orthodox yeshivot do not include intensive, sophisticated study of the Neviim and have left these texts of the written Torah to the Liberal Jewish Seminaries and the Christians. For the words of the Prophets are no less words of Torah and divrei Elokim than are the words of the Humash and Psalms and the Mishna and Gemara.

In the pre-modern world where Jews were excluded by Christians and Muslims alike from working and participating in their host cultures, there were good reasons why Jews kept to themselves. In those times when Jews were often persecuted and Judaism derided as a dead or false religion, one can also understand that there was Jewish fear and antipathy toward non-Jews. Today, however, where Jews have civil and political rights especially in the West, the continued self-ghettoization of the Jews and negative remarks one sometimes hears uttered by some Jews and even their rabbis toward non-Jews are morally and spiritually reprehensible. When one hears of a group of Orthodox Rabbis in Israel who issue public prohibitions against renting apartments to Arabs, or “religious” Jews in the old city who spit on Catholic Priests, one wonders why these Jews, who so devoutly study Talmud, manage to miss these words of the great Tosafist, Rabbenu Tam. “One should be envious of the pious and more than these of the penitents, and more than these of those who...from their youth have been diligent in the service of the Lord, blessed be He...And one should be envious of the nations of the world who serve God in awe, fear, and submission.” [5] And our devout co-religionists might also learn from the words of Bahya ibn Pakuda, who said in his introduction to *Hovot haLevavot*, *The Duties of the Heart*:

I quote from the dicta of the philosophers and the ethical teachings of the ascetics and their praiseworthy customs. In this connection our Rabbis of blessed memory already remarked)Sanhedrin 39b(: In one verse it is said “after the ordinances of the nations round about you, you have done)Ezek 11:12(; while in another, it is said “After the ordinances of those around you, you have not done)Ezek. 5:7(. How is this contradiction to be reconciled? As follows: Their good ordinances you have not copied; their evil ones you have followed.” The Rabbis further said)Megillah 16a(. “Whoever utters a wise word, even if he belongs to the gentiles, is called a sage.”[6]

The Orthodox community is where many Jews look for “authentic” Judaism. The Orthodox community is where Jews seek and expect to find our Tzaddikim and our Kedoshim, our righteous and holy ones. And one can say, too, that what the religious world needs most today are precisely these kind of exemplars of the righteous and holy life. Yet precisely at this moment of great need, Torah Sages are retreating from the world and advising their students and followers to do the same. This is tantamount to taking Torah and God out of the world at the time when the world most needs Torah and God. So my plea in my book and in this article is that Orthodox Jews live up to the challenge of the great figures of modern Orthodoxy and the command of God in the Torah. Kedoshim Tiheyu: Be holy in mind, in deed, in ritual and behavior, in the synagogue, in court and field. We must be exemplars of the Torah way of life, committed to performance of the ritual mitzvot as well as the mitzvot of justice, righteousness, compassion and derekh erets.

* Professor and Finard Chair in Jewish Studies at Colgate University. Excerpt from a longer article in *Conversations*, the Journal of the Institute for Jewish Ideas and Ideals, issue 17.

<https://www.jewishideas.org/article/prophetic-holiness-and-ethics>

Parshas Shoftim -- When the Chips Are Down

by Rabbi Mordechai Rhine * © 2014

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

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

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

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

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

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

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

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

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

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

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

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

With best wishes to you and yours for a wonderful Shabbos.

Rabbi Mordechai Rhine is a certified mediator and coach with Rabbinic experience of more than 20 years. Based in Maryland, he provides services internationally via Zoom. He is the Director of TEACH613: Building Torah Communities, One family at a Time, and the founder of CARE Mediation, focused on Marriage/ Shalom Bayis and personal coaching.

To reach Rabbi Rhine, his websites are www.care-mediation.com and www.teach613.org; his email is RMRhine@gmail.com. **For information or to join any Torah613 classes, contact Rabbi Rhine.**

<http://www.teach613.org/parshas-reeh-miraculously-unbelievable/>

Note: Rabbi Rhine is on vacation for a few weeks, and he has authorized me to reprint selected Devrei Torah from his archives during this period.

Shoftim: Torah Law – Elevating Our Physical Lives

by Rabbi Yehoshua Singer © 2021 *

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 truthfully, honestly and 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 it's 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 very strict laws pertaining to the appointment of judges, the different types of courts, which judge may judge in each level of court, and which may judge 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.

* Rabbi, Am HaTorah Congregation, 5909 Bradley Blvd., Bethesda, MD 20814. I received this Dvar Torah too late to use

last year, so I am printing it here now.

Shofetim: Contemporary Justice **

By Rabbi Haim Ovadia *

Halakha, the Jewish legal system, is a labyrinthian structure of arguments and counter-arguments, with hundreds of rabbis in each generation opining on numerous matters, and only few rising to the status of authority recognized by all. Tens of thousands of volumes published and probably a thousand others lost to persecution, book-burning, and wandering. The details concerning the fulfilment of the Mitzvoth, sometimes complicated beyond the grasp of mere mortals, gave birth to specialized books dedicated to one mitzvah or concept: Kiddush, KeZayit, Eruv Tavshilin, Muktzeh on Shabbat, etc. Orthodox Jews got used to the idea that in order to conduct an observant life one must complete studies equivalent to a college degree, drag behind him a wagon loaded with books, and consult a rabbi on every question, including where to spend Shabbat and what to wear.

This unhealthy state-of-affairs, which has caused many to denounce the observant lifestyle, and prompted orthodox theologians to declare that the purpose of Torah and Mitzvoth is to discipline mankind, and to cleanse our sins through the suffering endured in keeping the mitzvot, can be traced back to one paragraph in this week's Parasha (Deut. 17: 8-12), presented here with free translation:

8) When a matter will be difficult to judge, between blood and blood, between verdict and verdict, and between plague and plague, matters of conflict in your gates, you should rise and go up to the place which God will have chosen. 9) You should come to the Cohanim, the Levites, and the judge who will preside on those days, you shall seek and be told by them the verdict. 10) You shall follow the verdict they will tell you from that place which God will choose, and you shall be careful to follow their word. 11) In accordance with the Torah they will teach you and the verdict they will give you, you should act, you should not veer from the verdict they tell you to the right or to the left. 12) He who will act deliberately, not obeying the Cohen who stands there to serve God, or the judge, will be put to death, so all Israel will hear and revere and will sin no more.

The meaning of verses 9-12 seems quite clear, even if a bit harsh: In cases of doubt one should turn to the central court in Jerusalem and follow its ruling. The problem is with the first seventeen words of this paragraph. An anonymous Mishnaic source, quoted in the Talmud (San. 86:2-87:1) explains that they address the head of the local Beth Din, who is unable to reach a Halakhic decision.

The rest of the sentence, accordingly, is understood as dealing with court matters which the judges cannot agree on, and which cover all areas of Jewish law:

Between blood and blood – the blood of menstruation, birth, and sexually transmitted diseases; Between verdict and verdict – capital, monetary, and corporal punishments; Between plague and plague – leprosy in humans, houses, and garments; Matters – of dedications and donations to the Temple; Conflict – that of a deviate woman, beheading the heifer [in case a body was found in the field], and the purification of the leper; In your gates – this refers to falling stalks, forgotten sheaves, and the corner of the field.

According to this interpretation, the paragraph is dealing with a court which is unable to reach a decision, and therefore must submit its question to the supreme court in Jerusalem. The matters in which a doubt can occur encompass all fields of Halakhic literature and delineate the authority of local and city courts. It follows that the one who disobeys the supreme court is himself a judge, and his refusal to adhere to the verdict makes him a rebellious elder.

I do not wish to challenge the Talmudic interpretation, but I would like to suggest an alternative reading of the text which draws a picture of a completely different, and even revolutionary, judicial system offered by the Torah.

The phrase should be translated as: when you are unable to reach a verdict. This refers to cases where there are two litigants, and not to personal or ritualistic questions. The word **יפלא** – means that it will be distinct, beyond your ability, and the word **משפט** does not mean judgment or deliberations, but rather final verdict. The Torah does not speak about a scholarly debate between two rabbis regarding the interpretation of the law, whether it is leprosy, menstrual impurity,

tithes, prayers, or sacrifices, but rather of a protracted legal battle between two litigants, and especially cases where one side is not willing to abide by the decision of the court. These cases involve **דם** – murder, **דִּין** – monetary issues, and **נגע** – physical damage, and they all fall under the category of conflicts at your gates. These cases might have evolved into feuds between families and clans, and the local Beth Din would not have been able to reach a resolution.

The Torah offers in such cases a solution similar to that of the Gordian Knot – cut through it. The litigants are told to address the central court, which has the final decision. That court does not dwell too much on precedents and deliberations, and focuses on providing a final solution, which the litigants must accept under threat of capital punishment. Though it would be very tempting to use such a method to ease the burden of the backlogged American judicial system, it is very unlikely, but the Torah offers the litigants a simple choice: either follow the ruling of your local court or that of the central court. There is no other option, and there is no dragging of judicial procedures, known in Hebrew as the Torture of Justice.

Finally, it is highly significant that the Torah refers the litigants to “the judge who will then preside.” The Torah’s ideal judicial system is one which does not rely on precedents and which is undaunted by the rulings of luminaries of past centuries. The judge, rabbi, Dayyan, or scholar who lived in the past can provide us with insights and guidance, but not a final verdict, because life keeps changing and only the contemporary judge can fully comprehend the circumstances of a problem and the consequences of a ruling. The state-of-affairs in the world of Jewish law is unhealthy. Halakha suffers from paralysis, accumulation of debris because of the inability to review and update previous rulings, and mass desertions by people who feel that Halakha is detached from their life and from reality. This sad picture can change if rabbinic leadership will be willing to step out of its ivory tower and listen to the voice and the needs of the people. Until then, we will keep praying for the fulfillment of the prophecy of Isaiah (1:26):

I will restore your judges and counselors as in the beginning, and you will then be called the City of Justice.

Shabbat Shalom.

* Torah VeAhava (now SephardicU.com). Rabbi, Beth Sholom Sephardic Minyan (Potomac, MD) and faculty member, AJRCA non-denominational rabbinical school). **New: Many of Rabbi Ovadia’s Devrei Torah are now available on Sefaria:** <https://www.sefaria.org/profile/haim-ovadia?tab=sheets> Hebrew quotes from the Torah, omitted here, are in Rabbi Ovadia’s original in Sefaria.

Yes. That's "Holy" Also

By Rabbi Moshe Rube * © 2021

Should religion and government mix?

Our kneejerk 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 Rube is in the process of moving from Alabama to Auckland, NZ, where he will be Senior Rabbi of Auckland Hebrew Congregation. We look forward to his completing this move and returning to send us new learning weekly.

Rav Kook Torah

Shoftim: The High Court in Jerusalem

The Jurisdiction of the Sanhedrin

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

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

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

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

The Clarity of the Torah of Eretz Yisrael

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

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

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

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

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

Halachah and Aggadah

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

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

The opinion of the *Chovot HaLevavot* is suitable to the Torah as it manifests itself outside the Land of Israel. There, without prophetic influence, beliefs are based solely on our powers of logic and reason. Since interpretation of Torah principles is a matter of intellectual effort, it is natural to distinguish between the detailed study of Halachah, which requires meticulous legal analysis, and the less rigorous study of Aggadah. For this reason the Babylonian Talmud distinguishes between Aggadah and Halachah, ruling that the prohibition of "*Lo Tasur*" (defying the rulings of the High Court) only applies to legal matters.

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

The Kohen and the Judge

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

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

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

The Future Unity of Aggadah and Halachah

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

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

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

FOOTNOTES:

1. See Mo'ed Katan 25a; Kuzari II:14.
2. Rabbi Bahya ibn Paquda, eleventh-century scholar and philosopher.
3. The head of the Talmudic academy at Pumbedita in Babylonia (modern-day Iraq) (939-1038).
4. The Talmud in Baba Metzia 59b records a disagreement regarding the status of an oven made from coils of clay (tanur akhnai). Rabbi Eliezer supported his position with miracles and even a Heavenly Voice (Bat Kol). But the Sages still ruled against Rabbi Eliezer, insisting that decisions are reached by majority rule; miracles and Heavenly Voices are not part of the decision process, as "The Torah is not in Heaven."

https://www.ravkooktorah.org/SHOFTIM_67.htm

The Greatness of Humility (5776)

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

At a dinner to celebrate the work of a communal leader, the guest speaker paid tribute to his many qualities: his dedication, hard work and foresight. As he sat down the leader leaned over and said, "You forgot to mention one thing." "What was that?" asked the speaker. The leader replied, "My humility."

Quite so. Great leaders have many qualities, but humility is usually not one of them. With rare exceptions they tend to be ambitious, with a high measure of self regard. They expect to be obeyed, honoured, respected, even feared. They may wear their superiority effortlessly – Eleanor Roosevelt called this “wearing an invisible crown” – but there is a difference between this and humility.

This makes one provision in our parsha unexpected and powerful. The Torah is speaking about a king. Knowing, as Lord Acton put it, that power tends to corrupt and absolute power corrupts absolutely, it specifies three temptations to which a king in ancient times was exposed. A king, it says, should not accumulate many horses or wives or wealth – the three traps into which, centuries later, King Solomon eventually fell. Then it adds:

When [the king] is established on his royal throne, he is to write for himself on a scroll a copy of this Torah ... It is to be with him, and he is to read it all the days of his life so that he may learn to be in awe of the Lord his God and follow carefully all the words of this law and these decrees and not feel superior to his brethren or turn from the law to the right or to the left. Then he and his descendants will reign a long time in the midst of Israel. Deut. 17:18-20

If a king, whom all are bound to honour, is commanded to be humble – “not feel superior to his brethren” – how much more so the rest of us. Moses, the greatest leader the Jewish people ever had, was “very humble, more so than anyone on the face of the earth” (Num. 12:3). Was it that he was great because he was humble, or humble because he was great? Either way, as R. Johanan said of God himself, “Wherever you find his greatness there you find his humility.”[1]

This is one of the genuine revolutions Judaism brought about in the history of spirituality. The idea that a king in the ancient world should be humble would have seemed farcical. We can still today see, in the ruins and relics of Mesopotamia and Egypt, an almost endless series of vanity projects created by rulers in honour of themselves. Ramses II had four statues of himself and two of Queen Nefertiti placed on the front of the Temple at Abu Simbel. At 33 feet high, they are almost twice the height of Lincoln’s statue in Washington.

Aristotle would not have understood the idea that humility is a virtue. For him the megalopsychos, the great-souled man, was an aristocrat, conscious of his superiority to the mass of humankind. Humility, along with obedience, servitude and self-abasement, was for the lower orders, those who had been born not to rule but to be ruled. The idea that a king should be humble was a radically new idea introduced by Judaism and later adopted by Christianity.

This is a clear example of how spirituality makes a difference to the way we act, feel and think. Believing that there is a God in whose presence we stand means that we are not the centre of our world. God is. “I am dust and ashes,” said Abraham, the father of faith. “Who am I?” said Moses, the greatest of the prophets. This did not render them servile or sycophantic. It was precisely at the moment Abraham called himself dust and ashes that he challenged God on the justice of His proposed punishment of Sodom and the cities of the plain. It was Moses, the humblest of men, who urged God to forgive the people, and if not, “Blot me out of the book You have written.” These were among the boldest spirits humanity has ever produced.

There is a fundamental difference between two words in Hebrew: anivut, “humility,” and shiflut, “self-abasement.” So different are they that Maimonides defined humility as the middle path between shiflut and pride.[2] Humility is not low self-regard. That is shiflut. Humility means that you are secure enough not to need to be reassured by others. It means that you don’t feel you have to prove yourself by showing that you are cleverer, smarter, more gifted or successful than others. You are secure because you live in God’s love. He has faith in you even if you do not. You do not need to compare yourself to others. You have your task, they have theirs, and that leads you to co-operate, not compete.

This means that you can see other people and value them for what they are. They are not just a series of mirrors at which you look only to see your own reflection. Secure in yourself you can value others. Confident in your identity you can value the people not like you. Humility is the self turned outward. It is the understanding that “It’s not about you.”

Already in 1979 the late Christopher Lasch published a book entitled *The Culture of Narcissism*, subtitled, *American life in an age of diminished expectations*. It was a prophetic work. In it he argued that the breakdown of family, community and faith had left us fundamentally insecure, deprived of the traditional supports of identity and worth. He did not live to see

the age of the selfie, the Facebook profile, designer labels worn on the outside, and the many other forms of “advertisements for myself,” but he would not have been surprised. Narcissism, he argued, is a form of insecurity, needing constant reassurance and regular injections of self-esteem. It is, quite simply, not the best way to live.

I sometimes think that narcissism and the loss of religious faith go hand in hand. When we lose faith in God, what is left at the centre of consciousness is the self. It is no coincidence that the greatest of modern atheists, Nietzsche, was the man who saw humility as a vice, not a virtue. He described it as the revenge of the weak against the strong. Nor is it accidental that one of his last works was entitled, “Why I am So Clever.”[3] Shortly after writing it he descended into the madness that enveloped him for the last eleven years of his life.

You do not have to be religious to understand the importance of humility. In 2014, the Harvard Business Review published the results of a survey that showed that “The best leaders are humble leaders.”[4] They learn from criticism. They are confident enough to empower others and praise their contributions. They take personal risks for the sake of the greater good. They inspire loyalty and strong team spirit. And what applies to leaders applies to each of us as marriage partners, parents, fellow-workers, members of communities and friends.

One of the most humble people I ever met was the late Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson. There was nothing self-abasing about him. He carried himself with quiet dignity. He was self-confident and had an almost regal bearing. But when you were alone with him, he made you feel you were the most important person in the room. It was an extraordinary gift. It was “royalty without a crown.” It was “greatness in plain clothes.” It taught me that humility is not thinking you are small. It is thinking that other people have greatness within them.

Ezra Taft Benson said that “pride is concerned with who is right; humility is concerned with what is right.” To serve God in love, said Maimonides, is to do what is truly right because it is truly right and for no other reason.[5] Love is selfless. Forgiveness is selfless. So is altruism. When we place the self at the centre of our universe, we eventually turn everyone and everything into a means to our ends. That diminishes them, which diminishes us. Humility means living by the light of that-which-is-greater-than-me. When God is at the centre of our lives, we open ourselves up to the glory of creation and the beauty of other people. The smaller the self, the wider the radius of our world.

FOOTNOTES:

[1] Pesikta Zutrata, Ekev.

[2] Maimonides, Eight Chapters, ch. 4; Commentary to Avot, 4:4. In Hilchot Teshuvah 9:1, he defines shiflut as the opposite of malkhut, sovereignty.

[3] Part of the work published as Ecce Homo.

[4] Jeanine Prime and Elizabeth Salib, ‘The Best Leaders are Humble Leaders’, Harvard Business Review, 12 May 2014.

[5] Maimonides, Hilchot Teshuva 10:2.

* 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.

<https://www.rabbisacks.org/covenant-conversation/shoftim/greatness-of-humility/>

On Attempting to "Understand" Torah: An Essay on Ki Teitzei

By Adin Even-Israel (Steinsaltz)* © Chabad 2022

Parshat Ki Teitzei is full of diverse topics. According to Maimonides' enumeration of the mitzvot, this parshah contains over seventy mitzvot, and several observations can be made regarding the connection between the various subjects in the parshah.

According to the Talmud, though it is disputed whether halachic inferences can generally be derived from the juxtaposition of two topics, all agree that in the book of Deuteronomy such inferences may be drawn.¹ The reason for this is that Deuteronomy is full of repetition of material that is found earlier in the Torah. Because the reason for this repetition is not always clear, our sages provided us with this tool to help us identify distinctions between two otherwise identical passages or verses.

It is said that the Torah can be interpreted in seventy ways, and so many Torah fundamentals are derived by exegesis, often by expounding upon the juxtaposition of two sections. An examination of the various juxtaposition-based interpretations by our sages reveals that the laws derived by this kind of interpretation – particularly in the book of - Deuteronomy – are very basic laws.

Juxtaposition can explain the reasons behind many laws. For example, why is the wayward and rebellious son punished with the death penalty, a punishment that seems overly severe? Our sages say, based on the juxtaposition of the section on the wayward and rebellious son to the section on those to be executed by the court, that “the wayward and rebellious son is condemned on account of his inevitable end.”² He is punished when still a boy so that he should not commit more serious crimes in the future.

Another type of juxtaposition-based interpretation teaches us not only the reason behind the law, as in the case of the wayward and rebellious son, but the actual law itself. For example, the fact that one is liable to receive the punishment of lashes for violating a negative command (that has no associated positive command) is inferred from the juxtaposition of the section on lashes to the section of “Do not muzzle an ox when it is treading grain.”³

A much more basic type of interpretation is when there is juxtaposition within a section. In parshat Ki Teitzei, a basic law is derived from the juxtaposition of words in the Torah, as in our sages’ interpretation of the words, “she leaves...and becomes,”⁴ linking the woman’s marriage to another man with her divorce from her former husband.⁵

Thus, very basic laws are derived from the juxtaposition of sections. Still, in this parshah the combination of subjects is so puzzling that, according to Ibn Ezra, although many have already tried to find connections and links within the parshah, they succeeded only on the homiletical level.⁶ No one has been able to show how all the subjects in the parshah fit together.

Categories of Mitzvot

Parshat Ki Teitzei deals with both major categories of mitzvot: those between man and G d and those between man and his fellow man. From here, as well as from other places in the Torah, it appears that our most common method of categorizing mitzvot into groups is not a division that the Torah seems to follow.

The lack of this division is evident in the Torah in various ways. Not only is there no differentiation between mitzvot concerning the man-G d relationship and mitzvot concerning interpersonal relationships, but, most surprisingly, neither is there differentiation between major and minor matters, between major principles and mitzvot that seem supplementary or marginal. There are matters that we would categorize as basic principles, on which the world stands and, by contrast, there are matters that we would categorize as details. In the Torah, this type of distinction seems to have no place. Even within the Ten -Commandments, major and minor precepts are, to a certain extent, equated. Prohibitions against idolatry, adultery, and murder, which are major doctrines, appear beside prohibitions such as “Do not covet”⁷ and “Do not take the Name of G d...in vain,”⁸ which, as serious as they are, are not often thought of as equal in severity to the former prohibitions.

Why is there no differentiation between categories of mitzvot? It seems clear that it is not the Torah’s purpose to present a system of laws to prevent people from eating each other alive. It is also clear that the Torah is not a book of remedies; that is not the basis on which the Torah stands. The fact that the diverse categories of mitzvot are mixed together in the Torah, and that we are unable to explain the sequence of the subjects, teaches us an essential lesson: If we are to receive the Torah, the only way is to accept it as it is. We can receive the Torah only if we accept it with all its various components, because the Torah itself does not differentiate between them or see any difference between them.

In this parshah, precisely because it is replete with various subjects and themes, it is possible to delve into the Torah's essence. There are very few other places where there is such a mixture of major and minor precepts, more important and less important, daily matters and matters that arise once in a lifetime, as in this parshah. It teaches us that in the Torah there is no such thing as more important and less important mitzvot. The totality of all the mitzvot, in all the different areas, forms a kind of definition of the Torah's essence. There is a bridge that stretches from here to G d – for the Jewish people, there is no other bridge (according to Maimonides, this applies to all the nations as well) – and this bridge goes through the Torah. The Torah is what connects man to G d. All other paths that man tries to find may seem acceptable, but they are flimsy. The wind carries them off; they are merely products of the imagination. A person can imagine that a path exists from here to there, but altogether only one path extends from our reality to G d, and that is the path of the Torah.

They Come From One Shepherd

The Torah contains several instances where the juxtaposition of sections is extraordinary and calls for interpretation. Toward the end of parshat Shoftim, the Torah details the mitzvah of destroying the Canaanite cities: "Of the cities of these nations, which G d your Lord is giving you for an inheritance, do not let a soul stay alive. You must wipe them out completely."⁹ This is followed by a second mitzvah: "When you lay siege to a city and wage war against it a long time...You may eat of them but you must not cut them down. For the [existence of] man is the tree of the field."¹⁰ The Canaanite city must be destroyed and all its inhabitants wiped out, but when one comes across a fruit tree, you must not harm it. This juxtaposition is very difficult to comprehend. The Torah seems to condone incredibly harsh actions when they are performed in the context of war. But cutting down a tree – that is where the Torah draws the line!

There is a whole list of mitzvot that present this difficulty. A siege is laid on a city "until it is subjugated,"¹¹ and many people are killed in the war, yet in the very next verses, when a slain person is found and "the identity of the slayer is not known,"¹² the members of the Sanhedrin perform an intricate ritual of measuring the distance to the nearest city, because they must atone for its residents.

On the one hand, we "do not take the mother along with her young,"¹³ and "do not muzzle an ox when it is treading grain,"¹⁴ where the Torah spares no detail in its concern for preventing the suffering of the ox; yet at the end of the parshah, after the command, "Fathers shall not be put to death because of sons, and sons shall not be put to death because of fathers,"¹⁵ we are commanded to obliterate the entire people of Amalek.

Thus, in order that donkeys should not be overworked, or so that birds should not see their young taken from them, the Torah institutes special laws in this parshah. There is concern for trees, donkeys, and sometimes even people, as in the case of taking a pledge upon giving a loan: "You shall not go to sleep holding his pledge."¹⁶ Yet the same parshah in the Torah that is so merciful to animals is full of mitzvot commanding us to administer blows and lashes, and sometimes even to kill.

The upshot is that, in truth, it is far from simple to always give the Torah a friendly face, because the Torah contains many different aspects, sometimes ranging even to the extreme. One can fill an entire book with quotations from Tanach on how peace is a paramount value, but one can also write a book demonstrating just the opposite, filling it with quotations seemingly supporting the antithesis of peace. Instead of citing, "And they shall beat their swords into plowshares,"¹⁷ one can cite, "Beat your plowshares into swords."¹⁸ The problem with both of these theoretical books is not that they would be inaccurate, but because they would be portraying the Torah as a product of only one aspect.

The parshah contains a small mitzvah that one generally does not have the opportunity to fulfill – the mitzvah of chasing away the mother bird before taking her eggs. The Talmud says of this mitzvah, "If one says, 'Your mercies extend to a bird's nest'...he is silenced."¹⁹ One explanation for this prohibition is that "he makes the commands of The Holy One, Blessed Be He, simply acts of mercy, whereas they are merely decrees."²⁰ But what is wrong with saying that G d's commands are rooted in mercy? Why must we insist that G d's commands are "merely decrees," a seemingly arbitrary system?

From here and from other places as well, we see that the Torah's basic structure is not built on bringing people satisfaction. There are mitzvot in which one can experience spiritual exaltation, and there are mitzvot in which one cannot. It is hard to tell someone who is receiving forty lashes in court that he should be excited about fulfilling the mitzvah. One

who says, “Your mercies extend to a bird’s nest” tries to show that the Torah is based on human logic, as though the Torah were a book of remedies or a guidebook for life, whose purpose is to teach people how to lead a proper life. But the truth is that G d’s commands are indeed merely decrees, and the only way for us to comprehend the Torah is as a bridge between us and G d.

The Work of G d

When one tries to define and reduce the Torah to one aspect, one is left with only part of the Torah, one that is essentially deficient. Usually, the intention is to give the Torah a human face, a face that can be comprehended in its totality and entirety. However, the Torah is the work of G d, and thus cannot truly be defined in such a way; it cannot be fashioned like a human face.

Sometimes, when one looks at the world, one’s immediate reaction is, “Why does everything go awry? Why are there so many problems?” If one were to build a machine to fulfill a certain function, one would surely strive to create an efficient product. In the world, however, everything goes awry. It is not clear, then, what the world’s purpose is and what function it fulfills.

The sequence of sections in the Torah teaches us that the world cannot be compared to a machine that a person might create. When a person builds a device, he does it in a way that he hopes will efficiently fulfill certain purposes. However, when G d creates something, He does not operate on a level that we can comprehend; He creates a unique structure that is built according to His own plans. When a human being attempts to study this structure, he will never be able to entirely understand it, regardless of the number of attempts he might make, and no matter how much he tries to learn how it works. One can live in the world, but there is a limit to one’s ability to change it. The Torah, too, is the work of G d, and all one can do is stand before it and gaze upon it.

The Kotzker Rebbe was once asked how he understands G d’s frequent mercilessness, and he answered with one sentence, “A G d who can be understood by anyone is not worth serving.” That is the essence of it. If one thoroughly understands G d and feels that he can make improvements on Him, then such a G d is no longer worth serving.

Our attempt to understand everything and create a unified and complete picture is an attempt to take G d, or at least the Torah, and make it a simplistic plaything, and that is precisely what the Torah forbids. The fact that some parashot seem to juxtapose disparate elements means that while each one of these elements can be understood on its own using a range of exegetical tools, one must always understand that the Torah is merely a bridge to G d. One end is here on earth and the other end is in heaven, and it is on this bridge that G d wants us to walk. If we do this, we will find that the other end of the bridge reaches to the highest heavens.

FOOTNOTES:

1. Brachot 21b
2. Sanhedrin 72a
3. Deut. 25:4
4. Deut. 24:2
5. Kiddushin 5a
6. Deut. 24:6
7. Ex. 20:14
8. 20:7

9. Deut. 20:16–17

10. 20:19

11. Deut. 20:20

12. 21:1

13. Deut. 22:6

14. 25:4

15. 24:16

16. 24:16

17. Is. 2:4

18. Joel 4:10

19. Brachot 33b

20. Megilla 25a

* One of the leading rabbis of this century and author of many books, Rabbi Steinsaltz was best known for his monumental translation of and commentary on the Talmud.

https://www.chabad.org/parshah/article_cdo/aid/4942524/jewish/On-Attempting-to-Understand-Torah.htm

Shoftim: Becoming a Fruit-Bearing Tree

by Rabbi Moshe Wisniefsky *

Moses then began to instruct the Jewish people regarding how they were to conduct their conquest of the Land of Israel. Deuteronomy 20:10–21:9

Becoming a Fruit-Bearing Tree

[Moses told the Jewish people,] *“If you besiege a city . . . you must not destroy its [fruit] trees.”*
Deuteronomy 20:19

Our emotions are the measure of our maturity. Many people are gifted with superior intelligence or talent, but truly refined emotions are achieved by shedding childlike self-absorption and by contributing to the world. Similarly, fruit-bearing trees provide us with nourishment and delight at their own expense. In contrast, barren trees merely impress us with their stately presence; they may perhaps offer us shade, but they sacrifice nothing in so doing.

Therefore, when we seek instruction and inspiration, we should turn to people who are not only intelligent and talented, but who consistently utilize their gifts for the world’s greater good. And of course, we should emulate the example of the fruit tree ourselves. Likutei Sichot, vol. 4, pp. 1114–1119; *ibid.*, vol. 24, pp. 115–120.

Rabbi Yosef B. Friedman
Kehot Publication Society
291 Kingston Ave., Brooklyn, NY 11213

https://www.chabad.org/dailystudy/dailywisdom_cdo/aid/2955536/jewish/Shabbat-Becoming-a-Fruit-Bearing-Tree.htm

To receive the complete D'Vrai Torah package weekly by E-mail, send your request to AfisherADS@Yahoo.com. The printed copies contain only a small portion of the D'Vrai Torah. Dedication opportunities available. Authors retain all copyright privileges for their sections.

Likutei Divrei Torah

Gleanings of Divrei Torah on Parashat Hashavuah
via the Internet

Dedicated by Dr. Israel & Rebecca Rivkin
in honor of the forthcoming marriage
of their grandson Ariel Rivkin to Adira Wolfson

Volume 28, Issue 47

Shabbat Parashat Shoftim

5782 B"H

Covenant and Conversation

Rabbi Jonathan Sacks, z"l

A Sage is Greater than a Prophet

In Shoftim, Moses speaks about the great institutions of Judaism: courts, judges, officers, Kings, Priests, Levites and Prophets. In the case of the Prophet, Moses says in the name of God: I will raise up a Prophet for them from among their own people, like yourself: I will put My words in his mouth, and he will speak to them all that I command him. (Deut. 18:18)

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

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

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

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

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

We can’t be sure what Rabbi Yochanan meant. He may have meant that children and fools sometimes see what others don’t (as Hans Christian Anderson illustrated in the famous story of The Emperor’s New Clothes). He may, though, have meant the opposite, that prophecy

deteriorated during the late Second Temple period. There were many false prophets, soothsayers, doomsayers, mystics, announcers of the apocalypse, and messianic movements, all confidently predicting the end of history and the birth of a new order of things. There were religious sectarians. There were Essenes expecting the arrival of the Teacher of Righteousness. There were rebels against Rome who believed that their military hero would bring freedom, even the messianic age. It was a fevered, destructive time, and Rabbi Yochanan may have wanted to discredit, as far as possible, any dependence on supposedly divine certainty about the future. Prophecy is the chattering of children or the rambling of fools.

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

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

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

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

All this to teach us that the Sages took the ideals of the Prophets and turned them into practical programmes. Here is one example. Remonstrating with the people, administering rebuke, was fundamental to the prophetic task. This is how Ezekiel understood the task: God said: “Son of man, I am sending you to the Israelites, to a rebellious nation that has rebelled against Me ... Say to them, ‘This is what the Sovereign Lord says.’ And whether they listen or fail to listen—for they are a rebellious people—they will know that a Prophet has been among them. (Ez. 2:3-5)

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

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

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

To sponsor an issue of Likutei Divrei Torah:
Call Saadia Greenberg 301-649-7350
or email: sgreenberg@jhu.edu
<http://torah.saadia.info>

only a wise approach; it is a highly effective one.

Now consider peace. No finer visions of a world at peace have ever been given than by Israel's Prophets. This is just one: The wolf will live with the lamb, the leopard will lie down with the goat, the calf and the lion and the yearling together; and a little child will lead them ...

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

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

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

There are many other examples. The Sages achieved something extraordinary. Throughout the biblical era, the Israelites were constantly tempted by idolatry and foreign ways. The Prophets were often driven close to despair. During the rabbinic era, Jews became a people defined by religion, commandments, learning and prayer, sustained voluntarily and maintained tenaciously against all pressures to convert to the majority faith. That is because the Rabbis did not focus on distant visions. They devised practical programmes. These may have lacked drama, but they worked.

The Sages, perhaps to their surprise, realised this: where the Prophets failed, they succeeded. I believe that institutions like prophecy survive when they are translated from utopian ideals into practical policies. The greatness of the Sages, still not fully appreciated by the world, is that guided by the visions of the Prophets, they gave us the instructions for how to get from here to there.

[1] Mishneh Torah, Foundations of the Torah, Chapter 9

[2] Baba Batra 12b.

[3] Baba Batra 12a.

[4] See Deut. 17:9.

[5] Baba Metzia 31a.

[6] Arachin 16b.

[7] Yevamot 65b.

[8] Mishnah Shevi'it, 4:3, 5:9, Gittin 5:9, Tosefta, Gittin 3:13-14, Avodah Zarah 1:3; Babylonian Talmud, Gittin 59a-61a.

Shabbat Shalom: Rabbi Shlomo Riskin

"Judges and Executors of Justice shall you establish for yourselves in all of your gates.... Justice, justice shall you pursue in order that you may live and inherit the land which the Lord your God is giving to you." (Deuteronomy 16:18-20)

In this opening passage of our weekly portion, the Bible conditions our ability to remain as inhabitants of the Land of Israel upon the appointment of righteous judges, who will not prevent justice, show favoritism before the law or take bribes of any kind (Deut. 16:19).

The Bible also reiterates, "Justice, justice shall you pursue," a commandment with a number of important interpretations. First of all, seek or appoint another judicial court if the local court is not deemed adequate for the needs of the litigants (Rashi, ad loc.). Secondly, in the words of Rabbi Menahem Mendel of Kotzk, make certain that you pursue justice by means of justice, that your goals as well as your means are just.

I would add to this the stipulation that the "administration" aspect of courtroom management be just: begin on time without keeping the litigants waiting, conclude each case with as much dispatch as possible, and listen sympathetically to the claims of each party, so that everyone feels that he/she has received a fair hearing.

Further on in our portion, the Bible adds another critical criterion for true justice:

"When there will arise a matter for judgment, which is hidden from you [a case which is not cut-and-dry; which involves changing conditions and therefore requires extra consideration on the part of the judges] ... you shall come to ... the judge who shall be in those days" (Deut. 17:8-9).

Rashi makes it clear, basing himself on the words of our Talmudic sages, that we must rely on the Sages of the particular era of the problem for the judgment at hand, that "Yiftah in his generation is as good as Samuel in his generation."

This notion is further elucidated by Rabbi Levi Yitzhak of Berdichev in his masterful *Kedushat Levi*, under the rubric "teiku," t-y-k-u – Tishbi Yetaretz Kushyot Veba'abayot, or "Elijah the Prophet will answer questions and ponderings" in the Messianic Age. "Why Elijah?" asks Rabbi Levi Yitzhak. After all, there will be a resurrection of the dead in the Messianic Age, wherein Moses will be resurrected; since Moses was a greater halakhic authority than Elijah, since Moses studied directly with God Himself, why not have him answer the questions rather than Elijah?

Rabbi Levi Yitzhak answers his seemingly naïve question with a most sophisticated

Likutei Divrei Torah

response. Moses died close to four thousand years ago; Elijah, according to the biblical account, was "translated" live into heaven, and – says the midrash – regularly returns to earth, appearing at important moments to help certain individuals as well as at every circumcision and at every Passover Seder. And since Elijah will be involved with people and will therefore understand the travail and the angst, the hopes and the complexities of the generation of the redemption, only he can answer the questions for that generation. A judge must be sensitive to the specific needs and cries of his particular generation!

Then what are the most important criteria for a righteous judge? We have seen that he must clearly be a scholar in Jewish legal literature and must be an aware, intelligent, and sensitive observer of the times and places in which he lives, a judge of and for the period and place of adjudication.

But there is more. In the book of Exodus, when Yitro, the Midianite priest, first suggests to his son-in-law Moses that he set up a judicial court system of district judges, we find more qualifications for our judges: "You shall choose from the entire nation men of valor (hayil), God-fearers, men of probity who hate dishonest profit" (Ex. 18:21).

Our great twelfth-century legalist-theologian, Maimonides, defines "men of valor" (hayil), a Hebrew word which connotes the courage of a soldier in battle, as follows:

"Men of valor' refers to those who are valiantly mighty with regard to the commandments, punctilious in their own observance... And under the rubric of 'men and valor' is the stipulation that they have a courageous heart to rescue the oppressed from the hands of the oppressor, as in the matter of which it is scripturally written, 'And Moses rose up, and saved [the shepherdesses] from the hands of the more powerful shepherds'... And just as Moses was humble, so must every judge be humble" (Mishneh Torah, Laws of Sanhedrin 2:7).

Rabbi Shlomo Daichovsky, one of the most learned and incisive judges who ever occupied a seat on the Religious High Court in Jerusalem queries (in an "Epistle to my Fellow Judges," dated 25 Shevat 5768, and published in *Tehumin*, Winter 5768) as to how it is possible for a judge to be a valiant fighter on behalf of the oppressed – which requires the recognition of one's power to exercise one's strength against the guilty party – and at the same time for him to be humble, which requires self-abnegation and nullification before every person? These seem to be two conflicting and contrasting characteristics!

Rabbi Daichovsky concludes that humility is an important characteristic only when the judge is not sitting in judgment; when the judge is seated on the throne of judgment, he must be a valiant and self-conscious fighter,

fearlessly struggling against injustice as though "a sword is resting against his neck and hell is opened up under his feet" (Sanhedrin 7). "The Judge must be ready to enter Gehenna and to face a murderous sword in defense of his legal decision.... He must take responsibility and take risks, just like a soldier at war, who dare not worry about saving his own skin" (Maimonides, Mishneh Torah, Laws of Sanhedrin 23:8).

The chief concern of a judge must be for the justice and well-being of the litigants before him and not for his own security and reputation in walking on the "safe" (and more stringent) halakhic ground.

The Person in the Parsha **Rabbi Dr. Tzvi Hersh Weinreb**

Darwin and the Mussar Movement

Ethics is a subject about which we all have many questions. What makes an ethical personality? How do we make ethical decisions in complicated circumstances?

Personally, there are two specific questions that have always been of concern to me. One is, "How does one get started upon the process of becoming a more ethical person?" This question is especially relevant at this time of year when many of us begin to think about the upcoming High Holidays and the requirement that we embark upon a process of introspection, of repentance, of teshuvah.

There is a second type of question that I pose to myself: "Where do we look to for guidance in ethical matters?" Are we restricted only to sacred sources? Or do secular sources also hold wisdom with regard to ethical behavior and to self-improvement in the ethical sphere?

In my personal reflections on the subject of universal ethics, I have long been guided by a passage in the writings of Rabbi Abraham Isaac HaCohen Kook, the first chief Rabbi of the land of Israel. He speaks of two sources for ethical guidance. The first is *yir'at shamayim*, fear of heaven, which is a religious source. The second is *hamussar hativ'i*, natural ethics, by which he means the knowledge of right and wrong, which is available to all mankind, no matter what their religion is, if any. Rav Kook asserts that these two sources go hand-in-hand and must be consistent with one another.

More recently, I have been reading a book by the psychiatrist Maurice Levine, entitled *Psychiatry and Ethics*. Levine begins the first chapter his work with a quotation from Charles Darwin's autobiography:

"I had... followed a golden rule, namely that whenever a published fact, a new observation or thought came across me, which was opposed to my general results, to make a memorandum of it without fail and at once; for I had found by experience that such facts and thoughts were far more apt to escape from the memory than favorable areas. Owing to this

habit, very few objections were raised against my views, which I had not at least noticed and attempted to answer."

Levine uses this interesting habit of the father of the theory of evolution to illustrate what he considers to be a fundamental process in the development a truly ethical person. He calls this the process of "self-scrutiny". He writes, "A good part of a man's ethics consists of the ways in which he copes with his temptations." Darwin was aware of his own temptation to only recognize evidence that supported his theories and to conveniently ignore or forget facts that would undermine them. And he acted to control that temptation.

Darwin was certainly not unique in this weakness, although the manner in which he dealt with it was exemplary. We all have ideas about our projects, or about ourselves, and we all tend to pay careful attention to everything that would confirm our opinions. And we all excel at ignoring, suppressing, forgetting, or discounting all information that might force us to reevaluate our theories or, heaven forbid, re-examine our opinions about ourselves.

As Levine puts it, one of the fundamentals of sound ethical character is "the need to know oneself, the need to be as honest with oneself as possible, the need to avoid self-kidding."

This week's Torah portion, Parshat Shoftim, we encounter a mitzvah which seems to be given only to judges: "You shall not judge unfairly... you shall not take bribes, for bribes blind the eyes of the discerning and upset the plea of the just." (Deuteronomy 16:19)

In the mid-19th century, a rabbi named Israel Salanter began a movement designed to educate people about the importance of ethics in the Jewish tradition. That movement was known as the "Mussar Movement," "mussar" being the Hebrew word for ethics. This movement had many leaders over the generations and continues to have a significant contemporary influence.

One of the greatest representatives of the Mussar Movement was a man named Rabbi Abraham Grodzinski, who was murdered by the Nazis in the ghetto of Kovno during the Holocaust.

Rabbi Grodzinski had a problem with the text of the above verse in this week's Torah portion. He wondered what those of us who are not judges can learn from the injunction against taking bribes. What lesson is there for every man in the observation that "bribery blinds the eyes of the discerning?"

The martyred Rabbi had an answer that is strikingly similar to the observation about ethics that Dr. Levine was able to learn from Darwin's autobiographical note. "We all have personal interests," writes Rabbi Grodzinski, "personal inclinations that result in misperceptions, misjudgments, and tragic

Likutei Divrei Torah

moral errors. These personal prejudices are the equivalent of bribery. Our own self-interest often blinds us and distorts our judgment as to what is right and what is wrong."

The great ethical teachers in our tradition consistently point out that in a sense, we are all "judges," and we are constantly acting as judges in all of the decisions that we make throughout even the most mundane day. And we are always subject to "bribes," that is, to the temptations to ignore information that is uncomfortable to us, that threatens our pre-existing assumptions, or that forces us to re-examine the question of whom we really are.

Charles Darwin and Rabbi Israel Salanter, who were almost exact contemporaries of each other, had very different worldviews. Had they had the opportunity, they would have debated fiercely about the origins of the universe and of the nature of humanity. But on this one point, they would have thoroughly agreed: we are all subject to the temptation of distorting reality to fit our own selfish interests. And we all need to be vigilant against such temptation.

This brief excursion into the posthumously published writings of a saintly Holocaust victim, *Torat Avraham Grodzinski*, and the collection of a Jewish American psychiatrist's lectures, *Psychiatry and Ethics*, helped me answer both of my questions.

Firstly, are we restricted only to sacred writings in our search for ethical guidance? No, we can even find such guidance in the autobiography of a man whose writings were considered to be the greatest threat to traditional religion.

And secondly, what is the first step for those of us who wish to initiate a process of teshuvah, of ethical self-improvement. It may very well be what our ancient scholars referred to as "*cheshbon hanefesh*," and what a contemporary thinker has aptly termed "self-scrutiny."

Torah.Org: Rabbi Yissocher Frand **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

Likutei Divrei Torah

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 nimtze’u divreihem 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 nimtze’u divreihem mechuvanim”? (If it is found that their words match) Why didn’t the Mishna simply say, “if their words match” (im divreihem 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 hear 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 “nimtze’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!

Rabbi Dr. Nachum Amsel Encyclopedia of Jewish Values*

Signs and Omens – Does God Send Us Signals Today?

If a poll of all observant Jews we taken, it would probably find that most believing Jews do not imagine that God communicates with them today on a regular basis. And yet, the following two incidents took place less than a century ago, involving the greatest Torah scholar of his time, Rabbi Yeshaya Karelitz (1878-1953), known as the Chazon Ish, a man who was not known as a mystic, Chasid or Kabbalist (“Borchi Nafshi” by Rabbi Zilbershtein [brother-in-law of Rabbi Kanievsky] on Genesis 44:15). His nephew, Rabbi Kanievsky, relates that his uncle sent a messenger to meet an unknown man he was

told to find. The messenger could not find the man. So, the Rabbi sent a second and then a third messenger, with the same results. After the third man came back emptyhanded, Rabbi Karelitz said that I will no longer pursue the man, as this is a clear sign from God that I should not meet that man. In another incident, the wife of the Chazon Ish was about to serve him his hot lunch, but someone important suddenly came to the door and the lunch had to wait. Afterwards, his wife warmed up the lunch again, but a poor man then appeared at the Rabbi's door. Once again, the lunch got cold. It was reheated, and then, when he was about to eat, a man came in and had to ask the Rabbi a Jewish law question. After the third man left, Rabbi Karelitz said to his wife, that this is a sign from God that there is something not kosher in the food, and God does not want me to eat it. It should be thrown out! And it was thrown out, assumed to be not kosher.

How are we supposed to understand these stories? Does God send human beings these kinds of signals, like the Chazon Ish, telling him how to behave? Does God send messages like this only to holy men, or can everyone look for God's signal in a similar manner? How do we know when it is merely coincidence, and when it is a true Godly message? And how does these stories and this issue connect to our Torah Portion? As fantastic as it sounds, traditional Judaism answers these questions in the affirmative. The sources will show that God indeed communicates with each man today. But how? It is true that Judaism no longer believes in prophecy today, where the Almighty speaks directly to people (Sanhedrin 11a). Even though Judaism believes does believe that the "Holy Spirit-Ruach Hakodesh" exists today (see chapter "Holy Spirit-Ruach Hakodesh", vol. 3), that concept is not about any direct communication or specific sign from God. Where do we see that God communicates today with mankind and individual Jews?

We Find God Sends Daily Messages - In a verse that describes that one-time Revelation at Mount Sinai, the Torah says (Deuteronomy 5:19) that God's voice was great/powerful and did not stop. Rashi (Rashi commentary on Deuteronomy 5:19) explains that the "voice" or communication by God at Sinai has never ceased since that moment, and God continues to communicate with all Jews and all people every day until today. God's message has never ended and has never diminished. Rabbi Yehoshua even articulates the content of God's words of the daily message in the Mishne (the specific nature of that message and its significance for all Jews is beyond the scope of this chapter) (Mishne Avot 6:2). According to Rabbi Karelitz (and others), the form of communication by God to people is not restricted to Torah words, but it also includes events in our daily lives. Jews should interpret what happens to them, for good or bad, as messages that God is sending them. Just as God spoke to Moses on a frequency unique to Moses, according to Rash (Leviticus 1:1, with

Rashi commentary), inaudible to other humans, perhaps God speaks to each of us today through signals and events, different for each person. Darchei Moshe writes (Darchei Moshe commentary on Leviticus 1:1) that this phenomenon was not miraculous for Moses, but, rather, each person has a unique frequency to see and hear God today, but through actions and events, rather than words.

Is there any precedent in the Torah or scripture where God "speaks" to individuals through actions, through signs or signals? Indeed, there is. In the well-known story when Abraham sends his servant Eliezer to search for a wife for Isaac, Eliezer turns to God by the well and asks for a sign, to indicate the correct young woman to choose. And Eliezer enumerates the sign in advance – the maiden that will not only offer a drink for me, but also provide water for all my animals. But the specific words used by Eliezer indicate that God is speaking through the sign: "Hakre Na Lifanai-Give me a sign and make it look natural (Genesis 25:12-22)." Later, as Eliezer is quietly watching Rebecca feed the camels, Eliezer again prays "that God make his mission successful (through the sign)".

A similar narrative involves Jonathan, son of King Saul. Yonatan was unsure if the Jews would be successful against the mightier Philistines in a particular battle. So, the night before, he stealthily approaches the Philistines to "take their temperature". Jonathan asks God to send him a signal. If the Philistines are afraid of the Jews (or, according to one opinion, they are overconfident), they will tell the Jews to "go up", and that would signal to Jonathan that indeed they could defeat the Philistines. And that is exactly what happened (I Samuel 14:4-14). Therefore, we see two places in the text where prominent Jews relied on signals from God as a means of communicating with them.

But The Torah in our Parsha Forbids Nichush-Omens - And, yet, the Torah, in our Portion, in the very same verse forbidding bringing a child onto a fire to an idol, the Torah (Deuteronomy 18:10-12 with Rashi commentary) specifically forbids a Jew from predicting the future by using any signs such as divining rods or food falling from the mouth as a sign to do this or that, along with the prohibition of witchcraft and magic. In another verse in the Torah (Leviticus 19:26 with Rashi commentary), Rashi explains this prohibition regarding the non-Jews who used to use a weasel or a bird to predict the future, or, if a piece of bread fell off the table or deer crossed its path (like a black cat), it was an omen for a terrible day. Rashi based his examples on the Talmud in Sanhedrin, which defines the prohibition of working with these specific and similar omens to predict the future (Sanhedrin 65b with Rashi commentary). Sefer Hachinuch explains (Sefer HaChinuch, Mitzvah 249) that if Jews take these "nonsense" signs by non-God believers, it will only encourage Jews to abandon God. Nachmanides stresses (Ramban

Likutei Divrei Torah

commentary on Deuteronomy 18:10) that anyone who uses such signs to predict the future is guilty of sin. Based on this patent Torah prohibition and all the explanations by the commentaries, how could Chazon Ish (and others) interpret signs in their lives to determine how to proceed next? How could Eliezer and Jonathan use their signs to guide their actions? It seems that they all seem to be sinners!!

There seems to be a fundamental difference between Siman, which is permitted to use as a sign from God, and Nichush, which is forbidden under all circumstances. Before pointing out the key difference between Siman and Nichush, it is first important to point out a difference in two distinct categories of signs. The sign of interpreting events after they happen is one kind of sign but using a sign to predict future events is a very different kind of sign. When the people disturbed Rabbi Karelitz, it was after the food had been cooked. But Eliezer gave his sign (offering to feed water to the camels) for a future event and waited for it to happen. Only then acted upon it. Maimonides seems to say that both kinds of signs are forbidden (Maimonides, Hilchot Avodah Zara 11:4). Raavad (Hasagat Raavad on Maimonides, Hilchot Avodah Zara 11:5), the "nemesis" of Maimonides, attacks him on this ruling, asking how would the great Eliezer and Jonathan be sinners? Radak (Radak commentary on I Samuel 14:9) similarly defends the actions of Eliezer and Jonathan. If they had truly erred in using signs to determine their actions, why did God then let them both succeed in their quests? Rebecca was indeed the right wife for Yitzchak, and the Jews handily defeated the Philistines. Thus, the uses of these signs must have been correct, according to Radak.

In the following line Rambam gives us another type of sign, which he rules to be valid to use (Maimonides, Hilchot Avodah Zara 11:5). This is a sign of only looking back at events (as Rabbi Karelitz did). Thus, if a person sees blessing in everything that happened after he married his wife, that is a legitimate sign to show that she was the right choice. On this ruling, Rabbi Yosef Karo (Kesef Mishne commentary on Maimonides, Hilchot Avodah Zara 11:4) agrees with the above commentaries, and also defends Rambam's rulings, claiming that Maimonides was misinterpreted. In this defense, Rabbi Karo answers our crucial question: when is it a legitimate Siman-sign, and when is it the prohibited Nichush-omen? Rabbi Karo writes that Maimonides also agrees that a Jew may use signs – if they are logical. If there is a logical conclusion based on the sign to guide one's actions, then it is perfectly justifiable to use such a sign. If the sign is random and not connected to the interpretation, only then it is Nichush and forbidden. There is no connection between a piece of bread falling off a table and having a bad day, or a black cat predictive of bad things to come. Thus, those who use these signs are committing a sin. But is a person sees

it is overcast outside, says Rabbi Karo, and then decides not to go out because it will rain, that is logical and legitimate as a sign. Chidushei HaRan agrees with this analysis (Chidushei HaRan commentary on Chulin 95b), and also explains that the very signs used by Eliezer and Jonathan as perfectly logical. Waiting to find a young woman who has the same kind of kindness as his master Abraham, would be a good predictor of what qualities to look for in a wife. Similarly, if the sign would ascertain that the Philistines were afraid of the Jews (or overconfident), then this is predictive of the defeat of the Philistines. This idea also summarized in the Code of Jewish law (Shulchan Aruch, Yoreh Deah 179:3, 4). Rabbi Karo first cites the Nichush-Omens practices clearly forbidden (because their occurrence is non-predictive and pure nonsense), and then Rema brings both sides of the argument about the signs used by Eliezer and Jonathan to predict the future, but he seems to side with those who rule that Eliezer and Yonatan were legitimate in doing what they did. Regarding using signs to learn from what already happened, like the stories of Chazon Ish, no one seems to disagree that these kinds of signs are legitimate and not forbidden.

There are two other incidents in the Scripture which seem to strengthen the argument that God is sending us signs – if they are logical, then we can draw proper conclusions. Rashi explains, concerning the story about King David (I Samuel 17:34-37, Rashi commentary on verse 37), where King David had already been saved (quite miraculously by God), when he faced down the lions. Now, King Saul asked one Jew to volunteer to face the mighty Goliath and defeat the giant and the Philistines. King David reasoned to himself that he should volunteer for this task, since God had already saved him once. David concluded that God must have saved David in the past for some higher purpose in the future – to save the entire Jewish people by defeating Goliath. In a similar manner, the verse says (Esther 2:11) that Mordechai roamed the outskirts of the palace looking for (a sign?) what would happen to Esther, because he deduced that God would not have put his niece in a position of the be Queen with a non-Jew without a higher purpose to eventually save the Jewish people.

None of us are a Rabbi Karelitz. How are we to hone our skills and connect to God by interpreting everyday events as signs? How can we know? A person must train himself or herself to become sensitive to events in one's life, and read the messages being sent daily by God. By looking at one's life through the spiritual lenses or spiritual transmitter, many seemingly meaningless or inconsequential events suddenly take on meaning and can be read as a personal message? The specifics, unfortunately, of how to perfect this skill are beyond this article (read the entire chapter in the book!).

*** This column has been adapted from a series of volumes written by Rabbi Dr. Nachum Amsel**

"The Encyclopedia of Jewish Values" available from Urim and Amazon. For the full article or to review all the footnotes in the original, contact the author at nachum@jewishdestiny.com

Ohr Torah Stone Dvar Torah

Seeking justice while cultivating compassion Sarah Gordon

Parshat Shoftim concludes with the atonement ritual of the Eglah Arufah, or beheaded calf (Devarim 21: 1-9), which outlines the process judges and elders of the closest city undergo when an abandoned body is found. Among the more striking elements of the ritual are the city leaders breaking the calf's neck in the wadi, washing their hands over its body, and making a declaration of "our hands did not shed this blood" (Devarim 21:7).

Maimonides (Guide to the Perplexed III, 40) sees the Eglah Arufah ritual as having a utilitarian purpose. The publicity that comes with measuring which city is closest, the procession of leaders down to the wadi, and the shocking nature of the ritual, will cause people to talk more about the case, increasing awareness and the number of helpful tips towards solving the murder.

While this makes logical sense, I am curious about the symbolism of the ritual. Which emotions is it supposed to evoke for the city leadership and the people of that town? What are the lessons and takeaways for us today?

There are a few possibilities for what the mashal or parable of breaking the calf's neck could symbolize and who is represented by the calf and the elders (see Rav Amnon Bazak, Starting Point, Parshat Shoftim).

One option is that the calf signifies the unpunished murderer, with the elders acting out the murderer's execution. Having the city elders perform what they should have done highlights the miscarriage of justice that occurred, with the judges failing their responsibility to uphold the rule of law.

Another option is the ritual reenacts the murder of the victim, with the elders playing the role of the murderer. The choice of a young calf that has never worked underscores the victim's innocence, and the barren wadi emphasizes the end of the victim's line and how they will never be able to have additional children or contribute more to the world.

Here, the ritual focuses on the enormity of the loss, the ending of a world (Mishnah Sanhedrin 4:5), rather than failed legalistic responsibilities. Having the elders play the role of the murderer raises the question of what could have avoided this tragedy, placing the burden of responsibility on city leadership.

The emphasis on responsibility is also seen in the declaration made at the end of the ritual of "our hands did not shed this blood" (Devarim

Likutei Divrei Torah

21:7). Whose blood was not shed by the elders? The Talmud Bavli (Sotah 46b) attributes it to the victim, a declaration of absolution that city leaders did not fail to protect the traveler by sending them away without food or an escort.

Alternatively, the Yerushalmi (Sotah 9:6) views it as the blood of the perpetrator, a declaration of due diligence by city leaders that they did not have the murderer in their custody and allow them to go free.

Most fascinating is the explanation of the Malbim (quoted by Nechama Leibowitz, Studies in Sefer Devarim, Parshat Shoftim), who identifies the blood as referring to the murderer, but adapts the disclaimer previously used for the victim.

The Malbim states in the voices of the leaders: "We were not indirectly responsible in this murder on account of not providing the murderer with food for the lack of which he was driven to commit this capital crime..." (Malbim, Devarim 21:7).

In this explanation, the city leaders acknowledge responsibility not just for their failure to punish the murderer or protect the victim, but also for the social reality existing in their community that could have led a starving individual to take the drastic step of murder.

This broader outlook allows us to foster compassion for the individual who committed this horrible crime, while still focusing on the justice that needs to happen. It also expands the lessons of the ritual for the city leaders; crime does not happen in a vacuum and it is incumbent on a community to take care of all of its members, and have the social infrastructure in place to help struggling individuals.

This meshing of din and rachamim, justice and mercy, can be a helpful mindset for us as we enter the month of Elul. It can be easy to look at ourselves and at others in black and white categories of crime and punishment, law and accountability. However, it is more helpful for personal and communal growth to look at the whole person, cultivating nuance and compassion and allowing for din (justice) to be tempered by rachamim (mercy).

Dvar Torah: TorahWeb.Org

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 mitzvot 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 (anvesanus), 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 (eitza) 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 eglarufa. 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

Likutei Divrei Torah

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 eglarufa 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.

Yeshivat Har Etzion: Virtual Bet Midrash Shoftim | What is the Torah's Ideal Political System? Rav Elchanan Samet

a. APPOINTING A KING: MANDATORY OR OPTIONAL? Does the Torah set out a particular social-political way of life for the nation of Israel dwelling in its land, or does it leave this sphere open to the people's choice? This question may be clarified in the context of the section of this week's parasha (17:14-20) dealing with the mitzva of appointing a king (and also by examining the chapters describing the establishment of the kingship in Shemuel I chapters 8-12).

The central question from an exegetical point of view is this: is the appointment of a king mandatory or optional? This question arises from a lack of

clarity – perhaps it should be called a contradiction – in the text:

(17:14) "When you come to the land which Hashem your God has given you and you possess it and dwell in it, and you say, 'Let us appoint a king for ourselves like all the nations around us,'

(17:15) You shall surely appoint a king over yourselves, whom Hashem your God will choose, one of your brethren shall you appoint as king over you. You may not appoint a stranger over you who is not your brother."

R. Chaim ben Atar (Ohr Ha-Chaim 17:14) presents the problem thus: "When the text says, 'When you come to the land... AND YOU SAY....,' it means that it is not God's command to you that a king should reign; rather, if the nation speaks so, then they are permitted [to appoint him]. But later it says, 'You shall surely appoint' – the language here shows that God is commanding that they appoint a king!"

According to this commentator, the whole of verse 14 contains the conditions for the command (i.e., the circumstances in which it applies), while the command itself is given in verse 15. The conditions for the mitzva in verse 14 are twofold: the first condition defines the time and the historical circumstances in which the mitzva applies: after the inheritance of the land and the settlement of it. The second condition stipulates the necessary social and political circumstances: when Am Yisrael requests a king. If the mitzva is conditional upon an expression of national will that the institution of kingship be established, then what this means is that the appointment of a king is voluntary, and the Torah merely details the procedure of this appointment. But if this is so, then why does the Torah in the next verse seem to formulate an absolute command to appoint a king?

b. THE TANNAITIC DISPUTE The beginning of the exegetical dispute on this question is to be found in a debate between Tana'im found in a beraita (Sanhedrin 20b, and Tosefta Sanhedrin ch. 4), and in the Sifri Devarim on our parasha.

"R. Yehuda said, Three commandments were given to Israel [to fulfill] upon their entry into the land: appointing a king, destroying Amalek, and building the Temple.

R. Nehorai said, This parasha [of appointing a king] was given only in response to their murmurings, as it is written (17:14), 'And you shall say, "Let us appoint over ourselves a king [like all the nations around us]."'

Rashi interprets the words of R. Nehorai thus: "'You shall surely appoint over yourselves a king' is a command, but only in response to your murmurings, for it was known to God that they would murmur about this in the future." The predicted "murmurings" of Israel were realized in the days of Shemuel. The mitzva in the Torah was meant to create a response to address this murmuring in advance, i.e., to create a framework for this future appointment of a king, which is voluntary and based only upon their dissatisfaction.

The Sifri (156) formulates a slightly different explanation:

"'And you shall say, Let us appoint over ourselves a king' – R. Nehorai says: This is a matter of disgrace to Israel, as it is written (Shemuel I 8:7) 'For it is not you whom they have despised, but Me whom they have despised from ruling over them.'

R. Yehuda said: But it is a mitzva from the Torah for them to request a king for themselves, as it is written, 'You shall surely appoint over yourselves a king.' So why were they punished for this in the days of Shemuel? Because it was too early for them to ask.

'Like all the nations around us' – R. Nehorai said, They did not ask for a king for any other reason but so that he would institute idolatry, as it is written

(Shemuel I 8:20), 'And we, too, shall be like all the nations, and our king will judge, and he will go out before us and fight our wars.'"

Attention should be paid to the fact that R. Nehorai's statement contains two parts. At first, when interpreting the beginning of the verse ("Let us appoint a king"), he says that the very wish for a king represents a rejection of God's rule over them, as expressed in Sefer Shemuel. R. Nehorai then interprets the continuation of the verse even more critically: their desire to be "like all the nations around us" reveals that their wish for a king is bound up with their wish to be free to engage in idolatry.

Despite the broad basis the R. Nehorai brings for his claim, the Rambam – and, following his example, most of the early authorities – rules according to R. Yehuda: he counts the mitzva of appointing a king as one of the 613 mitzvot (Sefer Ha-mitzvot, positive mitzva no. 173, Hil. Melakhim 1:1). This situation has caused many biblical commentators throughout the ages to interpret the text here in accordance with the explanation of R. Yehuda and the ruling of the Rambam, in order that their interpretation be compatible with the halakha.

However, some commentators differ with the majority and maintain that the appointment of a king is a voluntary matter. The existence of such an opinion among the Tana'im certainly strengthens their case.

c. THE DISPUTE AMONG RISHONIM As stated, many of the medieval authorities rule as the Rambam did (the Semag – positive mitzva 114, Sefer Ha-Chinukh 497, the Me'iri in Beit Ha-Bechira on Horayot 11b, the Ran in his eleventh derasha), and many of the early and later biblical commentators interpret the verses in the Torah accordingly (Radak in his commentary on Sefer Shemuel, Ramban, Ralbag, Rabbeinu Bechaye, Akeidat Yitzchak, etc.). We shall suffice with examining just one representative of this great camp: the Ramban. Thus writes the Ramban on the words, "And you shall say, 'Let us appoint over ourselves a king'": "According to the opinion of our Sages, this is equivalent to the Torah saying, 'and you shall say.' In other words, 'Say: Let us appoint over ourselves a king.' This is a positive mitzva, obligating us to declare this after the inheritance and settling of the land..."

Indeed, the Ramban succeeds thus in resolving the contradiction in the text: he changes the boundaries between conditions for the mitzva and the mitzva itself, defining them differently than the Ohr Ha-Chaim previously did. "And you shall say..." is not, in his opinion, part of the conditions for the mitzva but rather the beginning of the mitzva itself, which in turn is composed of two parts: one is a requirement that the nation REQUEST of its leaders that a king be appointed, and the other part is that the nation receive a positive response and that a worthy king in fact be appointed. The logic behind this double mitzva is that in this way the appointment of the king will not be forced on an unwilling nation. As for the end of the verse – "like all the nations" – the Ramban this phrasing is not mandatory, but rather a prophetic foreshadowing and warning of what they will actually request in the time of Shemuel.

Attention should be paid to the fact that the Ramban interprets the text thus in order to adapt it to "the opinion of our Sages" – i.e., the opinion of R. Yehuda. However, he ignores the existence of a different opinion among Chazal – that of R. Nehorai.

As opposed to the large group of commentaries who interpret the appointment of a king as mandatory, there are only a few who interpret it as voluntary. This latter group includes Targum Yonatan, Rabbenu Meyuchas of Greece, and Ibn Ezra. Ibn Ezra expresses his view clearly and concisely:

Likutei Divrei Torah

"'You shall appoint' - this is optional;

"'Whom God will choose' - through a prophet or the decision of the Urim Ve-tumim; meaning - not someone whom you yourself will choose."

d. ABARBANEL AND SEFORNO If we say that the appointment of a king is voluntary, and that the mitzva involves merely the procedures that Benei Yisrael must follow under circumstances that they themselves bring about, one important question arises: Is it desirable for Benei Yisrael to bring about these circumstances? In other words, is it optional and encouraged or optional and discouraged?

Two commentators expressed their positions in this regard explicitly and in detail. The similarities between the two are not coincidental: both lived in Renaissance Italy and both involved themselves not only in Biblical exegesis, but also in Jewish philosophy. They were both involved in the general culture of their time and had direct contact with the European political philosophy of their period as well as the various regimes that ruled throughout Europe and Italian provinces. Thus, their comments regarding the issue of Jewish monarchy take on special significance.

A) Rav Yitzchak Abarbanel: To properly understand his approach on our issue, we must first find out a little bit about his life. Abarbanel was born in 1437 to the minister of the treasury for the Portuguese king. His father provided him with both a Jewish and general education. The latter included Greek and Roman literature as well as command of the Portuguese language. Rav Yitzchak assumed the post as minister of the treasury upon his father's death, but shortly thereafter, with the change of rule in Lisbon, he was compelled to flee for his life to neighboring Spain. There he became the general economic advisor to King Ferdinand and Queen Isabella. In 1492 he left Spain as a result of the expulsion order. He resided in Naples where he served as royal economic advisor until he was again forced to flee, this time as a result of the French conquest. At the end of his life he lived in Venice, which was then an independent republic, where again he worked as an economic advisor to the authorities. He lived in Venice until his death. Alongside his political and economic involvement, Rav Yitzchak Abarbanel remained intensely engrossed in Torah studies, writing commentaries to Tanakh and other works.

Abarbanel was the only Jewish exegete of his time whose knowledge of various forms of government was that of an insider. He literally lived in the households of kings and rulers and caught more than a glimpse of their respective qualities and shortcomings, as well as those of the differing political theories and policies of his period.

In his lengthy introduction to our parasha, Abarbanel asks: If appointing a king is a mitzva, why didn't Yehoshua or others fulfill it? Furthermore, he asserts, Jewish history demonstrated that most Israelite kings led the people astray, and general history has shown that the more power is concentrated in an individual, the more corrupt he is likely to be. Abarbanel then presents his explanation of our verses:

"When the Torah says, 'When you come to the land... and you say: Let us appoint a king for ourselves like all the nations around us,' this does not constitute a mitzva at all. God did not command that they say this and request a king (as the Ramban had explained). Rather, this is foretelling the future. It means, after your settlement in the chosen land, the conquest and all the wars, and after the division [of the land] ... I know that you will be ungrateful and say of your own volition, 'I will set a king over me,' not out of necessity to fight the nations and occupy the land, for it will have already come under your occupation, but rather to render yourselves

equivalent to the nations that crown kings over themselves. He mentioned that when this occurs, they should not crown that king based on their own will, but rather [they must crown] the one who God chooses from among their brethren... According to this, then, the issue of the king is a positive commandment that depends upon a voluntary situation, as if to say, when you want to do so, notwithstanding its impropriety, do so only in this manner."

B) Rav Ovadia Seforno: Seforno (born in 1470) lived a generation later than Abarbanel and acquired vast scientific knowledge in the university in Rome. Although he never worked as a politician, Seforno, too, had close relationships with important figures in Italy and was quite familiar with the political culture of his time. He writes:

"Let us appoint a king for ourselves like all the nations around us' - that the kingship will belong to him and his offspring, as opposed to the system of judges ['shoftim'] whereby only the judge himself serves, not his children after him.

"They were commanded regarding the appointment of a judge in this manner (that is, without automatic transfer of authority to his children) upon their entry into the land, as it says (Bemidbar 27:17), 'So that God's community may not be like sheep that have no shepherd.' True, a king like the kings of the gentiles - who hold kingship for themselves and their offspring - is despicable to God. However, He commanded that when they insist upon setting up a king over themselves in this manner, they should select only a deserving person whom God chooses. He will not bring Yisrael to violate their religion, and he will not be a gentile... When they sinned by asking for a king who will rule as would his offspring 'like all the gentiles' (as described in Sefer Shemuel), they were punished through the mishaps suffered by the masses as a result of the king, as it says (Shemuel I, 8:18), 'The day will come when you cry out because of the king whom you yourselves have chosen; and God will not answer you on that day.'"

The comments of the Abarbanel and Seforno resemble each other, but here we will point out their differences:

The ideal government in the eyes of the Abarbanel is a republic (as he witnessed in Venice). Unlike Seforno, Abarbanel did not see in a single, authoritative figure who rules until his death an ideal example of government.

Abarbanel sees the problem with the request for a king as relating to the desire to grant exclusive authority to a single individual. According to Seforno, by contrast, this is not the problem at all. Only the establishment of a hereditary kingship renders the request worthy of criticism.

Abarbanel emphasizes the failure of the institution of the monarchy as demonstrated by both Jewish and general history, a failing that he attributes to the ethical shortcomings inherent in the institution. Seforno, however, speaks of the punishment that will befall Benei Yisrael only for their sin of requesting a king who will bequeath his power to his heir.

Thus, Rav Ovadia Seforno expresses more mild opposition to the institution of the monarchy than does Rav Yitzchak Abarbanel (perhaps because he did not have firsthand experience with kingship as did Abarbanel).

Seforno's approach raises the question: Wherein lies the fundamental difference between a king who bequeaths his rule to his son, a system that God deems "despicable," and a king who does not pass down his reign, the appointment of whom constitutes a mitzva? One would perhaps suggest that hereditary kingship contains the potential for corruption and the ascent of unqualified rulers to the throne. This answer, however, fails to justify the ireligious

between these two forms of government as expressed by the Seforno.

A non-dynastic monarchy requires in every generation - or even more frequently - a selection of a new ruler over the people. When God Himself performs this selection, whether He does so directly through a prophet (the way Shaul and David were appointed) or in a roundabout manner through the emergence of a charismatic leader who saves the people from their enemies (as occurred during the period of the judges), then the sense of the presence of divine supervision remains among Benei Yisrael. By contrast, a dynastingship "like all the nations" gives the nation a sense of political stability that undermines their awareness of divine providence. This concern forms the basis of God's words to Shemuel when the people came to him to ask for a king (Shemuel I 8:7): "For it is not you that they have rejected; it is Me they have rejected as their king."

e. THE NETZIV'S INNOVATIVE APPROACH

Two commentators tried to resolve the contradiction between verses 17:14 and 17:15 by suggesting that the appointment of the king involves both an obligation as well as a voluntary measure. The first is the Ohr Ha-Chayim (in his interpretation of R. Nehorai's view), which I will leave for the reader to look up. The second commentator who adopts this approach is the Netziv, in his "He'amek Davar," only he develops this theory within Rav Yehuda's view:

"And you say: Let us appoint a king for ourselves' - This is does not imply 'saying' in the typical sense, that is, verbally (as the Ramban explained), but rather [it denotes the people's desire]... Indeed, from this expression it appears that this does not signify an outright obligation to appoint a king, but it is rather voluntary...

However, it is well known in the words of Chazal that there does exist a mitzva to appoint a king. If so, then why is [the mitzva written in an equivocal fashion]? It seems that [this is] because national leadership changes [with regard to] whether it is controlled by the will of the monarchy or by the desire of the population and their elected officials. Some countries cannot tolerate royal authority, and other countries are like a ship without a captain when they do not have a king. This matter (determining the form of government) cannot be done according to a mandatory positive mitzva. For with regard to matters relevant to leadership over the nation at large, this involves issues of life-and-death that override a positive commandment.

Therefore, it was impossible to command in absolute terms the appointment of a king UNTIL IT WAS AGREED UPON BY THE NATION to tolerate the royal yoke based on their observation that the surrounding nations managed better [under a monarchy]. Only then is it a positive mitzva for the Sanhedrin to appoint a king. ... This is why throughout the three hundred years that the Mishkan was chosen to stand in Shilo there was no king - because there was no consensus among the people."

Underlying this original position of the Netziv are two basic assumptions, and only upon these cornerstones could he posit his startling approach. His first assumption he writes explicitly: that Chazal viewed the appointment of a king as a mitzva. Of course, this assumes the viewpoint of Rav Yehuda and ignores the opposing position of Rav Nehorai. The Netziv was most likely influenced by the ruling of the Rambam and others.

The second assumption emerges from his words more subtly. It is clear to the Netziv that careful consideration of the different forms of rule among the nations will bring those contemplating this issue to the conclusion that absolute monarchy is preferable over other forms of government (such as that which operates "according to the desire of the

Likutei Divrei Torah

population and their elected officials"). The Netziv attributes this assumption to the Torah itself, which patiently waits for Benei Yisrael to arrive at this "correct" political outlook. Only then does the Torah mandate the appointment of a Jewish monarch. Of course, living in nineteenth-century Russia under the Czar, this presumption may have seemed to him natural and self-evident, but it is one which is difficult for contemporary man to accept.

f. ANOTHER PERSPECTIVE ON THE ISSUE

In conclusion, we should note that most commentators saw the parasha of the king as the locus for a discussion regarding the Torah's preferred form of government. However, in the textual and historical contexts in which the issue of the monarchy arose (especially during the time of Shemuel), it seems that the question here involves a different issue: is there, according to the Torah, a need to establish any central authority at all? In other words, does the Torah destine Benei Yisrael for life within the framework of a political state, or does it prefer existence within a more anarchic social framework lacking any governmental authority?

This second possibility describes Benei Yisrael's history during the time of the judges until the period of Shemuel. They lived within the framework of tribal treaties and agreements with no central authority endowed with the power of legislation or coercion. This social system was not easy for them, as external pressures from enemies did receive proper response given the lack of a king or organized military and governmental mechanism. Indeed, thoughts of a central authority arose from time to time throughout the period of the judges. Gidon responded the people's request for a hereditary monarchy by proclaiming, "I will not rule over you myself, nor shall my son rule over you; God alone shall rule over you!" (Shoftim 8:23). Apparently, behind this anarchistic societal life stood a firm, religious outlook. The same may be inferred from Shemuel's reaction to his constituents' request for a monarch. Their request in essence meant turning the voluntary treaty among the tribes into a single political body with central authority. The issue of the precise character of such a government is but a secondary question.

The Tanna'im who disputed the issue of the mitzva to appoint a king - R. Yehuda and R. Nehorai - seemed to have debated the question of the necessity of a state, not of the best form of government. According to Rav Yehuda, there is a mitzva for Benei Yisrael to establish a political framework in its land, for only thereby can they carry out the tasks with which they were charged upon entry into Eretz Yisrael - destroying Amalek and building a Mikdash. The Gemara notes that the appointment of a king had to precede the other two, since only a political entity with concentrated authority can draft the necessary resources for the other two tasks. Shaul's victory over Amalek and Shelomo's construction of the Mikdash could not have occurred during the period of the judges.

According to what we have said, an anarchist could find in the Torah and the commentaries cited here a basis for his political theory, just as one who insists upon one form of governmental authority or another can find support for his view. (Translated by Kaeren Fish and David Silverberg)

Home Weekly Parsha SHOFTIM
Rabbi Wein's Weekly Blog

Following the decisions of the court and judges of one's time, even if one personally disagrees with those judicial conclusions, is the subject of this week's parsha. This leads to a later concept in halacha of a zakein mamreh – a leading scholar, a member of the Sanhedrin itself, who refuses to accept or abide by the majority position and opinion of his colleagues.

There is a normative stance in Jewish life and Judaism that demands and restricts individual freedom and everyone doing their own thing. Every scholar is convinced that his opinion is correct, perhaps even perfectly and exclusively correct. But one must be willing to accept the fact that if most of the scholars disagree, then the law must remain that way even if history later proves them wrong or mistaken.

The majority, like any individual as well, is not infallible. But human society must function according to certain standards and norms and the Torah demands this type of discipline from all responsible leaders and judges. The zakein mamreh has the right to his own opinion but he has no right to preach it publicly in a way that will split the Jewish society and come to the disastrous situation of there being “two Torahs” present in Jewish society.

There must be a great deal of frustration in the heart of the zakein mamreh for he is undoubtedly convinced of the correctness of his position. But the Torah does not allow for the correctness of an individual opinion of law to endanger the entire delicate balance of judicial decision and halachic parameters. Again, the forest always trumps the trees in the Jewish view of law and halachic life.

The question now remains: is this true of the majority opinion regarding political and societal issues as well? Many times, in human history has the majority been wrong on crucial life and death issues. Winston Churchill was the lonely voice of warning in the 1930's when Germany rearmed.

Here in Israel, there have been many instances, especially over the past decade, when the majority has been wrong in its decisions and policies. The rabbis were a minority opinion in the times of the great rebellion against Rome and correctly foresaw the defeat and the destruction of the Temple. The prophet Yirmiyahu was a strident voice of dissension against

the majority military and diplomatic policies of the kings of Judah.

It is apparent that there is a significant difference between halachic and judicial decisions and national political and security issues. Eventually, even in these issues, the will of the majority will prevail in a democracy. But the dissenters have an innate right to be heard - and their opinion to be judiciously considered. The tyranny of the majority is a real danger in national matters.

It is much harder in these types of issues to define what is the forest and what are the trees. It is clear though that the concept of zakein mamreh is limited to those specific halachic issues and procedures that are detailed for us in the Talmudic tractate of Sanhedrin. In other matters, the majority should always force itself to truly listen to the opinion of the minority and the minority has the duty to express those opinions lucidly and publicly.

Shabat shalom. Rabbi Berel Wein

Environmental Responsibility SHOFTIM
Rabbi Jonathan Sacks ZT"L

Some commands in the Torah were understood so narrowly by the Sages that they were rendered almost inapplicable. One example is the ir ha-nidachat, the city led astray into idolatry, about which the Torah states that “you shall put the inhabitants of that town to the sword.” (Deut. 13:16) Another is the ben sorer umoreh, the stubborn and rebellious child, brought by his parents to the court and, if found guilty, put to death. (Deut. 21:18-21)

In both of these cases some Sages then interpreted the law so restrictively that they said “there never was and never will be” a case in which the law was applied. (Sanhedrin 71a) As for the condemned city, Rabbi Eliezer said that if it contained a single mezuzah, the law was not enforced (ibid.). In the case of the rebellious child, R. Yehuda taught that if the mother and father did not sound or look alike, the law did not apply (ibid.). According to these interpretations, the two laws were never meant to be put into practice, but were written solely “so that we should expound them and receive reward.”[1] They had only an educational – not a legal – function.

In the opposite direction, some laws were held to be far more extensive than they seemed at first sight. One

striking example occurs in this week's parsha. It refers to the conduct of a siege during wartime. The Torah states:

When you lay siege to a town and wage war against it for a long time to capture it, do not destroy its trees; do not wield an axe against them. You may eat from them; you must not cut them down. Are trees of the field human beings, that you should besiege them too? Only trees that you know do not produce food may you cut down for use building siege works until the town that has made war against you falls.

Deut. 20:19-20 This prohibition against destroying fruit-bearing trees was known as the rule of *bal tashchit*, "do not destroy". On the face of it, it is highly limited in scope. It does no more than forbid a "scorched earth" policy in the conduct of war. It seems to have no peacetime application. However, the Sages understood it very broadly to include any act of needless destruction. Maimonides states the law thus:

"Not only does this apply to trees, but also whoever breaks vessels or tears garments, destroys a building, blocks a wellspring of water, or destructively wastes food transgresses the command of *bal tashchit*." [2]

This is the halachic basis of an ethic of environmental responsibility.

Why did the Oral Tradition, or at least some of its exponents, narrow the scope of the law in some cases, and broaden it in others? The short answer is: we do not know. The rabbinic literature does not tell us. But we can speculate. A posek, seeking to interpret Divine law in specific cases, will endeavour to do so in a way consistent with the total structure of biblical teaching. If a text seems to conflict with a basic principle of Jewish law, it will be understood restrictively, at least by some. If it exemplifies such a principle, it will be understood broadly.

The law of the condemned city, where all the inhabitants were sentenced to death, seems to conflict with the principle of individual justice. When Sodom was threatened with such a fate, Abraham argued that if there were only ten innocent people, the destruction of the entire population would be manifestly unfair:

"Shall the Judge of all the earth not do justice?" Gen. 18:25 The law of the stubborn and rebellious son was explained in the Talmud by R. Jose the Galilean on the grounds that: "The Torah foresaw his ultimate destiny." He had begun with theft. The likelihood was that he would go on to violence and then to murder.

"Therefore the Torah ordained: Let him die innocent rather than die guilty." [3]

This is pre-emptive punishment. The child is punished less for what he has done than for what he may go on to do. Rabbi Shimon bar Yochai, who said the law never was or would be applied, may have believed that in Judaism there is a contrary principle, that people are only judged for what they have done, not for what they will do. Retributive punishment is justice; pre-emptive punishment is not.

To repeat: this is speculative. There may have been other reasons at work. But it makes sense to suppose that the Sages sought as far as possible to make their individual rulings consistent with the value-structure of Jewish law as they understood it. On this view, the law of the condemned city exists to teach us that idolatry, once accepted in public, is contagious, as we see from the history of Israel's kings. The law of the stubborn and rebellious child is there to teach us how steep is the downward slope from juvenile delinquency to adult crime. Law exists not just to regulate but also to educate.

In the case of *bal tashchit*, however, there is an obvious fit with much else in Jewish law and thought. The Torah is concerned with what we would nowadays call 'sustainability.' This is particularly true of the three commands ordaining periodic rest: the Sabbath, the Sabbatical year, and the Jubilee year.

On the Sabbath all agricultural work is forbidden, "so that your ox and your donkey may rest." (Ex. 23:12) It sets a limit to our intervention in nature and the pursuit of economic growth. We become conscious that we are creations, not just creators. The earth is not ours but God's. For six days it is handed over to us, but on the seventh we symbolically abdicate that power. We may perform no 'work', which is to say, an act that alters the state of something for human purposes. The Sabbath is a weekly reminder of the integrity of nature and the boundaries of human striving.

What the Sabbath does for humans and animals, the Sabbatical and Jubilee years do for the land. The earth, too, is entitled to its periodic rest. The Torah warns that if the Israelites do not respect this, they will suffer exile, "then shall the land make appeasement for its Sabbaths, for as long as it lies desolate and you are in your enemies' lands. Then the land will rest and make appeasement for its Sabbaths." (Lev. 26:34)

Behind this are two concerns. One is environmental. As Maimonides points out, land which is overexploited eventually erodes and loses its fertility. The Israelites were therefore commanded to conserve

the soil by giving it periodic fallow years, not pursuing short-term gain at the cost of long-term desolation.[4] The second, no less significant, is theological. “The land,” says God, “is Mine; you are merely migrants and visitors to Me.” (Lev. 25:23)

We are guests on earth.

There is another group of commands which directs us against over-interference with nature. The Torah forbids crossbreeding livestock, planting a field with mixed seeds, and wearing a garment of mixed wool and linen. These rules are called *chukim* or ‘statutes’. Nahmanides understood this term to mean laws that respect the integrity of nature. To mix different species, he argued, was to presume to be able to improve on creation, and is thus an affront to the Creator. Each species has its own internal laws of development and reproduction, and these must not be tampered with:

“One who combines two different species thereby changes and defies the work of creation, as if he believes that the Holy One, blessed be He, has not completely perfected the world and he now wishes to improve it by adding new kinds of creatures.”[5]

Deuteronomy also contains a law forbidding taking a young bird together with its mother. Nahmanides sees this as having the same underlying concern, namely of protecting species. Though the Bible permits us to use some animals for food, we must not cull them to extinction.

Samson Raphael Hirsch in the nineteenth century gave the most forcible interpretation of biblical law. The statutes relating to environmental protection, he said, represent the principle that “the same regard which you show to humanity you must also demonstrate to every lower creature, to the earth which bears and sustains all, and to the world of plants and animals.” They are a kind of social justice applied to the natural world:

“They ask you to regard all living things as God’s property. Destroy none; abuse none; waste nothing; employ all things wisely ... Look upon all creatures as servants in the household of creation.”[6]

Hirsch also gave a novel interpretation to the phrase in Genesis 1, “Let Us make man in Our image after Our own likeness.” (Gen. 1:26) The passage is puzzling, for at that stage, prior to the creation of man, God was alone. The ‘Us’, says Hirsch, refers to the rest of creation. Because man alone would develop the capacity to change and possibly endanger the natural world, nature itself was consulted as to whether it

approved of such a being. The implied condition is that humans may use nature only in such a way as to enhance it, not put it at risk. Anything else is ultra vires, outside the remit of our stewardship of the planet.

In this context, a phrase in Genesis 2 is decisive. Man was set in the Garden of Eden “to work it and safeguard it.” (Gen. 2:15) The two Hebrew verbs are significant. The first – *le’ovdah* – literally means ‘to serve it’. Man is not just a master but also a servant of nature. The second – *leshomrah* – means ‘to guard it’. This is the verb used in later Torah legislation to describe the responsibilities of a guardian of property that does not belong to him. He must exercise vigilance in its protection and is liable for loss through negligence. This is perhaps the best short definition of humanity’s responsibility for nature as the Bible conceives it.

Man’s dominion over nature is thus limited by the requirement to serve and conserve. The famous story of Genesis 2-3 – eating the forbidden fruit, and the subsequent exile from Eden – makes just this point. Not everything we can do, may we do. Transgress the limits, and disaster follows. All of this is summed up by a simple Midrash:

“When God made man, He showed him the panoply of creation and said to him: ‘See all My works, how beautiful they are. All I have made, I have made for you. Take care, therefore, that you do not destroy My world, for if you do, there will be no one left to mend what you have destroyed.’”[7]

We know much more than we once did about the dangers to the earth’s ecology by the ceaseless pursuit of economic gain. The guidance of the Oral tradition in interpreting “do not destroy” expansively, not restrictively, should inspire us now. We should expand our horizons of environmental responsibility for the sake of generations not yet born, and for the sake of God, whose guests on earth we are.

[1] Tosefta Sanhedrin 11:6, 14:1. [2] Hilchot Melachim 6:10. [3] Mishnah Sanhedrin 8:5. [4] Rambam, The Guide for the Perplexed, III:39. [5] Ramban, Commentary to Lev. 19:19. [6] S. R. Hirsch, The Nineteen Letters, Letter 11. [7] Kohelet Rabbah 7:13.

Shabbat Shalom: Parshat Shoftim (Deuteronomy 16:18 – 21:9)

By **Rabbi Shlomo Riskin**

Efrat, Israel – “Judges and Executors of Justice shall you establish for yourselves in all of your gates.... Justice, justice shall you pursue in order that you may live and

inherit the land which the Lord your God is giving to you.” (Deuteronomy 16:18–20)

In this opening passage of our weekly portion, the Bible conditions our ability to remain as inhabitants of the Land of Israel upon the appointment of righteous judges, who will not prevent justice, show favoritism before the law or take bribes of any kind (Deut. 16:19).

The Bible also reiterates, “Justice, justice shall you pursue,” a commandment with a number of important interpretations. First of all, seek or appoint another judicial court if the local court is not deemed adequate for the needs of the litigants (Rashi, ad loc.). Secondly, in the words of Rabbi Menaḥem Mendel of Kotzk, make certain that you pursue justice by means of justice, that your goals as well as your means are just.

I would add to this the stipulation that the “administration” aspect of courtroom management be just: begin on time without keeping the litigants waiting, conclude each case with as much dispatch as possible, and listen sympathetically to the claims of each party, so that everyone feels that he/she has received a fair hearing.

Further on in our portion, the Bible adds another critical criterion for true justice:

“When there will arise a matter for judgment, which is hidden from you [a case which is not cut-and-dry; which involves changing conditions and therefore requires extra consideration on the part of the judges] ... you shall come to... the judge who shall be in those days” (Deut. 17:8-9).

Rashi makes it clear, basing himself on the words of our Talmudic sages, that we must rely on the Sages of the particular era of the problem for the judgment at hand, that “Yiftaḥ in his generation is as good as Samuel in his generation.”

This notion is further elucidated by Rabbi Levi Yitzhak of Berditchev in his masterful *Kedushat Levi*, under the rubric “teiku,”: t-y-k-u – Tishbi Yetaretz Kushyot Veba’abayot, or “Elijah the Prophet will answer questions and ponderings” in the Messianic Age. “Why Elijah?” asks Rabbi Levi Yitzhak. After all, there will be a resurrection of the dead in the Messianic Age, wherein Moses will be resurrected; since Moses was a greater halakhic authority than Elijah, since Moses studied directly with God Himself, why not have him answer the questions rather than Elijah?

Rabbi Levi Yitzhak answers his seemingly naïve question with a most sophisticated response. Moses died close to four thousand years ago; Elijah, according to the biblical account, was “translated” live into heaven, and – says the midrash – regularly returns to earth, appearing at important moments to help certain individuals as well as at every circumcision and at every Passover Seder. And since Elijah will be involved with people and will therefore understand the travail and the angst, the hopes and the complexities of the generation of the redemption, only he can answer the

questions for that generation. A judge must be sensitive to the specific needs and cries of his particular generation!

Then what are the most important criteria for a righteous judge? We have seen that he must clearly be a scholar in Jewish legal literature and must be an aware, intelligent, and sensitive observer of the times and places in which he lives, a judge of and for the period and place of adjudication.

But there is more. In the book of Exodus, when Yitro, the Midianite priest, first suggests to his son-in-law Moses that he set up a judicial court system of district judges, we find more qualifications for our judges:

“You shall choose from the entire nation men of valor (ḥayil), God-fearers, men of probity who hate dishonest profit” (Ex. 18:21).

Our great twelfth-century legalist-theologian, Maimonides, defines “men of valor” (ḥayil), a Hebrew word which connotes the courage of a soldier in battle, as follows:

“‘Men of valor’ refers to those who are valiantly mighty with regard to the commandments, punctilious in their own observance... And under the rubric of ‘men and valor’ is the stipulation that they have a courageous heart to rescue the oppressed from the hands of the oppressor, as in the matter of which it is scripturally written, ‘And Moses rose up, and saved [the shepherdesses] from the hands of the more powerful shepherds’... And just as Moses was humble, so must every judge be humble” (Mishneh Torah, Laws of Sanhedrin 2:7).

Rabbi Shlomo Daichovsky, one of the most learned and incisive judges who ever occupied a seat on the Religious High Court in Jerusalem queries (in an “Epistle to my Fellow Judges,” dated 25 Shevat 5768, and published in *Tefumin*, Winter 5768) as to how it is possible for a judge to be a valiant fighter on behalf of the oppressed – which requires the recognition of one’s power to exercise one’s strength against the guilty party – and at the same time for him to be humble, which requires self-abnegation and nullification before every person? These seem to be two conflicting and contrasting characteristics!

Rabbi Daichovsky concludes that humility is an important characteristic only when the judge is not sitting in judgment; when the judge is seated on the throne of judgment, he must be a valiant and self-conscious fighter, fearlessly struggling against injustice as though “a sword is resting against his neck and hell is opened up under his feet” (Sanhedrin 7). “The Judge must be ready to enter Gehenna and to face a murderous sword in defense of his legal decision.... He must take responsibility and take risks, just like a soldier at war, who dare not worry about saving his own skin” (Maimonides, *Mishneh Torah*, Laws of Sanhedrin 23:8).

The chief concern of a judge must be for the justice and well-being of the litigants before him and not for his own security and reputation in walking on the “safe” (and more stringent) halakhic ground.

This week's parsha teaches the prohibition against having one witness testify against someone, which is a violation of loшон hora.

No Talebearing!

By Rabbi Yirmiyohu Kaganoff

Yes, indeed, but what constitutes talebearing? Question #1: Talebearing -- Rechilus "What is the legal definition of rechilus?" Question #2: Loshon hora "May I listen to someone say inappropriate things about a second person, in order to calm the speaker down?" Question #3: Motzi shem ra "I found out that a smear campaign is being planned against someone I know. Whom may I tell about it?" Introduction In parshas Kedoshim, the Torah teaches lo seileich rachil be'amecha (Vayikra 19:16), which Rashi and most authorities translate as: "You shall not go as a talebearer among your people." Rashi explains that the three-letter root of the word rachil, the letters reish, kof, lamid, is related to the root reish, gimel, lamid, which is the root of the word meaning "spy," since the kof and the gimel sounds are created by the same parts of the mouth. They are both palatals, meaning that both are pronounced by pressing the back of the tongue against the soft part of the palate. Thus, the pasuk means someone who seeks gossip. This mitzvah is counted as one of the 365 lo sa'aseh prohibitions of the Torah. We will soon clarify what is included in this prohibition. Broader definitions Several other prohibitions are also included under the general heading of lo seileich rachil be'amecha. According to many authorities, this also includes the lo sa'aseh not to say loшон hora. According to the Gemara and other rishonim, this lo sa'aseh also applies to a judge who does not treat the two parties before him in an equal way, but acts harshly to one and softly to the other. The latter prohibition is derived from a different translation of the word rachil, explaining that its root is related to the word rach, soft. Let us examine the passage of Gemara (Kesubos 46a) that derives both of these prohibitions from this pasuk: "Which source teaches that spreading falsehood about someone else violates a lo sa'aseh of the Torah? Rabbi Elazar says 'lo seileich rachil,' whereas Rabbi Nosson says that he violates a different pasuk, in parshas Ki Seitzei (Devorim 23:10) 'and you should guard yourself from any evil matter.' Why did Rabbi Nosson not use Rabbi Elazar's verse? Because he considers this verse (lo seileich rachil) to teach us a lo sa'aseh that applies only to beis din – that they should not be soft to one of the two litigants and harsh to the other. Rashi explains that this is derived in the following way: lo seileich rachil means, 'you shall not be soft to me' when you dealt more harshly with the other litigant. This latter law is mentioned by both the Semag (Lo Sa'aseh 9) and the Sefer Hachinuch (Mitzvah #236). Hurting feelings, Betraying a secret There are other prohibitions that are included under the heading of lo seileich rachil. According

to the Sefer Hachinuch, the mitzvah of lo seileich rachil also includes saying something that might hurt someone's feelings. The prohibition of lo seileich rachil be'amecha also includes revealing information that someone wants kept confidential (Semag). This ruling is codified by later halachic authorities on the topic (Orach Meisharim 8:2). If the information is negative, the teller also violates speaking loшон hora. Ask your Rabbi Rav Naftali Amsterdam, one of the primary disciples of Rav Yisroel Salanter, was famous for saying that he found it quite astonishing that people spend so much time and money to effect a heter mei'ah rabbonim, a program which releases someone from a prohibition that has the status of only a cherem established by Rabbeinu Gershom, and yet they freely violate a prohibition to speak loшон hora or to spread gossip, both of which involve violations of Torah laws, without asking any rabbonim what they are permitted to say (retold in Torah Lada'as, Volume V, page 56). What is talebearing? At this point, we are ready to discuss our first question: "What is the legal definition of rechilus?" Thanks to the Chofetz Chayim's efforts, the laws of loшон hora are much better known and more carefully observed today than they were in earlier days. Nevertheless, there is still much confusion regarding what is considered spreading gossip, and therefore prohibited, and what is not. To begin our elucidation of the mitzvah, let us quote the words of the Rambam (Hilchos Dei'os 7:1-2) on the topic: "Someone who tells tales about his fellow violates the proscription of lo seileich rachil be'amecha, 'You shall not go as a talebearer among your people.' Even though the violator of this prohibition does not receive lashes for this, it is a major sin and has caused much loss of life among the people of Israel. For this reason, the continuation of the pasuk reads, lo sa'amod al dam rei'echa 'Do not stand aside, ignoring the blood of another.' Go see what happened to Do'eig the Edomite. "Who is a talebearer? Someone who carries stories and goes from one person to another, saying, 'This is what so-and-so said; I heard such-and-such about someone.' Even if what he says is true, he destroys the world. "There is a greater sin than this, which is included in this lo sa'aseh, and that is loшон hora, which means that he tells over embarrassing things about his fellow, notwithstanding that it is the truth." It is quite clear from the Rambam that, whereas loшон hora is saying over something that is embarrassing about someone else, the prohibition of lo seileich rachil be'amecha is violated even if the story is not embarrassing. Does this mean that the Torah has prohibited saying nice things about your fellowman? We can prove from later comments of the Rambam that he cannot possibly mean this, since he writes as follows: "Someone who talks about another person's qualities in front of that person's enemies is engaging in avak loшон hora (literally, the 'dust' of loшон hora, meaning a rabbinic violation of this prohibition) since it causes them to begin to talk disparagingly about him. In

this context, Shelomoh said, *Mevoreich rei'eihu bekol gadol baboker hashkeim, kelalah teichasheiv lo*, 'He who blesses his neighbor in a loud voice early in the morning, is considered that he cursed him (Mishlei 27, 14), because a result of the good that he (the talker) did caused him (his neighbor) harm' (Hilchos Dei'os 7:4). Obviously, there is nothing wrong with talking about another person's qualities, if it is not in front of that person's enemies or will not cause him any harm. So, what then is the Torah prohibition of *lo seileich rachil be'amecha*? Two excellent works on the topic of the laws of *loshon hora* discuss this question and reach the same conclusion. The *Orach Meisharim* (8:2 in *biurim*), authored by Rav Menachem Troish, who was the *rav* of Salzburg, a village in the Austrian Alps, in the late nineteenth century, and the *Nesiv Chayim* (Hilchos Rechilus 1:1), authored by Rav Moshe Kaufman, a contemporary author in Bnei Braq, both explain that the prohibition of *lo seileich rachil be'amecha* applies when the information will ultimately cause harm to the person about whom it is said or when it will lead to some type of *machlokes*. The person who recounts the "tale" intends to spread gossip, to harm someone, or to create *machlokes*. This is prohibited even when the person who did the act is not embarrassed by what he did or said; the gossip is in violation since his goal is to create harm, he violates *lo seileich rachil be'amecha*. For example, if the decision of a *beis din* was not unanimous, the ruling should not be recorded as a split decision, since this may easily create ill feeling between the losing party and those *dayanim* who sided against him (see *Sanhedrin* 30a). Instead, you simply write the halachic conclusion. Furthermore, the *dayan* who disagreed is prohibited from telling this to others (*Sanhedrin* 31a) since this may cause that those who lost will be upset or angry at the other *dayanim*. Another example is when Reuven said something non-complimentary to Shimon about Levi, and Shimon tells Levi what was said. Since this certainly leads to ill feeling among people, it violates *lo seileich rachil be'amecha*. Among the types of harm that are included under *lo seileich rachil be'amecha* is to inform a person that someone helped his enemy. The person who did the act may be unaware that this individual is an enemy of the person he helped, but the *rochil* is aware of this and wants to spread the *machlokes*. Let us for a moment review the story of *Do'eig* to understand this prohibition better. David he sought refuge in Nov, a city of *kohanim*, in his flight from Shaul. The residents of Nov were unaware that David was a wanted man, and they provided him with food and a sword. *Do'eig* told Shaul that the city of Nov had provided for David. Although Shaul was told that the people of Nov were completely unaware that Shaul was pursuing David, Shaul ordered the entire city wiped out. The *Mishnah* (*Sanhedrin* 10:2) mentions *Do'eig* as one of the individuals who forfeited his right to *olam haba*. *Lo sa'amod* At this point, we can discuss the third of our opening questions: "I

found out that a smear campaign is being planned against someone I know. Whom may I tell about it?" When talker (T) plans something that may harm V (the victim), listener (L) is required to tell victim (V), so that V can protect himself. This is an example of *lo sa'amod al dam rei'echa* and is true even if the threat is not life-threatening, but concerns only V's reputation or his finances. The Torah teaches that there are instances in which telling over what you know is not only permitted, but required. However, if L (listener) knows that the T (talker) is halachically correct -- "person V" is not a victim but actually did harm the talker, and talker is justified to respond -- *lo sa'amod al dam rei'echa* does not apply. In this latter situation, it is prohibited for L to tell over T's plans, and, if L does so, he violates *lo seileich rachil* (*Be'eir Mayim Chayim*, Hilchos Rechilus 1:3). More on *lo seileich rachil*, which includes *loshon hora*. To continue the quotation of the Rambam (Hilchos Dei'os 7:3): "Chazal said, 'Three sins are punished in this world and deprive a person of the next world -- idolatry, adultery, and murder -- and *loshon hora* is equivalent to all three of them. Furthermore, Chazal (*Arachin* 15b) said that speaking *loshon hora* is tantamount to denying that there is a G-d, as the *pasuk* says, *Asher amru lil'shoneinu nagbir sefaseinu itanu mi adon lanu*, 'Those who say: "We will make our tongue powerful! Our lips are ours! Who is lord over us?"' (*Tehillim* 12:5). In addition, Chazal said, 'Loshon hora kills three people: The one who said it, the one who believes it, and the person about whom it is said. And the one who is hurt most is he who believed it.'" To quote the Gemara (*Arachin* 15a), "Rav Elazar ben Parta said, 'Come and see how serious is the power of *loshon hora*. How do we see this? From the *meraglim*, where we see that someone saying *loshon hora* only about wood and stones could cause such a calamity -- how much worse is someone who says *loshon hora* about another person!'" The *Mishnah* (*Arachin* 15a) states that the decree on our forefathers in the desert was sealed because of the *loshon hora* that they reported. Continuing the Rambam (Hilchos Dei'os 7:2, 4, 5): "The person who says *loshon hora* sits around, saying, 'So-and-so did this,' 'His parents were no better and did this,' 'I heard these stories about him,' and repeats embarrassing things. About this, the *pasuk* says, *yachreis Hashem kol sifsei chalokus loshon medaberes gedolos*, 'Hashem will cut off all smooth-talking lips, the tongue that talks boastfully' (*Tehillim* 12:4). "There are things that are prohibited as *avak loshon hora* the 'dust' of *loshon hora*. For example, 'Who would have believed that so-and-so would end up where he is now,' or someone who says, 'Don't talk about so-and-so, I don't want to tell you what he did,' or anything similar. Someone who talks about another person's qualities in front of that person's enemies is engaging in *avak loshon hora*, since it causes them to begin to talk disparagingly about him. In this context, Shelomoh said, *Mevoreich rei'eihu bekol gadol baboker hashkeim, kelalah*

teichasheiv lo, ‘Someone who praises another loudly from early in the morning, is considered a curse to him’ (Mishlei, 27:14), because a result of the good that he did caused him harmbad. Similarly, someone who says loshon hora as a joke or with levity, as if he is not speaking out of hatred, is also engaging in avak loshon hora. This is what Shelomoh intended when he said, in his wisdom, kemislah’lei’ah hayoreh zikim chitzim vamaves, kein ish rimah es rei’eihu ve’amar halo mesacheik ani, ‘Just as a person who exhausts himself by throwing burning wood, arrows and death, so is someone who tricks his fellow, saying, “I was only joking” (Mishlei, 26:18-19). A similar prohibition is violated by someone who says loshon hora, pretending that he does not realize that what he said is negative. “Something qualifies as loshon hora whether it is said in front of the aggrieved party or not. Furthermore, something that is not inherently negative about the person, but, if spread, will cause him harm either to his body or to his financial situation, it is loshon hora.” An example of the latter might be that a potential investor may decide not to assist someone who is a good risk to start a business because, based on the information he has received, the investor is led to believe that the business will not succeed. Calming someone down At this point, let us discuss the second of our opening questions: “May I listen to someone say inappropriate things about a second person, in order to calm the speaker down?” Accepting loshon hora violates the lo sa’aseh of lo sisa sheima shav, “Do not listen to a purposeless rumor” (Shemos 23:1). However, the Sefer Hasidim rules that if someone comes to you very upset and angry, and you realize that by hearing him out you may be able to calm him down so that he does not tell anyone else, it is a mitzvah to listen to him and then convince him that the person he is upset about really cares about him. Either way, you are not to believe the story, and you are not to share it with others, because of concern that they will share it with the person about whom it is said and it will create a machlokes (Sefer Hasidim #64).

Conclusion The Talmud Yerushalmi (Peah 1:1) relates the following: In the days of the evil king Achav, the Jews were victorious in their wars, notwithstanding that both idol worship and murder were, unfortunately, prevalent. The Gemara attributes this to the fact that they were extremely meticulous about avoiding loshon hora, as can be demonstrated from the fact that Ovadyah was a member of Achav’s household at the very same time that he was sustaining a hundred prophets who were hiding from Achav (Melachim I 18:13). Obviously, Ovadyah could not hide this information without many people knowing about it, yet Achav never found out. On the other hand, in the days of Shaul, when they were meticulous about refraining from idol worship, they lost the battle with the Pelishtim, because there was loshon hora among the Jews.

It has been said that one time, a yeshivah bochur came to the Chofetz Chayim, complaining that many times he had

given long sermons in different communities, and he had as yet not noticed that he had achieved any success in drawing these people closer to the level of observance of mitzvos for which he was striving. The Chofetz Chayim answered that he disagrees with the bchur’s attitude. The midrash states that for every moment that someone keeps his mouth closed and is careful not to say anything that is prohibited, he merits a heavenly light in the next world that no angel or any other creature can even imagine what it accomplishes. This, noted the Chofetz Chayim, is the reward for being quiet for a few seconds, and perhaps even less. How much reward have you gained for yourself and for the people who are listening to you that for all the hours you have spoken, they have not said anything inappropriate? Do you have any idea how much reward you have brought to them and to yourself? (This story is quoted in the biography of the Chofetz Chayim – chayav upoalo, Volume I, page 77).

Drasha By Rabbi Mordechai Kamenetzky

Parshas Shoftim Royal Humility This week, the Torah teaches us about royalty and its symbiotic relationship with humility. The concept of the Jewish king is discussed in this week’s portion, He is given a tremendous amount of power, but there are caveats as well. He is told not to amass a large cavalry, nor shall he have too many wives lest they sway his heart. Third, he is warned against amassing an excess fortune of gold and silver. But in an interesting addendum, Hashem puts a roadblock to haughtiness in front of the king in a surprisingly different manner. “It shall be that when he sits on the throne of his kingdom, he shall write for himself two copies of this Torah in a book, from before the Kohanim, the Levites. It shall be with him, and he shall read from it all the days of his life, so that he will learn to fear Hashem, his G-d, to observe all the words of this Torah and these decrees, to perform them so that his heart does not become haughty over his brethren and not turn from the commandment right or left, so that he will prolong years over his kingdom, he and his sons amid Israel.” (Deuteronomy 17:16-19). It seems that this Book of chastisement and its message of restraint need be with the king everyday of his life. Need that be the case? Why not have a court castigator, a prophet or clergy who would sermonize monthly or even weekly. Does the King truly need to constantly carry and read a Book of ethics to forever keep him in check? Rav Yosef Poesner, was the son-in-law of the Nodeh B’Yehuda, the esteemed Rav of Prague. He was a brilliant scholar and an amazingly righteous individual. During his entire life, he seemed to be plagued by a nagging wife who would belittle him at every opportunity. After a brilliant lecture, she would come into the room, and belittle him. During meetings at which his opinion was prominently sought, she would serve the company food, but at the same time she made sure to deride him. During all these outbursts, he never said a word. He never defended himself. In fact, he hung his head

low, as if to agree with her words of derision. Then, suddenly, he passed away. Hundreds came to the funeral. All of the gathered contrasted his greatness to the difficult life he had led, by being married to a shrew of a wife who was about to bury him. After the eulogies, his wife suddenly appeared before the coffin, crying uncontrollably. She begged his permission to speak and then burst into tears. “All these years,” she cried, “I fulfilled the adage that a loyal wife fulfills the wishes of her husband. And due to my loyalty and respect to you and your greatness, I did whatever you had asked me to. But now that you are in the world of the truth, I can finally say the truth.” She began to declare her respect for his greatness and humility, his piety and patience, his kindness and compassion. The people near the coffin were shocked to see this woman transformed into a loving, grieving widow. And then the true shock came. She continued her soliloquy. “Despite, how difficult it was for me, I kept the promise and commitment you had asked me to make. Any time you were treated honorably, or were asked to fulfill a prestigious role, you told me to come in and belittle you as strongly as possible. You were afraid that the honor they afforded you would make you haughty. I only complied because that was your will!” “But now I can finally say the truth!” But that was only in front of people! “You know how much I appreciated and cherished you!” She continued to cry over the great tzadik and lifelong companion she lost. The stunned grieverers were shocked at the tremendous devotion of the Rebbitzin, who deemed herself a harrying nag all for the sake of her husband’s wishes. Humility is not easy to attain. And for a man thrust in the limelight of power, flashbulbs popping, the media pressing, and servants waiting, it is an even more arduous task. The only antidote is constant mussar, day in day out. The Torah “shall be with him, and he shall read from it all the days of his life.” Every day. All mussar all the time. No weekly speeches nor sporadic sermons. If the Torah must be cherished like a wife, it also must be asked to nag us into reality. And then, it will serve its men not only delicious desserts, but also humble pie. Good Shabbos!

Rabbi Yochanan Zweig Weekly Insights

This week’s Insights is dedicated in loving memory of Yisroel ben Aryeh Leib.

Self-Definition The officers will speak to the people saying; who is a man that has built a house but not inaugurated it? Let him go and return to his house lest he die in war and another man will inaugurate it. Who is the man that has planted a vineyard and has not yet redeemed the fruits? Let him return to his house lest another man [...] Who is the man that has betrothed a woman but not yet married her? Let him return [...] (20:5-7).

The Torah lists three categories of soldiers who are exempt from going into battle: 1) those who have built a house, but have not yet taken residence, 2) those who have planted a

vineyard, but have not yet enjoyed the fruits of his labor, 3) those who have become engaged to a woman, but are not yet married. Many commentators have struggled to explain why these three categories excuse one from military service. Maharal in the Gur Aryeh (ad loc) explains that a soldier who contemplates someone else living in the house that he built but never moved into would become depressed and thus his ability as a soldier would be adversely affected.

But this approach doesn’t fully explain why specifically these three categories are the exemptions for military service. There are many other situations that are very depressing (e.g. a terminally ill relative with very little time left), yet we don’t find that they qualify for exemptions from battle. What is unique about these three situations?

The Gemara (Sotah 2a) tells us that forty days prior to the formation of an embryo a heavenly voice goes forth and proclaims the daughter of this person will marry this person, the house of this person will go to this person, and the field of this person will go to this person. In other words, as part of the very creation of a child, three things are predetermined: one’s spouse, one’s home, and one’s property (livelihood).

From this Gemara we see that these items are the very definition of who we are. A spouse completes the man; before he marries he is only a half being, but once married he is finished (or rather complete). Likewise, a person’s home defines him; the modern expression of a member of the community is called a Bal Habayis. Lastly, most people define themselves by their profession or livelihood. In fact, many of our surnames come from the professions of our ancestors.

The Torah is telling us that someone who is right in the middle of any one of these self-defining events is in a state of flux and not fit for military service. In fact, Rashi (ad loc) calls these situations (i.e. contemplating that someone else might supplant you in one of the situations that are the very definition of who you are) a torment of the soul. This kind of existential torment is not fair to ask of someone, so these individuals are released from military service. An Eternal Nation If a corpse will be found on the land that Hashem, your God, gives you to inherit, fallen in the field; and the killer is unknown, the elders and the judges shall go out and they shall measure to the cities that are around the corpse [...] (21:1-2).

The end of this week’s parsha relates the details of the mitzvah of eglah arufa: When a person traveling between two cities is found murdered, the city closest to the corpse must bring a calf to atone for the host city for the sin of not properly accompanying this traveler. This mitzvah is known as levoya – escorting guests. Maimonides, in the Yad Hachazaka (Hilchos Aveilus 13:1), enumerates the mitzvos that fall under the category of gemilus chassadim and says that the reward for properly escorting guests is greater than any of the others (ibid 13:2).

Maimonides goes on to say that this was established by Avraham Avinu (Chazal establish this from the verse that says that Avraham planted an “aishel,” which is an acronym for eating, drinking, and escorting). Maimonides concludes that escorting is the most important aspect of having guests, and if one does not properly escort it is as if he committed murder (ibid 13:3).

Maimonides seems to be basing this principle on the Gemara (Sotah 46a) that wonders why do the sages and judges of the city have to deny responsibility for the death of the victim? Clearly they had no part in his death! The Talmud answers that they have to proclaim that they didn’t know that he was leaving the city without provisions and that they were likewise unaware that he left unaccompanied. The implication being that if one allows a person to depart without an escort he is liable for his death. Maharal on this Gemara points out that the law of escorting a visitor is fulfilled by accompanying him a few steps; one doesn’t have to escort a visitor to the next city. If so, asks Maharal, how does not giving someone a proper escort have anything to do with the murder?

Furthermore, the Talmud (Horayos 6a) points out that the atonement here is not only for the inhabitants of the city closest to the corpse but also “for Your nation of Israel that You have redeemed Hashem;” this refers to those who left Egypt. In other words, those who left Egypt also have some culpability in this murder, and part of the atonement of the calf is for them. What possible reason could there be that those who left Egypt have any culpability in this unfortunate incident?

In the mid 1980’s there was a rash of attacks on tourists in South Florida. Groups of thugs would target tourists who were staring at maps (this was many decades before GPS systems and smart phones) and were obviously disoriented as to where they were and where they had to go. These unfortunate tourists were clearly in a state of vulnerability and the predators seized on the opportunity. Escorting someone from your home or city gives a guest the confidence that someone cares about them and values them. Not only that, but very often while escorting someone who is new to the city, you can put them on the proper path and orient them as to where they should be going.

The visitor who is accompanied and given the feeling that someone cares about them and is also properly oriented walks with a different level of confidence. They don’t stick out as a potential target for predators. In other words, not escorting someone is very likely making him vulnerable to attack, one that could have very possibly been prevented; which is why an atonement is needed. This is why those who left Egypt are also held responsible. When the Jews left Egypt they became established as a nation. The Torah is teaching us that a nation is an entity made up of individuals; and every single individual is precious. When we don’t show proper care for every individual it is a

failure of the corporate entity of our nation. Because a nation is an eternal entity, everyone has a degree of culpability, even those who left Egypt.

chiefrabbi.org Chief Rabbi Ephraim Mirvis Dvar Torah Shoftim: The King of Israel kept his Torah in a surprising place! 1 September 2022

If you were blessed to have a Sefer Torah, which room in your house would you keep it in? In Parshat Shoftim (Devarim 17:18), the Torah gives us a commandment relating to the king. “Vehaya keshivto al kisei mamlachto,” – “And it shall come to pass when he sits on his throne and rules the people,” “Vechatav lo et mishne hatorah hazot al sefer.” – “He must write two Sifrei Torah.” The Torah goes on to say, “Vekaravo kol yemei chayav,” – “And he must read from the Sefer Torah on every day of his life.” The Chatam Sofer explains that from here we learn that the king would need to consult with the Sefer Torah each and every day to guarantee that Torah law would guide and inspire him while he ruled the people. Now Rashi tells us what the king did with the two Sifrei Torah: he writes that one of them was to accompany him wherever he would go and the other he was to keep in his treasury, where all his money and his jewellery was. We see that the Torah resided in that part of the palace which stood for materialism in order to guarantee that when the king would consult with the Torah on every day of his reign, spirituality would triumph over materialism and ultimately the word of Hashem would guide the king in all ways. This was the way in which Joseph ruled Egypt as is described to us in the book of Bereishit. The Torah tells us how, immediately after revealing his true identity to his brothers, Joseph charged them with the responsibility of going back to Canaan to tell their father Yaakov that Joseph had said in Bereishit 45:9, “Samani Elokim lehaadon lekol Mitzrayim.” – “God has made me the lord over all Egypt.” The Kotzker Rebbe beautifully interprets it a different way: Samani Elokim is not ‘God has made me’ but rather ‘I have made God’ – I have made God to be ‘adon lechol Mitzrayim,’ the Lord over all Egypt, meaning that in every decision that Joseph took, for every policy that he made for Egypt he was inspired by one single consideration – what would Hashem want me to do? In this way, he guaranteed that it was actually Hashem who was ruling Egypt. Just like the ancient kings of Israel, let us guarantee that in every decision we take, in all the policies we have in our homes and in our workplaces, we will be guided and inspired by what Hashem wants us to do. In addition, bearing in mind where the Sefer Torah was kept in the king’s palace, let’s always ensure that our ruchaniut, our spirituality, will be the priority of our lives. *Shabbat shalom. Rabbi Mirvis is the Chief Rabbi of the United Kingdom. He was formerly Chief Rabbi of Ireland.*

blogs.timesofisrael.com Judging Others (Shoftim) Ben-Tzion Spitz

If you are pained by external things, it is not they that disturb you, but your own judgment of them. And it is in your power to wipe out that judgment now. - Marcus Aurelius

The opening of the Torah reading of Shoftim starts with the prescriptive command of: Judges and officers you shall place at all your gates, that God your Lord gives you to your tribes, and you shall judge the people a judgement of righteousness. The Chidushei HaRim on Deuteronomy 16:18 explains the verse homiletically. He explains that “gates” is referring to the gates of our heart and “tribes” is referring to various attributes in our service of God, such as “the gates of awe,” “the gates of love,” “the gates of Torah,” “the gates of lovingkindness,” and so forth. He elaborates, that if we were to take a deep look at ourselves, that if we were to judge ourselves honestly, we would realize that everything we have is from God. In essence, there is no attribute, skill, trait, or strength that we possess that isn’t from God. We need to realize that it’s all from God and not pat ourselves on the back for something that is basically a gift from God. The Chidushei HaRim suggests that we need to keep that awareness and gratitude in mind when confronted by the failings of others. Whether as a judge or as a layman we come across people who don’t act appropriately. We compare ourselves to them and say to ourselves how terrible or lacking or inappropriate the behavior of the other is. We need to remember that our own comparatively better behavior is not something we can take full credit for, nor can we fully blame the other. This is reminiscent of Nachmanides’ famous advice to his son (Igeret HaRamban), to think of others as inadvertent sinners and oneself as a purposeful sinner, if one decides to start comparing oneself to others. Each of us has our own unique advantages and disadvantages. The Chidushei HaRim proposes that instead of judging the disturbing person, one needs to show compassion. It may be that their behavior, sin, ill-manners, or affront is wrong, offensive and upsetting. However, the solution is not to think that one is in anyway better or superior to the other. Whatever apparent ethical advantage one has is not something that is entirely of our own making, but rather a gift from God. The answer is to remember that we are no better than the other and to think and demonstrate compassion rather than judgement, affection rather than disdain. May we judge others favorably as much as possible. *Dedication - To the incredible hospitality of the Nofei Aviv community. Thank you! Shabbat Shalom Ben-Tzion Spitz is a former Chief Rabbi of Uruguay. He is the author of three books of Biblical Fiction and over 600 articles and stories dealing with biblical themes.*

Rav Kook Torah Psalm 4: Controlling Negative Impulses Rabbi Chanan Morrison

We are often tempted by destructive or selfish impulses. How can we control and resist these urges?

When King David called upon his opponents to repent, he counseled them: רָגְזוּ וְאַל-תִּתְּחוּ. אָמְרוּ בְּלִבְכֶּם עַל-מִשְׁכְּבְּכֶם, וְדַמּוּ סֵלָה. תְּהִי לָכֵן דְּה: “Tremble and do not sin. Speak in your hearts upon your bed, and be still forever.” (Psalms 4:5)

According to third-century scholar Rabbi Shimon ben Lakish — himself a well-known penitent — this verse outlines a four-step program how to master the temptations of the yeitzer hara, the evil inclination. First, רָגְזוּ וְאַל-תִּתְּחוּ, you should “tremble and not sin.” Awaken your innate positive nature, your yeitzer hatov. Use your positive traits to counter any bad impulses. If this does not work, then אָמְרוּ בְּלִבְכֶּם — “speak in your hearts” - i.e., engage in Torah study, which should be עַל-לִבְכֶּם (Deut. 6:6). If that is not enough, then say the Shema prayer, which is recited עַל-מִשְׁכְּבְּכֶם — “upon your bed” before going to sleep. As it says, “when you lie down” (וּבְשֹׁכְבְּךָ) (Deut. 6:7). And if that does not vanquish the negative impulse, then וְדַמּוּ סֵלָה — “be still forever.” Remind yourself of the day of death (Berachot 5a). These are four tools to overcome negative urges and unhealthy desires. But if the ultimate weapon in battling evil inclinations is to reflect on our mortality and the transient nature of life in this world, then why not use this method right from the start? Why wait before employing our most effective weapon?

1. Awaken Your Good Traits All of our characteristics, whether positive or negative, are meant to be used for the good. Even bad traits, such as jealousy, competitiveness, and pride, have their place and can be sublimated for positive purposes. If we weaken these negative traits, they will not be available to help us attain our goals. The ideal is that all of our energies be strong and healthy, while our negative traits are firmly under the control of our intellect and positive nature. It is natural that negative traits are more readily aroused. Therefore, the first step in subduing them is to “awaken the good inclinations.” We must bring our good traits to the fore so that they will be in control and rule over the negative ones.

2. Learn Torah For those who have a strong sense of right and morality, it is enough to awaken the soul’s innate goodness. But those who have not adequately refined their character traits must gain knowledge of the proper path. Therefore, Rabbi Shimon’s second advice is “to engage in Torah study.” This does not refer to the study of Torah in general. Rabbi Shimon meant specifically studying those areas of Torah that we are lacking. By absorbing this knowledge, we bolster our higher aspirations and will be prepared to overcome negative urges.

3. Uplift Your Emotions For some people, however, knowledge alone is insufficient to awaken their inner good. They need to refine and uplift their emotional faculties. To purify their emotions — which have a stronger impact than

abstract knowledge — the third technique is to recite the Shema prayer. The Shema is not simply a matter of intellectual recognition of God's oneness. Were that the case, it would be sufficient to recite it at infrequent intervals, perhaps once a year (like the mitzvah to remember the evil of Amalek). The fact that we are commanded to recite the Shema twice a day indicates that this recitation relates to our emotional faculties. The Shema is meant to instill in us feelings of love and closeness to God. We recite it every morning and evening, to constantly confirm and renew this truth in our hearts. It is a continual spiritual need, like air to the soul. As we refine our emotions, we strengthen our positive character and our control over negative impulses.

4. Contemplate Life's Transience All of the first three techniques share a common element: they work by strengthening the soul's positive qualities. But if we have still not overcome these impulses, it becomes necessary to weaken the negative traits. This is the final method: to "remind oneself of the day of death." When we reflect on our mortality, we dampen the lures of our imaginings that inflate the importance of worldly pleasures. However, if it is possible to strengthen our positive forces, this is the preferred method. For once we start weakening the forces of the soul, we will also weaken — as may occur with certain medical treatments like radiation therapy — our positive and healthy powers. (*Adapted from Ein Eyah vol. I, pp. 13-14; vol. II, p. 389*). Copyright © 2022 Rav Kook Torah

Shema Yisrael Torah Network Peninim on the Torah - Parashas Shoftim פרשת שופטים השפ"ב

שופטים ושוטרים תתן לך ... ושפטו את העם משפט צדק צדק... צדק תרדף **Judges and officers shall you appoint... and they shall judge the people with righteous judgment... righteous, righteous shall you pursue. (16:18,20)** We are enjoined to establish a justice system in which righteousness is the criterion by which justice is determined and by which reward and punishment is to be meted out. While justice is a concept ingrained in all humanity, the Jewish religion places a premium on justice and considers it the foundation of our existence. Hashem is the Ultimate Judge, the Arbiter who determines what is right and what is wrong. A society that adheres to rewarding good and punishing bad is a just society. A society which disregards good and bad is corrupt. Justice is the lodestar by which we navigate life in our society. Thus, one who acts unjustly does not belong in our circle. In his commentary to (16:20), *L'maan tichyeh v'yarashta es ha'aretz*; "So that you will live and take possession of the Land," *Rashi* writes: "The merit of appointing judges keeps *Am Yisrael* alive and allows them to settle upon the Land." *Horav Yeruchem Levovitz, zl*, writes (concerning the above *Rashi*), "So great does the Torah consider the concept of *mishpat*, justice, that merely the appointment of

Judges, even without enacting a system, is sufficient reason to keep *Klal Yisrael* alive. All the Heavenly promises we merit to receive are due to our adherence to even the simplest laws, such as monetary disputes." The *Mashgiach* teaches us that the justice system is not to be followed merely in order for society to determine how it should live, what to do and what not. The concept extends far beyond that. It is the reason that we are alive. Without justice as our guide, we are not worthy of life! The perversion of justice in the most minute manner -- when absolute truth is not our guide -- is the beginning of the destruction of the individual and the society which permits it. Our *gedolei Yisrael*, Torah giants, personified the Torah's view of *mishpat*. To take something from another person, regardless of the circumstance, even with the knowledge that the owner would be honored to give permission for its use, is considered tantamount to theft. It is not absolute truth. If the individual were to be asked, "Do you have express permission to use it?" and the answer would be, "No," even though the person would certainly have given permission, the act constitutes theft. *Horav Moshe Chevroni (Rosh Yeshivah, Chevron)* once sat in his seat on the *Mizrach vont*, eastern wall (the prestigious place reserved for the *Roshei Yeshivah* and distinguished guests), during *Mussaf* on *Shabbos* without a *tallis*. He *davened Mussaf* not wearing a *tallis*. Apparently, he had to leave *davening* for a few moments and had removed his *tallis*. When he returned, he discovered someone had taken his *tallis* by mistake. *Halachically*, he was permitted to use the other man's *tallis*. A dispensation allows one to use another fellow's *tallis* for a short while. The *Rosh Yeshivah* refused to rely on the dispensation. If it was not his *tallis*, he would not use it. Instead, he would sit in front of the entire *yeshivah* and *daven* without a *tallis*.

When *Horav Eliyahu Eliezer Dessler, zl*, arrived in *Eretz Yisrael* to serve as *Mashgiach* in *Ponovezh*, a group of students from *Gateshead, England* (where he had founded and built the *yeshivah*), joined him. When they wanted to speak with their *Rebbe* in learning, he demurred. He said, "I have been hired to serve as *Mashgiach*, to be the ethical supervisor of the student body. As such, I am supposed to devote all of my thoughts and abilities to this task. To take time off to speak in learning on another subject is akin to stealing." Last, when *Rav Yechezkel Levenstein, zl*, the *Mashgiach* in *Ponovezh*, reached the age of seventy-five, he asked the *Ponovezher Rav, zl*, to relieve him of his duties. He felt that, due to his age, he was unable to devote enough of himself physically to the students. The *Rosh Yeshivah* replied, "*Rav Chatzkel*, I am prepared to pay your salary just to have you *daven* and learn in the *bais hamedrash*. The *bachurim*, students, benefit just from looking at you!"

כי השחד יעור עיני חכמים ויסלף דברי צדיקים For the bribe will blind the eyes of the wise and make just words crooked.

(16:19) We think that *shochad*, bribery, is about taking money to sway judgment. As *Horav Shlomo Levenstein, Shlita*, points out, it is not always about accepting money. Any favor that, when granted, makes the beneficiary /judge feel indebted is considered a bribe. Indeed, as we see from the following story (“In the Footsteps of the Maggid,” by Rabbi Paysach Krohn), one can never be too careful with regard to the far-reaching effects of taking a bribe/accepting a favor. *Horav Eliyahu Meir Bloch, zl*, together with his brother-in-law, *Horav Chaim Mordechai Katz, zl*, founded Telshe Yeshiva in America. The *Rosh Yeshivah* had lost his wife and four of his children to the Nazi murderers, when they decimated the city of Telshe, Lithuania. He remarried, and he and his wife were blessed with a son and a daughter. Understandably, he doted on these two children who served in some small manner as comfort and solace after the tragedy that he had sustained. Unfortunately, as much as they wanted to, they were unable, due to their material insufficiency, to provide the two children with even the basic, simple toys with which all children grow up. When their son’s third birthday arrived, two of the *yeshivah*’s *bachurim*, students, each one hailing from a well-to-do family, purchased a small tricycle as a birthday gift. We can only begin to imagine the joy that permeated within their home. A short while later, the *Rosh Yeshivah* was set to give the *Yoreh Deah bechinah*, to test the oldest students and grant them *semichah*, ordination. When they walked into the *bechinah* the *Rosh Yeshivah* smiled, “Just the other day, I penned a thank you note to you for the gift you gave our son. It was greatly appreciated. However, due to the feelings of gratitude that I have for you, I do not think that I can be objective in testing you for *semichah*. Therefore, I must recuse myself and ask you to take a *bechinah* elsewhere.” Such was the greatness of the *Rosh Yeshivah*. He sensed that his overwhelming love for his son and his appreciation to the students who had brought a little extra joy to his son’s life, would impair his objectivity. This is the extent to which the prohibition against taking a bribe can go

ועשית על פי הדבר אשר יגידו לך ... לא תסור מן הדבר אשר יגידו לך
You shall do according to the word that they will tell you ... You shall not deviate from the word that they will tell you, right or left. (17: 10,11) As faithful Jews we adhere to *emunas chachamim*, faith in our sages – in the sages of each individual generation. Some, although observant, have difficulty accepting the interpretations of the Torah leaders concerning what they believe is fact. In a correspondence to such a misled Jew, *Horav Eliyahu Eliezer Dessler, zl (Michtav M'Eliyahu)*, addresses the disputant who claimed that the Holocaust might have been at least partially averted had the Torah leaders of Eastern Europe encouraged the masses to emigrate to *Eretz Yisrael*. He explains that the Torah teaches us to submit in all moral judgment and outlook, even to what we consider to be fact, to the clarity of vision evinced by our sages. He does not

distinguish between “opinion” and “fact,” because even fact is given to interpretation, which allows ample scope for our biased judgment to lead us astray. As a result of our materialistic bias, we are prone to view the political, economic and military backdrop as the primary juggernaut of any given situation. What about the spiritual factors? While we should not ignore the material factors, it is the spiritual factor that determines the outcome, thus weighing heavily in the sages’ decision. The interpretations of historical events rendered by our sages -- and the measures they took to address them -- have always considered, above all, the spiritual dimension. In a strong declaration, *Rav Dessler* asserts, “Lack of self-effacement towards our sages is the root of all sin and the precursor of all destruction. All merits are as nothing compared with that root of spiritual progress -- faith in our Sages.” I think this approach avails us deeper insight into *Moshe Rabbeinu*’s clarion call: *Mi l’Hashem eilai*, “Whoever is for Hashem, join me!” (*Shemos* 32:26) It was following the sin of the Golden Calf, during which a portion of *Klal Yisrael* flagrantly sinned and made a molten calf to replace Moshe, whom they claimed was not returning. The rest of the nation idly stood by demonstrating indifference. Now was the time of reckoning. The perpetrators must be punished. Moshe asked for those who still were part of Hashem’s legion, who did not in any way sin. *Shevet Levi* came forward to join Moshe. We wonder why Moshe added the word *eilai*, to me? Is it not obvious that he was calling for volunteers? Who else would have joined? Moshe could simply have called out, *Mi l’Hashem*, “Whoever is for Hashem!” Perhaps Moshe was imparting a lesson. It is not sufficient to be for Hashem while ignoring the *eilai*, the *Moshe Rabbeinus* of every generation. Moshe intimated to them, “If you want to be for Hashem, then you must also have *emunas chachamim*. The two go hand-in-hand.” The uncanny ability to cut through ambiguity and see, understand and interpret situations with amazing clarity is what defines *daas Torah*, the wisdom which comes from one whose life is suffused with Torah. The following vignettes offer glimpses into this unusual, unparalleled wisdom. *Horav Yosef Kahaneman, zl*, the *Ponovezher Rav*, was blessed with an extraordinary mind, coupled with his vast erudition that afforded him rare insight into circumstances that, for the most part, went over the head of a lesser person. He set for himself the goal to perpetuate the *yeshivos* that reigned in pre-Holocaust Europe and went about his life to realize this vision. A young teenager, a remnant of the fires that devastated European Jewry, arrived at the *Ponovezh Yeshivah*. The *Rav* accepted him, and he availed himself of the services he required to function and learn in the *yeshivah*. He stayed, learned, grew up and eventually raised a beautiful, impressive Torah family. Many years later, his grandchildren went on a trip to Poland to discover their roots. (Such a trip is quite popular for young adults from all corners of the globe.)

While in Poland, they made a point to visit their grandfather's place of birth. When they visited the records department of the local library, they discovered that their grandfather was actually one year older than they had thought. This was not uncommon, since the record system had not been very good. As such, it was possible (probable) that people were unsure of their true birthdate. When the grandchildren returned to *Eretz Yisrael*, they debated sharing their discovery with their grandfather. After all, since he had been born a year earlier than he thought, it meant he had delayed putting on *tefillin* for an entire year. Their grandfather was not oblivious to their covert discussions and inuendo. He would not be the first Holocaust survivor whose stated birthdate did not coincide with his real birthdate. He approached them and said, "I am certain that you are hesitating to show me the records that you discovered while in Poland. Do not worry. The *Ponovezher Rav* was quite aware of these errors. Thus, he insisted that every boy who was housed in his *Batei Avos* (the *Ponovezher Rav* had established an orphanage for children who survived the Holocaust without their parents) should begin putting on *tefillin* when he reached the age of twelve. I see now what I did not understand then. Indeed, I began putting on *tefillin* on my twelfth birthday, which was actually my *bar mitzvah*." Following World War II, *Horav Zev Rosengarten, zl* and *Horav Moshe Soloveitchik, zl*, established a yeshiva in Lucerne, Switzerland. Their goal was to bring in a Torah scholar of repute to serve as Rosh Yeshivah once the yeshivah had a functioning student body. They turned to *Horav Yechezkel Levinstein, zl*, for a recommendation, being that he, together with the *Mirror Yeshivah*, had escaped to Shanghai. Certainly, he knew confirmed *talmidei chachamim* who could satisfy the criteria vital for the *yeshivah's* growth. They explained the significance of having a *yeshivah gedolah* in Switzerland which could ultimately be a source of scholarship to produce the future leaders of European Jewry. Furthermore, a *yeshivah* of such caliber would influence the entire country and its environs. Not only did *Rav Chatzkel* not give them names, he dissuaded anyone from taking the position. With no other recourse, *Rav Moshe Soloveitchik* took it upon himself to lead the *yeshivah* temporarily. As a result of his brilliance in Torah, his personality and his ethical, moral character refinement, the *yeshivah* grew into the Torah center of Europe, with *Rav Moshe* as the Torah giant that led European Jewry until his passing. *Rav Zev Rosengarten* later mused, "This was all from Hashem. *Rav Chatzkel* saw that *Rav Moshe* was the perfect and best candidate for the position. Thus, he discouraged others from accepting it, thereby compelling *Rav Moshe* to assume the leadership position." The *Chazon Ish, zl*, was endowed with *Ruach haKodesh*, Divine Inspiration. He saw what others could not see; he understood what others could not understand. His life was guided by Heaven Above – as is all of ours; only he was

aware of it. He was "in touch" with Heaven at all times, so divested was he of physicality. His knowledge of medicine was legend. His ability to see what medical experts could not was a clear indication of his medical expertise -- or classic *Ruach haKodesh*. Numerous stories concerning this topic abound, of which I chose one, because it clearly demonstrates the *Ruach haKodesh* of the *Chazon Ish*. Doctors had insisted that a *Yerushalmi* woman undergo serious brain surgery. The *Chazon Ish* disagreed, insisting that the woman be taken to America. He provided travel expenses and a place to stay with *Horav Shmuel Greineman*, with specific instructions: No surgery, under any circumstances. *Rav Greineman* brought the woman to a world-renowned specialist, Dr. Lazarus. After examining the woman, Dr. Lazarus said that the case did not fall within his area of expertise. He referred the woman to his colleague, Dr. Globus. Appointments with a specialist were hard to come by. The earliest Dr. Globus was available was in a month. *Rav Greineman* prevailed upon Dr. Lazarus to personally call Dr. Globus to see the woman as soon as possible, which he did. Dr. Globus examined the woman and declared that she required a specific treatment which was available at a leading New York hospital. The family thanked Dr. Globus profusely. As they left the office, Dr. Globus suffered a fatal heart attack. *Hashgacha Pratis*, Divine Providence, had allowed him to live long enough to save this woman's life! If this is not a clear indication of the *Ruach haKodesh* of the *Chazon Ish*, what is?

Va'ani Tefillah ואנחנו לא נדע מה נעשה כי עליך עינינו
Va'anachnu lo neida mah naaseh ki Alecha eineinu. We know not what to do, but our eyes are upon You.
 Applying the vernacular of the *Kadmonim* (*Rambam* in *Shemoneh Perakim* and others), *Tachlis ha'yediah asher no neida*, "The purpose of knowledge is that we should not know (that we come to realize how little we really know)." We should merit to achieve the plateau of, *Va'anachnu lo neida*, "We know not." We acknowledge how little we know; how helpless we are. We can rely on no one other than Hashem. The *Tzadik* of Teveriah, *Horav Dov Kook, Shlita*, explains the *pasuk* in *Tehillim* (121), *Mei'ayin yavo ezri*, "From whence will come my salvation?" In a similar manner, *mei'ayin* means from where. *Ayin* also means nothing. *Ayin* also has the letters of *ani*. When we will transform the *ani*: I, me, myself, into nothingness. When we realize that we are powerless without Hashem's assistance, we will merit *Ezri*, (My) salvation. *Horav Baruch Ber Leibowitz, zl*, primary student of *Horav Chaim Soloveitchik, zl*, was asked by his venerable *Rebbe*, "What do you think I ask for when I recite the blessing in *Shemoneh Esrai, Atah chonein l'adam daas*, 'You grant knowledge (*seichel*, intelligence, common sense) to a person?'" *Rav Baruch Ber* replied, "The *Rebbe* probably asks Hashem to enlighten him, so that he can better understand the difficult *Rambam*." "No," countered *Rav*

Chaim. “I ask Hashem to grant me the *daas* to know that (there are things that) I do not know.” This is the purpose of *daas* – to know that we do not know. *Sponsored by Rabbi & Mrs. Sroy Levitansky In memory of her parents שלמה בן צבי ז"ל נפ' אלו תשל"ה הענא בת בנימין מנחם ע"ה נפ' אב תשע"א Mr. & Mrs. Sol Rosenfeld Hebrew Academy of Cleveland, ©All rights reserved prepared and edited by Rabbi L. Scheinbaum*

Ohr Somayach Insights into Halacha For the week ending 23 September 2017/3 Tishri 5778

Of Elul, L'David, and Golems

Rabbi Yehuda Spitz

There is near universal Ashkenazic custom during the month of Elul to recite the Chapter of Tehillim (27) “L'Dovid Hashem Ori” during davening, both every morning and evening, and all the way up to Shmini Atzeres[1], as preparation for the Yomim Noraim. This custom is based on the Midrash Shochar Tov[2] that elucidates that various phrases of this chapter contain allusions to the holidays of the repentance period - Rosh Hashana, Yom Kippur, and Sukkos, as well as to the month of Elul itself[3]. The Malbim, in his commentary on Tehillim, offers an alternate explanation. In this chapter, Dovid HaMelech, the author of Tehillim, asked to cleave to Hashem and that all obstacles that block coming close to Him should be removed. The Malbim[4] explains that when we strive to do so, Hashem will attach Himself to us with a higher level of personalized supervision. It is thus quite apropos to recite “L'Dovid” during the month of Elul, whose name hints to the acronym “Ani L'dodi V'dodi Li - I am to my beloved and my beloved is to me”(Shir HaShirim Ch. 6, verse 3). Elul is a month which symbolizes our relationship to Hashem, and one in which proper repentance is more readily accepted[5].

Where's the source? But, the obvious question is where and when did this minhag start? It is not mentioned in the Gemara, nor in the Rishonim, and not even referenced in the Shulchan Aruch or its main commentaries. It seems a bit odd that such a common custom would not stem from a primary source! Much research has been done and many works have been written to try to find the earliest source for this meaningful minhag[6]. Although many erroneously concluded that the original source of reciting “L'Dovid” throughout the entire month of Elul was the controversial ‘Chemdas Yamim’, first printed in 1731, history has since proven that an earlier source has been found. Many now attribute this minhag to the noted Kabbalist and famed author of “Amtachas Binyomin”, Rav Binyomin Beinisch Cohen, in his sefer “Shem Tov Kattan[7]”, first printed in 1706. There he writes that one should be scrupulous with reciting “L'Dovid” daily from Rosh Chodesh Elul until after Simchas Torah, averring that this has the potential to avert and even nullify Heavenly decrees.

Who's Who? Yet, there is possibly an earlier source. In the sefer “Nezer Hakodesh - Minhagei Beis Ropschitz”[8] a story is told about the Baal Shem Tov, where he mentioned a Tzaddik, known as Rav Eliyahu Baal Shem, who had saved the Jews of a certain town from eviction by successfully promising the childless non-Jewish mayor a son within a year. The Baal Shem Tov mentioned that this Tzaddik, who lived in the late 1600s, was the one who established the custom of reciting “L'Dovid” during Elul. However, it is unclear whom exactly he was referring to. Although much detailed information has been obscured with the passage of time, still history has shown that there were two Tzaddikim known by this name[9]. The better known of the two was Rav Eliyahu Baal Shem of Chelm, a talmid of the great Maharshal, Rav Shlomo Luria, and an ancestor of the luminaries commonly known as the Chacham Tzvi (Rav Tzvi Ashkenazi) and his son, the Ya'avetz (Rav Yaakov Emden).

A Golem as a Tzenter? Here is where it gets interesting. Rav Eliyahu Baal Shem of Chelm was best known for being of such stature that he created a Golem[10]. In fact, both of his aforementioned illustrious descendants have written responsa on the topic of the Golem that their grandfather created. The Chid"i[11], in his encyclopedia of Gedolim throughout Jewish history, ‘Shem Gedolim’ also attested to its existence. But before our readers decry the supernatural turn this article has taken, they should realize that Golems actually do have a place in the halachic realm as well. The issue that these Gedolim were debating was whether a Golem can count for a minyan! Although the Chacham Tzvi (Shu"t Chacham Tzvi 93) at first remained undecided, his son, Rav Yaakov Emden (Shu"t Sheilas Ya'avetz vol. 2, 82) ruled unequivocally that a Golem cannot count for a minyan! Apparently not just a theoretical topic, it is even cited and debated by such contemporary authorities as the Mishna Berura (55, 4)[12] and the Chazon Ish (Yoreh Deah 116, 1)! The Mishna Berura does not actually rule, but rather addresses the issue and concludes that it is a safeik; which is actually the main thrust of the Chacham Tzvi's teshuvah – that he personally was undecided as to the proper halacha. Although the majority consensus is that a Golem would not count for a minyan, there were several other authorities who defended the Chacham Tzvi's logic allowing a Golem to count for a minyan. The Chazon Ish, conversely, concluded, akin to the Ya'avetz's position, that a Golem would undeniably not be able to count for a minyan, as it not only would be excluded from the rights and privileges of a Jew, but even from those of a human being. One of Rav Yaakov Emden's main proofs to this is that we find that in order to be considered having a neshama, a creation needs to have the potential for speech [see, for example the Ramban's commentary to Parshas Bereishis (Ch. 2, verse 7; based on Targum Onkelos ad loc.)], an ability a Golem sorely lacks[13]. What is lesser known (and actually seemingly

unknown to many later authorities, including the Mishna Berura) is that, posthumously, another son of the Chacham Tzvi, Rav Meshulem Ashkenazi, in his responsa, appended and printed a later teshuva from his father (Shu"t Divrei HaRav Meshulem vol. 1, 10 s.v. shayach); in it the Chacham Tzvi actually retracted his original position and ruled strictly as well. Either way, and regardless of what one might want to assume about his fellow mispallelim, the vast majority of poskim rule conclusively that a Golem cannot be counted for a minyan[14].

The Second Rav Eliyahu Back to figuring out who originated the recital of "L'Dovid" in Elul. The other Rav Eliyahu Baal Shem was Rav Eliyahu Luentz, known as a master Kabbalist in the 17th century. He authored a seminal volume on the Zohar titled "Aderes Eliyahu", and was a disciple of my ancestor and namesake, the renowned Maharal M'Prague, (who, as an interesting side point, and incredible Torah works aside, is regrettably nowadays best 'known' for having also created a Golem[15]). In conclusion, although we are left uncertain as to whom the originator of this powerful minhag was, we can rest assured that it has a reliable source. We can thus appreciate the significance of saying this chapter of Tehillim throughout Elul, as it underscores the major goals of the season of repentance.

Postscript: There are a few communities, including many of Germanic origin, and the Chassidic communities of Sanz, Bobov, and Kamarna, however, who do not recite "L'Dovid" during Elul[16]. The Kamarna Rebbe of Yerushalayim recently told this author that although in his shul "L'Dovid" is recited, as most of his congregants are not Kamarna Chassidim and nearly everyone's custom is to recite it, nevertheless, he personally does not. It is also known that the Vilna Gaon and the Maharsha did not approve of this addition to davening as it possibly constitutes 'tircha d'tzibura'[17]. The general Sefardi minhag as well is not necessarily to recite "L'Dovid" specifically during Elul, but many nonetheless recite it all year long as an addition after Shacharis, with many Moroccans reciting it instead daily before Ma'ariv[18]. There are other variations of reciting "L'Dovid" during 'Yemei HaRachamin V'HaSelichos' as well, with some communities doing so only after Shacharis (including Telz and KAJ), while most communities additionally recite it either at the end of Mincha (generally Nusach Sefard) or Maariv (generally Nusach Ashkenaz).

Much of this article is based on Rabbi Eliezer Brodt's fascinating sefer Likutei Eliezer - Ch. 1.

[1] See Matteh Ephraim (581, 6; and Katzev HaMatteh ad loc.), Shulchan Aruch HaRav (Siddur, Hilchos Krias Shma U'Tefillah), Kitzur Shulchan Aruch (128, 2), Mishna Berura (581, 2), Rav Yosef Eliyahu Henkin's Shu"t Gevuros Eliyahu (Orach Chaim 155, 1; based on his annual Ezras Torah Luach, Ikrei Dinei Chodesh Elul), Rav Yechiel Michel Tukachinsky's annual Luach Eretz Yisrael (Rosh Chodesh Elul), Shu"t Shevet Halevi (vol. 10, 87, 1), Chazon Ovadia (Yomim Noraim pg. 24), and Yalkut Yosef (Kitzur Shulchan Aruch, Orach Chaim 581, Ode B'hilchos Chodesh Elul 2). See also Emes L'Yaakov (on Tur & Shulchan

Aruch, Orach Chaim 581, 1 and footnote 535) for an explanation why 'Borchi Nafshi' is nevertheless recited prior to 'L'Dovid' on Rosh Chodesh Elul, even though 'L'Dovid', as an addition to davening, is recited more often. [2] Midrash Shochar Tov (Tehillim Ch. 27), which famously elucidates that "Ori" refers to Rosh Hashana, "Yishi" to Yom Kippur, and "Yitzpineini B'Sukkah" on Sukkos. [3] See Panim Yafos (Parshas Acharei Mos, Ch. 16: 29 s.v. v'keivan), as well as Rabbi Elchanan Shoff's V'ani BaHashem Atzapeh (pg. 71, footnote 13), quoting Rav Chaim Palag'i. These explanations include that "Lulei" is referring to Elul (which has the same letters re-arranged) and that the 13 times Hashem's name is mentioned in this Kapital is referencing the 13 Middos of Hashem, essential during the Yomam Noraim. Additionally, the combined Gematria of Zikaron and Kippurim (the proper names of Rosh Hashana and Yom Kippur, respectively) add up to 639, the same value of the words "Hashem Ori V'Yishi". [4] Malbim (introduction to Tehillim Chapter 27); quoted in Rabbi Simcha Groffman's 'Awesome Days' (pg. 31). [5] See the Mishna Berura's introduction to Orach Chaim 581. For more on the various connections between Elul and "L'Dovid", see Rav Asher Weiss' Minchas Asher (Sichos on Moadim, Elul). For more on the various themes hidden in L'Dovid, see Rabbi Elchanan Shoff's recent excellent book titled 'Lord, Get Me High!'. [6] For long list of recent works addressing this topic, see Rabbi Eliezer Brodt's Likutei Eliezer (pg. 1, footnote 2). [7] See, for example Katzev HaMatteh (Glosses on the Matteh Ephraim 581, 13) and Likutei Eliezer (pg. 4). [8] Cited in Likutei Eliezer (pg. 7). [9] Likutei Eliezer ibid. [10] For more on this topic see Yeshurun (vol. 17, pg. 665 - 666), in the article by Rabbi M.D. Chichik about Rav Eliyahu Baal Shem from Chelm. In fact, the story of Rav Eliyahu and his Golem was recently adapted as a hardcover comic book entitled "The Golem of Chelm - Hayah V'Nivra". [11] Shem Gedolim (vol. 1, Ma'areches Gedolim - Ma'areches Alef, 166). See also Rav Yitzchok Zilberstein's Chashukei Chemed (Sanhedrin 65b) at length, for a list of historical Golems created, as well as many potential halachic inyanim related to Golems. [12] Although the majority consensus is that a Golem would not count for a minyan (as detailed in footnote 14), there were several other authorities who defended the Chacham Tzvi's original rationale that a Golem would be able to count for a minyan, including Rav Yosef Engel (Gilyonei HaShas, Sanhedrin 19b s.v. sham maaleh alav) and the Likutei Chaver Ben Chaim (vol. 5, pg. 64a, comments on Chacham Tzvi 93), who dismisses one of the Chid"i's counter-arguments, explaining that even a Golem should need to be 13 years old from the day he was created to count for a minyan! [On the other hand, Rav Menashe Klein (Shu"t Mishna Halachos (vol. 15, 27) counters that that would only hold true for an actual Jew, whose status changes as he increases in age and intelligence; a Golem, who does not gain intelligence as he ages would not.] See also Shu"t B'tzeil HaChochma (vol. 6, 99 s.v. uvmech"t) who explains that the very fact that the Chacham Tzvi was originally undecided whether a Golem can be included as part of Bnei Yisrael and count for a minyan (and although not the halacha l'maaseh) shows that he held that a Golem is mechuyev b'mitzvos; otherwise, there is no hava amina to count him for a minyan. [Conversely, Rav Dovid Sperber (Shu"t Afraksta D'Anyah vol. 4, 388 s.v. v'hadavar) and the Matteh Reuven (16) counter that that was not the Chacham Tzvi's intent, but rather that since a Golem would have been created via 'maaseh tzaddikim', it is feasible that his status might be somewhat elevated than a non-Jew's; and that was the crux of the Chacham Tzvi's dilemma whether or not he may be included in a minyan.] However, it is important to note that although it was apparently not known to the Mishna Berura nor these authorities, the Chacham Tzvi actually later retracted his position! See footnote 14. [13] See also Maharsha (Sanhedrin 65b, Chiddushei Aggados s.v. v'lo), Shu"t Yehuda Ya'aleh (vol. 1, Orach Chaim 26), Shu"t Afraksta D'Anyah (vol. 4, 388 s.v. puk), and the Radzhiner Rebbe's Seder Taharos on Maseches Ohalos (pg. 5a, Pirush Ha'aruch). Accordingly, in layman's terms, a Golem is technically considered 'an animal in human form' as it lacks the power of speech. [14] Including the Chid"i (Birkei Yosef, Orach Chaim 55, 4 s.v. u'lmai - also quoting Rav Yosef Leib Katz, son of the Shaar Ephraim,

although he personally does not agree to his proofs; Machazik Bracha ad loc; Tzavarei Shalal to Parshas Va'eschanan; Midbar Kedmos - Maareches Yud, 27; and sefer Maris HaAyin on Sanhedrin 65; also quoting his ancestor, the Chessed L'Avrohom, Ikrei HaDat (Ikrei Dinim, Orach Chaim 3, 15), Baruch Taam (Ha'aros on Chacham Tzvi, 93), Sidrei Taharos (Ohelos 4b), Ben Ish Chai (Binayahu, Sanhedrin 65b), the Rogatchover Gaon (Shu"t Tzafnas Paneach vol. 2, 7), Afraksta D'Anyah (Shu"t vol. 4, 388), Pardes Yosef (Hashalem - new print; Parshas Vayeishev 4, s.v. v'ayen ode), Kaf Hachaim (Orach Chaim 55, 12), Rivevos Efraim (Shu"t vol. 7, 385; in a teshuva from Rav Yosef Binyamin Tzarfati of Antwerp), Mishna Halachos (Shu"t vol. 15, 27), and Minchas Asher (Parshas Noach, 12, 2). Similarly, Rav Tzadok HaKohen M'Lublin, in his sefer written on Torah topics that occurred to him while dreaming (Kuntress Divrei Chalomos, 6; appended to his sefer Resisei Laylah; cited in Rabbi Mordechai Zev Trenk's 'Treasures: Illuminating Insights on Esoteric Torah Topics', pg. 44 - 45; second edition pg. 48 - 50), as well, argues that the Ya'avetz's psak that a Golem cannot be counted for a minyan is the correct ruling. Interestingly, the Mahar"i Assad (Shu"t Yehuda Ya'aleh vol. 1, Orach Chaim 26 s.v. v'da), ties this machlokes to the machlokes whether someone sleeping can count for a minyan [see Orach Chaim 55, 6; with the Taz and Pri Chodosh taking an opposing viewpoint to the Shulchan Aruch and Magen Avraham]. [15] Although legends about the Maharal's Golem have been in print since 1837, the well known stories that captivated the public's imagination were actually first published in the early 20th century (Niflaos HaMaharal) by Rav Yudel Rosenberg, author of the famed Yados Nedarim. He was also known for translating the Zohar into Hebrew, and later served as the Av Beis Din of Montreal, Canada. For more on this topic see Prof. Shneur Zalman Leiman's excellent "R Yudel Rosenberg and the Golem of Prague", (Tradition vol. 36, 1 - 2002). There is a famous related quote attributed to the renowned author of the Shu"t Imrei Yosher, Rav Meir Arik zt"l, [originally printed in Zer Zahav (Tzitzitnbaum; published in 5693), and later cited in the introduction to Machon Yerushalayim's recent Chiddushei Maharal M'Prague on Bava Metzia (pg. 14, footnote 1)] that "it is unknown whether the Maharal actually created a Golem. However, to have 'created' a talmid of the stature of the Tosafos Yom Tov, is certainly a greater wonder!" [16] See Shu"t Divrei Yatziv (vol. Lekutim, 52), Shu"t Divrei Moshe (34), sefer Minhagei Kamarna, (printed in the back of Shulchan HaTahor; Elul, 381), as well as Likutei Eliezer (pg. 5, footnotes 30 - 31). [17] See the recent Weinreb edition of Maaseh Rav (53; 5771), with the accompanying comment (Koveitz Mefarshim ad loc. 30) gleaned from the Aderes' Tefillas Dovid. [18] See Rav Mordechai Eliyahu's Darchei Halacha glosses to the Kitzur Shulchan Aruch (128, footnote 4). On the other hand, see Rav Ovadiah Yosef's Chazon Ovadia (Yomim Noraim pg. 24), and his son, Rav Yitzchak Yosef's Yalkut Yosef (Kitzur Shulchan Aruch, Orach Chaim 581, Ode B'hilchos Chodesh Elul 2), citing precedent mainly from Ashkenazic authorities, and maintaining that nonetheless, it is a 'minhag yafeh' to recite "L'Dovid" during Shacharis, throughout Elul until Hoshana Rabba. Rav Yaakov Hillel's Ahavat Shalom Luach (5777 English edition; Laws of the Month of Elul, 30 Av) writes simply "Some say L'David Hashem Ori V'yish'i (T'hilim 27) every day after Shaharit, and say Kaddish afterwards." Interestingly, both divergent Sefardic minhagim can possibly be traced back to the Chida (Avodas Hakodesh, end Kuntress Sansan L'Yair; and similarly in Moreh B'etzba 2, 37) who approvingly cites the minhag of reciting "L'Dovid" during Elul until Motzai Yom Kippur, as well as on Hoshana Rabba, adding that it is the minhag in Chevron as well, yet concludes 'u'mah tov l'omro Kol Hashana achar HaTefillah'. The Ben Ish Chai (Year 1, Parshas Pekudei end 6), citing a letter from Rav Eliyahu Mani, Av Beis Din of Chevron, also attests to reciting "L'Dovid" from Rosh Chodesh Elul until Shemini Atzeres as the Minhag Chevron. The Ahavat Shalom Luach (ibid. footnote 7) notes that history has since proven that in the full text of Rav Mani's aforementioned letter to the Ben Ish Chai (printed in Koveitz Min Hagnazim vol. 7, pg. 295) he added that in his Beis Midrash - Beis Yaakov, as well as in Yeshivas Beit E-l (for Mekubalim) the minhag is

not to recite "L'Dovid" during Eul, as it is not mentioned in the Arizal's writings. As such, the Luach asserts that "one should take note" that the Ben Ish Chai mentioned only the first half of the responsum (the minhag to recite "L'Dovid"), whereas he did not quote the second half of the responsum (the minhag not to recite it), which, in their words, "is unusual for him", but does imply his preference to reciting it.

Disclaimer: This is not a comprehensive guide, rather a brief summary to raise awareness of the issues. In any real case one should ask a competent Halachic authority.

L'iluy Nishmas the Rosh HaYeshiva - Rav Chonoh Menachem Mendel ben R' Yechezkel Shraga, Rav Yaakov Yeshaya ben R' Boruch Yehuda L'iluy Nishmas R' Chaim Baruch Yehuda ben Dovid Tzvi, L'Refuah Sheleimah for R' Shlomo Yoel ben Chaya Leah, L'iluy Nishmas Naftali Frankel, Gilad Shaar, and Eyal Yifrach Hy"d. and l'zechus Shira Yaffa bas Rochel Miriam v'chol yotzei chalatzeha for a yeshua sheleimah teikif u'miyad!, For any questions, comments or for the full Mareh Mekomos / sources, please email the author: yspitz@ohr.edu. Rabbi Yehuda Spitz, author of M'Shulchan Yehuda on Inyanei Halacha, serves as the Sho'el U'Meishiv and Rosh Chabura of the Ohr Lagolah Halacha Kollel at Yeshivas Ohr Somayach in Yerushalayim. © 1995-2022 Ohr Somayach International - All rights reserved.

CS – I've attached this week's Rabbi YY Jacobson article from: Rabbi YY Jacobson <rabiyy@theyeshiva.net>

date: Sep 1, 2022, 10:19 PM

subject: Why Atheism Struggles with Genuine Diversity - New Essay by Rabbi YY

Why Atheism Struggles with Genuine Diversity And Why True Religion Celebrates It

By: Rabbi YY Jacobson

Dedicated by Rachel Wagschal

In honor of Rabbi YY's 50th birthday, please help him quadruple his efforts to lift up & unite the Jewish People.

First Anecdote:

A man goes out with a woman on their first date. For the first three hours, he talks only about himself, his history, accomplishments and interests. Finally, he turns to her and says: "Enough of me speaking about myself; let me hear what you have to say about me."

Second Anecdote:

The rabbi was hospitalized recovering from a heart attack when the president of the congregation visited him. He said: "Rabbi, I have good news and bad news."

"First the good news," the rabbi said.

"On behalf of the board of directors, I am here to wish you a speedy recovery."

"That' s wonderful," said the rabbi, "and what' s the bad news?"

"The vote was 7 to 6."

Despising Single Stones

This week's Torah portion, Shoftim, communicates the following interesting commandment[1]: "You shall not erect for yourself a pillar; this is something which the Lord your G-d despises."

The most basic biblical commentator, Rashi[2], explains this as a prohibition against erecting an altar of a single stone, even if the intent was to use this altar as a place for Divine worship, where offerings would be presented to G-d.

Though the Torah elsewhere[3] allows the existence of altars made of stone in the Holy Temple in Jerusalem and in the Tabernacle in the desert, Rashi explains that this is only true of altars comprised of many stones, not of a single stone[4].

But what's the logic? Does it make a difference whether you present an offering on an altar of one stone or of many stones?

Rashi explains that the difference is not intrinsic but historical. In the times of the Patriarchs, Rashi writes, our forefathers built single stone pillars for Divine service, and "it was beloved by G-d." However, once the Canaanites adopted this practice and began building single-stone altars for idolatrous offerings, including the horrific practices of ancient idolatry, G-d rejected them[5].

But why? Just because some tribes used the single stone for idolatry, can't we use it in a productive and meaningful way? The Pagans would also worship the sun, the moon, or water, but we still use them and enjoy them in a beneficial way.

Embracing Diversity

What this prohibition against the single-stone pillar may be teaching us is that though there is one G-d, the altars constructed by the human being to serve Him should not, and could not be of one stone, of one color, dimension, shape and quality.

In paganism, or modern atheism, a human being creates a god, or some higher power, in his or her own individual image. My mind and ego define what is essential, and what is of supreme importance. When god is a product of my image, that god is inevitably defined by the properties of that image. Since no two human images are identical, it follows that your god, the god of your image, cannot serve as my god as well. My god must be worshiped in my way, based on my perception of who he is and what he stands for. My altar must be constructed of one stone: my own.

Sure, I will tolerate those people and views that my "image" of my god can make peace with. But if you step out of line, I will hunt you down. I have no genuine room for your position.

The faith of Judaism, the idea of Monotheism, declares the oneness of G-d and the plurality of man. The transcendental G-d of Judaism transcends the natural universe but also any spiritual definition. G-d is undefined by any form, shape, or characteristic, physical or spiritual. We do not create Him in our image; He creates us in His image. Judaism thus challenges me to see G-d's image in the one who is not in my image, for every person knows and feels something about reality, about truth, about G-d that no one else does.

None of us knows all the truth and each of us knows some of it. Like a symphony composed of many notes, each of us constitutes an individual note in the divine symphony, and together we complete the music. If G-d wanted you and me

to experience Him and serve Him in the same way, one of us would be superfluous.

True Religion Celebrates Diversity

Diversity within religion is not only a factor we must reluctantly accept; it is a cause for genuine celebration. It grants us the opportunity to encounter G-d since it is only in the face of the other that we can discover the part of G-d that we lack in our own face. The result of a relationship with a transcendental G-d is a growing appreciation of people's differences, not merely as tolerable, but as the essence of a rich and rewarding human and religious experience.

"Diversity is the one true thing we all have in common, celebrate it every day," a wise man once said. Diversity is the trace of an undefined G-d on the human species.

One of the greatest challenges facing humanity today is the ingrained belief by many Muslims that those of us who do not embrace Islam as a faith and a lifestyle are infidels who need to be converted or killed.

On another level, and in a far more subtle and fine way, one of the challenges facing many communities today (a challenge that has pervaded the history of all religions from the beginning of time), is a sense of tribalism that found a nest among many devout Jews. My way of serving G-d is the only true way, and if you have a different path, you are on the "wrong team." I can't respect you.

Many of us feel that in the construction of the "altars," the structures in which we serve G-d, there is room for only a single stone, a single path, one flavor, and one style -- to the exclusion of anything else that does not fit our religious imagination or upbringing. Yet, paradoxically, it is precisely the paths of paganism, polytheism, or atheism, that invite a singular altar, made of one stone, while the monotheistic path of a singular G-d welcomes the diverse altar, made of many distinct stones. The structures constructed by man to serve G-d are, by definition, diverse and individualistic[6].

This does not mean that G-d condones every act done in His name. The G-d of the Bible created absolute universal standards of morality and ethics that bind us all. But these rules do not step from my ego and comfort zone, but rather from an absolute truth that includes and benefits every human being.

To the Jewish people, G-d presented an absolute system of Torah and mitzvos.

Yet within this framework, every human possesses his or her unique path to Truth. One of the great masters put it this way[7]: "The concrete laws of Torah are the same for us all, but the spiritual experience of Torah, the feelings of love and awe, contain infinite pathways, one for each person, according to his (or her) individual identity."

We may compare it to the 88 keys of the piano that lend themselves to infinite combinations. The very same keys allow for so many different expressions. Authentic religion must welcome, not fear, diversity, and individualistic

expression. When you truly cultivate a relationship with G-d, a G-d who is undefined by any image or color, you know that in the presence of other-ness, you can encounter a fragment of truth that you could never access within your own framework[8].

[1] Deuteronomy 16:22. [2] Rabbi Shlomo Yitzchaki lived in France and Germany during the 11th century. His classical commentary on the Bible and the Talmud turned him into one of the greatest and most cherished Torah figures in the history of Judaism. [3] Exodus 15:22. [4] This is the difference between the Hebrew expression "Matzavah" vs. "Mizbach." Matzavah is an altar made of a single stone while Mizbach is an altar built of many stones. That is why the tombstone erected on a grave is called in Hebrew a Matzavah, since it is made of a single large stone. The reason that tombstones in cemeteries are permitted is that they are not used as altars for offerings, but as monuments for the dead (see Midrash Hagadol to this verse. Cf. Abarbanel here). [5] Rashi here from Sifrei section 146. [6] This may be the deeper reason why during the time of the Patriarchs the single-stone altar was welcome and used. For during the time of the Patriarchs, prior to the development of the Jews into a nation, each of the Patriarchs embodied a particular mode in serving G-d, which became the paradigm of service in that generation. [7] Tanya chapter 44. Cf. introduction to Tanya. [8] This essay is based on Mei Haseloach, by the great Chassidic master Rabbi Yosef Mordechai Leiner of Izhbitz (1800-1854), vol. 1 to Shoftim 16:22. Cf. Likkutei Sichos vol. 18 Parshas Korach and the references noted there. See also Likkutei Maharani I, 34:4.

CS – I am adding Rav Frand dvar torah, which just came through.

from: **Rabbi Yissocher Frand** <ryfrand@torah.org>

to: ravfrand@torah.org date: Sep 1, 2022, 11:41 PM

subject: Rav Frand - The Dual Personality of the Jewish Monarch

These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Series on the weekly portion: #1302 - Cutting Down Your Fruit Tree for Your S' chach. Good Shabbos!

The Dual Personality of the Jewish Monarch

In Parshas Shoftim, the Torah speaks of the mitzvah of appointing a king. Apparently, a monarchy can be an optimal type of government - assuming, of course, that the right type of king is in place. The king must not be corrupt. He must be G-d fearing. Even though in the history of Klal Yisrael there were kings who were terrible, in theory, if it can be done properly, the Torah advocates the appointment of a king.

Even though every Jew has an independent mitzvah to write his own Sefer Torah, the king has a special mitzvah to write a second Sefer Torah (in addition to his first Sefer Torah). The Gemara (Sanhedrin 21b) says that the king

kept one of his Sifrei Torah in his personal treasure house (i.e. - his palace) and his other Sefer Torah accompanied him at all times. Many Torah commentaries discuss why the king needed to have this second Sefer Torah that accompanied him whenever he appeared in public.

In past years, we mentioned a very beautiful dvar Torah that appears in a sefer called Ner Uziel from Rav Uziel Milevsky, z"l, (among other places): Normally, the rule of thumb that every Jew should try to live by is "a person's insides should be like his outsides." A person should not live one way in private and another way in public. Obviously, there is a certain casualness that we allow ourselves at home. People don't always need to wear their jacket and tie at home, just because they appear that way in public. But in terms of a person's midos (character traits), his personality, his frumkeit (religiosity) and his hashkafa (outlook on life) - these must be uniform inside and outside the home. This is the default rule for every Jew EXCEPT the king.

The king needs to have a different type of conduct and behavior outside the palace than he does inside. Inside the palace, like every other Jew, he needs to practice humility. He needs to be forgoing and forgiving. But the public king cannot play that role. He must assert his authority and project a certain awe and reverence to the public at large. He must maintain a certain demeanor outside the home, which may be totally different than his natural demeanor when no one is around.

The Jewish king thus has a dual personality - one for the king in the palace and another for the king who is the public figure. That is why he needs two Sifrei Torah. He needs a Sefer Torah b' Chutz (outside) and a Sefer Torah b' fnim (inside). The Sefer Torah that he keeps in his private treasury teaches him how to have humility and to be forgoing - all the things that the mussar sefarim instruct us. But when he goes outside, he needs that second Torah which reminds him to conduct his actions with a certain presence, a kind of haughtiness, and a certain unforgiveness when the situation demands it.

In Parshas VaYelech, when Moshe hands over the leadership of Klal Yisrael to Yehoshua, the pasuk says:

"And Moshe called out to Yehoshua and said to him in the eyes of all of Israel: Be Strong and Mighty! ..."

(Devorim 31:7). There is some ambiguity as to how to punctuate this opening pasuk. I believe most people assume that the comma comes after "in the eyes of all of Israel". In other words, the body of the message is a blanket statement - "Chazak V' Ematz!" However, the trop (cantillation notes) on the words "I' Einei kol Yisrael Chazak V' Ematz" are munach zarka munach segol. Therefore, the proper way to read the pasuk is "In the eyes of all of Israel be strong and mighty" - which means

that the comma follows the words “Vayomer Ailav “! Thus, the instruction “Be strong and mighty” is qualified by the antecedent clause. Only in front of the eyes of all of Israel are you (the king) to act strong and mighty. Yehoshua, now that you are the leader, you can no longer act as the humble Yehoshua who cleaned out the Beis Medrash and swept the floor there! To the eyes of all Israel, you may only show strength and valor. That is the job of the Jewish king.

This is a very difficult balance to achieve. Most people who act on the outside with strength and arrogance think that they are also the king when they walk in the front door to their personal living quarters (until “the Queen” tells him “No such thing!”).

I saw a beautiful comment from the Chasam Sofer: When Dovid HaMelech gave over the kingship to his son Shlomo, how did he signify the passing of the torch, so to speak? The pasuk in Melachim I (1:33) says as follows:

“The king said to them, ‘take with you your master’ s servants and mount my son Shlomo upon my mule...”

The servants are to take the king’ s personal mule and allow Shlomo to ride upon it. The general protocol of royalty is that no one uses the king’ s scepter and no one uses the king’ s mode of transportation. Air Force One, I’ havdil elef havdolas, is uniquely reserved for use by the President of the United States. No one else uses it. If you are president, you get Air Force One. In Biblical times, the king’ s mule was the equivalent of Air Force One.

This never struck me when reading the pasuk, but the Chasam Sofer notes that the king should be riding on a horse, not a mule! A horse is a beautiful animal, especially a kingly horse like a thoroughbred. It is a beautiful animal. The Torah talks about “the horse of Pharaoh and his chariot.” Pharaoh did not ride around on a donkey. He rode around on a horse!

However, what was Avraham Avinu’ s mode of transportation? What will the Moshiach’ s mode of transportation be? A donkey! A donkey does not have the glamor and status of a horse. This however is the Jewish vision of Moshiach - a poor man riding upon a donkey!

What is a mule? A mule is the product of the mating of a horse and a donkey. That is why King David used a mule. The Jewish king needs to have the haughtiness of the horse, but the haughtiness needs to be tempered with the humility of a donkey. How does he achieve that? He rides on the synthesis of a horse and a donkey. That, the Chasam Sofer says, was why Dovid picked a mule to ride upon and also to be the vehicle of transfer of power to the next Jewish king - his son Shlomo. The mule testifies to the duality, the synthesis of personalities that a Jewish king must possess. He needs to know when to be the Baal Gaivah and when to be the Ani. Therefore, the proper mode of transportation is “the mule that belongs to me.”

Hopelessness Is the Worst Curse

Parshas Shoftim also contains within it the mitzvah of the Arei Miklat - the cities of refuge - for people who kill unintentionally. Such a refugee remains in the “Ir Miklat” until the death of the Kohen Gadol.

The Halacha is that even though Moshe established three Arei Miklat in Aver Hayarden (TransJordan), they were not functioning as “Arei Miklat” until Yehoshua later established the three Arei Miklat in Eretz Yisrael proper. In today’ s parlance, we would say that Moshe’ s Arei Miklat did not “come online” until Yehoshua established his Arei Miklat in Eretz Yisroel, to the west of the Yarden. That process took an additional 14 years. What happened if someone unintentionally killed from the time Bnei Yisroel crossed the Yarden until Yehoshua established the three Arei Miklat in Eretz Yisrael proper? The answer is that the Rotzeach B’ Shogeg (unintentional murderer) did not need to go to the Ir Miklat. The following anomaly emerges: For 14 years, a person could literally get away with murder! He would not be killed because his killing was unintentional and he would not need to go into exile in the Ir Miklat because none of the Arei Miklat were yet functioning.

We can assume that even the Rotzeach B’ Shogeg needs some type of atonement (which is normally provided by his exile), but for some reason, during these 14 years, he did not receive such Kaparah. What is the meaning of this?

The Meshech Chochmah in Parshas Massei makes a beautiful observation. When a person goes to the Arei Miklat, he remains there until the death of the Kohen Gadol. In other words, he knows he can get out whenever the Kohen Gadol dies. He thinks: Any day could be my time to get out of here! Any day, the Kohen Gadol could pass on. Aye - the Kohen Gadol is now 32 years old and I am twice his age? Unfortunately, we see that people who are 32 years old also die. Anything is possible.

So, every single day the Rotzeach B’ Shogeg wakes up and thinks “Maybe today is my lucky day! Maybe by the end of today, I will be a free man.” In fact, the Talmud in Makkos says that those confined to the Arei Miklat used to pray that the Kohen Gadol should die. That is why the mothers of the High Priests used to bring the refugees cookies so that they would not pray for the death of their sons. Every day there was hope.

When Klal Yisrael entered Eretz Yisrael, Yehosua was involved in the process of dividing the land between the different tribes. But who was helping him divide the land? It was Elazar the Kohen Gadol! They were jointly tasked in dividing the Land and until that task was completed, neither Elazar nor Yehoshua would die. It thus comes out that this “unintentional murderer” would have had nothing to look forward to on a daily basis. He could only conclude “I am in here for a minimum of fourteen years. I

have no hope. I cannot say 'today might be my last day of exile.'" That, says the Meshech Chochmah, would have been cruel and unusual punishment. Taking away someone's hope is the worst type of punishment.

Therefore, in order to avoid this situation, there was no institution of Arei Miklat for 14 years. Better let this fellow "get away with murder" than impose such a harsh sentence.

With this idea, Rav Shlomo Zalman Auerbach made a beautiful observation about davening. The "nineteenth blessing" that was added to the "Eighteen Blessings" (Shmoneh Esrei) is called Birkas HaMinim - the "blessing" of the heretics. One of the worst types of people is a person who is a "Malshin" (someone who slanders a fellow Jew to the anti-Semitic Government). The Talmud says that Shmuel HaKatan was commissioned to compose this "blessing," cursing those people who perennially caused trouble for their brethren. So, he composed a curse for these people. What was this curse - the worst thing that could befall them? "LaMalshinim al te' hi Sikvah" (let there be no hope for the slanderers).

That is why the Rotzeach B' Shogeg could not go into an Ir Miklat during the 14 years of Conquest and Division, because in such a situation he would have no hope (of getting out prior to the end of the 14 years).

Transcribed by David Twersky; Jerusalem
DavidATwersky@gmail.com

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

This week's write-up is adapted from the hashkafa portion of Rabbi Yissochar Frand's Commuter Chavrusah Series on the weekly Torah portion.

A 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 © 2022 by Torah.org.

Torah.org: The Judaism Site Project Genesis, Inc. 2833
Smith Ave., Suite 25
Baltimore, MD 21209 <http://www.torah.org/learn@torah.org> (410) 602-1350

לע"נ

שרה משה בת ר' יעקב אליעזר ע"ה
ביילא בת (אריה) לייב ע"ה
אנא מלכה בת ישראל ע"ה

PARSHAT SHOFTIM

What is the ideal form of leadership for Am Yisrael:

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

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

INTRODUCTION

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

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

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

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

"OR LA'GOYIM"

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

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

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

(see Devarim 4:5-8).

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

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

THE NATIONAL INSTITUTIONS

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

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

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

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

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

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

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

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

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

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

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

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

SHEVET LEVI

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

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

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

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

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

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

THE NAVI

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

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

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

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

SO WHO'S IN CHARGE?

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

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

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

* Who will determine foreign and domestic policy?

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

* Basically, who will run the country?

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

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

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

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

THE "MELECH"

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

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

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

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

* He must NOT amass too much silver and gold.

When he is seated on his royal throne

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

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

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

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

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

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

THE MAKING OF A NATION

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

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

"K'CHOL HA'GOYIM"

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

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

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

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

A CHALLENGE

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

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

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

shabbat shalom,
menachem

=====

FOR FURTHER IYUN

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

See Kings II- 11:17

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

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

I.

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

Is a dynasty necessary to be considered a king?

How does this question relate to the above shiur?

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

Which type of melech is the Rambam referring to?

See also the Rambam in Hilchot Melachim perek I.

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

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

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

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

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

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

a. Who forms the first standing army?

b. Who first decides to construct the Bet HaMikdash?

c. Who is the first to levy taxes?

D. Who establishes a strong central government?

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

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

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

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

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

INTRODUCTION

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

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

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

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

SUMMARY – OR NOT?

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

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

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

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

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

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

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

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

THE CASE ISN'T CLOSED!

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

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

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

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

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

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

PARTICULAR or GENERAL

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

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

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

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

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

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

PREVENTIVE MEASURES!

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

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

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

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

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

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

A GOOD TEACHER

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

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

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

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

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

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

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

shabbat shalom,

menachem

Parshat Shoftim: Rabbinic Authority

by Rabbi Eitan Mayer

HALAKHIC AUTHORITY:

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

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

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

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

DEVARIM 17:8-13 --

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

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 (mitzvat ase) to obey the Great Court, and a negative command (mitzvat lo ta'aseh) to disobey the Court:

RAMBAM, LAWS OF REBELS, CHAPTER 1 --

LAW 1: The Supreme Court in Jerusalem are the root of the Oral Torah and the pillars of instruction; from them do law and judgment go out to all Israel, and the Torah places trust in them, as it says, "According to the instruction that they instruct you" -- this is a POSITIVE OBLIGATION. All who believe in Moshe, our teacher, and in his Torah, are bound to rely on them in religious activities and to depend on them.

LAW 2: Anyone who does not act in accordance with their teaching violates a NEGATIVE COMMAND, as it says, "Do not turn from what they tell you, right or left" Any sage who rebels against their words, his death is through strangulation . . . whether [the issue in dispute is] 1) a matter known by oral tradition, or 2) a matter derived by the Court itself using one of the hermeneutic rules of interpreting the Torah, and which seems correct to them, or 3) a "fence" in the law which they created in order to protect Torah law or because there was a need for it -- these are the gezerot and takkanot and minhagot -- in all three categories, it is a POSITIVE OBLIGATION to obey them. One who violates any of these laws violates a NEGATIVE COMMAND

Let us neither overcomplicate nor oversimplify the matter: the scope of authority granted by these mitzvot is a matter of significant debate. The sources to be presented here are only those I find both particularly important, as well as presentable over e-mail.

WHAT IF I THINK THE COURT IS WRONG?

It is all very well and good to have one central clearing-house for halakha, where all decisions are finalized, but what if it seems to me that the decision handed down is incorrect? How am I supposed to react? Hazal and many Rishonim (medieval authorities) address this possibility in many places:

SIFREI, DEVARIM, SECTION 154:11 --

"[Do not turn aside from the thing they tell you,] right or left": Even if they show to your own eyes that right is left and left is right, listen to them.

This midrash halakha seems to answer our question quite clearly: even if they tell you something you think is wrong, even if it's so obvious to you that it's as if they are standing in front of you and telling you left is right and right is left, you must listen to them. However, it is a bit more complex than that, because the language of this midrash is tricky and ambiguous:

"Afilu mar'im be-einekha al yemin she-hu semol ve-al semol she-hu yemin, shema la-hem."

While I believe that this is best translated as above, it is also possible to translate as follows:

"Even if it seems to you that they are telling you right is left and left is right, listen to them."

The difference between these two translations is that the first translation makes it sound like the court truly has made a mistake -- they tell you that right is left and left is right; still, you must listen to them. On the other hand, the second translation makes it sound more like the court has not necessarily made a mistake, just that *you* believe they have -- it "seems to you" that they are telling you something which is obviously wrong; still, you must listen to them. This second translation leaves room for the possibility that if the court truly is wrong, you are not supposed to follow its verdict; only if it seems to *you* that it is wrong are you required to follow it.

The first possibility -- that we are bound to follow the court even if it errs -- is reflected in another midrash:

MIDRASH TANNA'IM, DEVARIM 17:10 --

How do we know that if they tell you that left is right and right is left, [that you must] listen to their words? The Torah tells us, "According to ALL that they instruct you."

According to this view, we are commanded by Hashem to follow the court no matter what it tells us, no matter how ridiculous it seems, even if it declares that right is left and left is right. To put it another way, you could never commit an aveira (sin) by following the court. Hashem always wants you to do what the court tells you to do.

The second possibility -- that we are bound to follow the court even if it seems wrong to us, but only if it is truly correct in its verdict -- is reflected in a passage in the Yerushalmi (Jerusalem Talmud):

YERUSHALMI, HORAYOT 1:1 --

I might think that if they tell you that right is left and left is right, that you must listen to them -- therefore the Torah tells us, "to go right and left" -- that they must tell you that right is right and left is left.

If we stop to think about it, though, it seems not to make much difference which possibility is the correct one. In both cases, you think the court is dead wrong. It's as obvious to you as right and left. But you don't have access to the absolute truth of whether they are indeed right or wrong. So even if it were true that you are commanded to follow the court only when its verdict is correct, how are you supposed to know when the court is truly correct and when not?

One possible solution (and one which I believe is reflected by the context of some of the above sources) is that the different sources are referring to people with varying degrees of halakhic expertise. If you are, with all do respect, Joe Nobody in terms of halakhic expertise, then even if it seems to you that you are being told your hands are screwed on backwards, you ought to suspend your disbelief and accept the word of the Big Experts. But if you are a person of such halakhic stature that you would be qualified to sit on the Great Court, you not only can hold your ground, but perhaps you

must -- unlike the non-experts, who are compelled to rely on the Court due to their halakhic non-expertise, you are a Big Expert in your own right. In your expert view, it is not just that the Court *seems* to have erred, it is a certainty.

The fact that a Big Expert is in a different category than others when it comes to disagreeing with the Great Court is something reflected in the first Mishna in Tractate Horayot:

MISHNA HORAYOT, 1:1 --

If the Court [mistakenly] ruled that one may violate one of the commandments in the Torah . . . and one of them [i.e., one of the judges] knew that they had erred, or a student who is fit to be a judge [knew that they had erred], and he [nevertheless] went and acted according to their word [i.e., the word of the Court] . . . he is held responsible, for he did not [truly] rely on them [since he knew they were wrong] . . .

Now that we have seen some of what Hazal have to say, we turn to the Rishonim to see how they understood these pesukim. The first view we will consider is that of Rashi:

RASHI, DEVARIM 17:11 --

"[Do not turn aside from the thing they tell you,] right or left": even if they tell you right is left and left is right, and certainly if they tell you right is right and left is left.

Rashi leaves us with no doubt that he believes that even when the Court is truly mistaken, even when it tells you that right is left and left is right, you are bound to obey it. He is absolutely clear: we are to follow the Court whether they tell us right is left and left is right, or right is right and left is left.

Or maybe not! Perhaps Rashi, like the midrashim above which command obedience even to an ostensibly wrong verdict, is talking to the non-expert. Whether it looks to you like the Court is wrong (right=left, left=right) or right (right=right, left=left), you must obey its verdict. Since you are not a Big Expert, a potential member of the Court, you are not qualified to say whether the verdict is *truly* correct, so no matter what you think, you should follow its judgment. [In the middle of writing this shiur, I consulted Rabbi Herschel Schachter, Rosh Kollel at RIETS, and R. Schachter told me that the Tzeida La-Derekh, a commentary on the Torah, suggests the same resolution as I have suggested above.]

The Ramban's interpretation of Rashi seems to accord with the above suggestion -- that Rashi is addressing someone who *believes* that the Court has erred, not someone who is qualified enough to *know* that they have, in fact, erred:

RAMBAN, DEVARIM 17:11 --

"[Do not turn aside from the thing they tell you,] right or left"-- "Even if they tell you right is left and left is right," so is the language of Rashi. The meaning is that even if you BELIEVE in your heart that they are mistaken, and it is AS OBVIOUS TO YOU as your knowledge of the difference between your right and left hands, still, you shall do as they command, and do not say, "How can I eat this [non-kosher] fat or kill this innocent person?!"

The Ramban, along with Rashi, is telling the non-expert (if it's not obvious already, just about all Jews, including most rabbis, are considered "non-experts" in this context) to suspend his or her judgment and rely on the Great Court. Even though we may consider the Court mistaken, we have no accurate way of telling.

But then the Ramban goes further -- not only are we required to obey the Court because we cannot judge when it is correct and when mistaken, but we are required to obey it even when it truly is mistaken! The Ramban continues:

RAMBAN --

. . . Instead, you should say, "The Master, who commanded the commandments, commanded that I should behave -- in regard to all of His commandments -- as I am taught by those who stand before Him in the place He shall choose, and according to their interpretations has He given me the Torah, EVEN IF THEY ARE MISTAKEN."

Here the Ramban gives the Great Court much broader power than before; until now, we could have assumed that the Ramban is telling us to submit our will to the Court's because the Court has infinitely greater halakhic expertise. But now

he is telling us that the issue is not expertise, but authority. The Court is always right -- even when it's wrong! Hashem prefers that I follow the Court's wrong verdict to my own correct judgment! The Ramban goes on to explain the rationale for the command to obey and the command not to disobey the Court:

RAMBAN --

The need for this commandment is very great, because the Torah is given to us as a text, and everyone knows that opinions will differ in the details and in new situations; the result will be that disagreement will increase, and the Torah will become several Torot! So Scripture lays down the law, that we should listen to the Great Court -- which stands before God in the place He shall choose -- in all that they say in interpreting the Torah, whether they accepted it as testimony from earlier authorities, and they from Moses, and he from God, or if it is their own opinion about the meaning or intent of the Torah. **THIS IS BECAUSE THE TORAH WAS GIVEN TO FUNCTION ACCORDING THEIR OPINIONS**, even if it seems to you that they mistake right for left . . . for the Spirit of God rests on the servants of His Temple, and does not abandon His righteous ones; they are forever protected from error and stumbling. The Sifrei says: "Even if it seems to you that they say that the right is left and the left right."

If you read the above Ramban carefully, you should now be totally confused. Let's just review.

1) First, the Ramban quotes Rashi and says that the Torah is commanding us to obey the Court although WE BELIEVE it is mistaken. This makes it sound like the Ramban believes that we must obey the Court because we are usually wrong in our view of the halakha, and the Court is right.

2) But then the Ramban says that we are commanded to obey the Court even if it IS mistaken -- so even if we are right that the Court has told us that right is left and left is right, we must accept.

3) The Ramban then tells us that the Torah is given to us to function as the Court sees it, so that there will be unity in the nation and so that the Torah will not become multiple Torot. This makes it sound like the Ramban believes that the Court can indeed err, but that we are commanded to obey anyway for practical reasons: we have to stick together as a religious community and a nation.

4) But then the Ramban switches back again and tells us that special divine inspiration assures that the Court will NEVER make a mistake. He then quotes the midrash which reads, "Even if it seems to you . . .", implying that the Court is truly correct and that it is only our ignorance which makes us believe otherwise.

Will the real Ramban please stand up? Do we laypeople accept the Court's verdict simply for the sake of unity, or because we can't claim to know any better ourselves, or because they are simply always correct?

First let us consider one simple question: is it really true that the Great Court is "forever protected from error and stumbling?" Is there any solid evidence that the Great Court can indeed make a mistake?

If you've been paying attention so far, your answer should be yes -- much of the first perek (chapter) of Tractate Horayot (including the first Mishna, which was quoted above) deals with exactly this topic. But there is more solid evidence than that. Let us briefly take a look at two sections of the Torah:

VAYIKRA 4:13-14 --

If the entire congregation of Yisrael shall sin in error, and a matter is hidden from the "eyes of the congregation" [a term understood by Hazal to refer to the Great Court], and they do one of the mitzvot of Y-HVH which is not supposed to be done [i.e., a negative command] . . . they shall bring a bull of the flock for a sin-offering . . .

BEMIDBAR 15:24 --

It shall be, that if from before the "eyes of the congregation" [see above] it is done inadvertently, then the entire congregation shall bring a bull of the flock for a burnt-offering . . . and one goat for a sin-offering . . .

These two sections prescribe the procedure to follow in case the Great Court rules mistakenly and the entire nation (or a

significant part of it) follows that ruling. A special korban (sacrifice) or set of korbanot is to be brought. In any event, these passages confirm that the Court can indeed make mistakes.

If you remember the Yerushalmi passage above, you will see that it, too, assumes that the Court can err.

With all this in mind, let us return to the Ramban. Surely, the Ramban is aware of all this; therefore, when he says that "the Spirit of God rests on the servants of His Temple, and does not abandon His righteous ones; they are forever protected from error and stumbling," we must interpret his words in light of the evidence we have just seen. The Ramban's position is certainly complex, to say the least, but perhaps the following summary will help us to understand his words:

1) The Court is almost always correct in its verdicts. Non-experts are therefore required to obey it, because they have no expertise based on which to disagree with the Court. Even if it seems to their untutored senses that the Court is obviously wrong, they must submit to its expertise and its divine guidance.

2) Sometimes, the Court is indeed wrong. But non-experts are still required to obey it because

a) they have no way of knowing with any reliability when the Court is halakhically wrong.

b) it is necessary for the unity of the community for there to be one source of authority, and for it not to be OK for everyone to follow his or her own instincts in serving Hashem.

3) Now for the Big Expert who *knows* the Court is wrong: the expert is supposed to stick to his guns; eventually, the Court will consider his opinion. If they reject it, he is no longer allowed to tell people they can follow his ruling. (It is a matter of disagreement whether he is supposed to continue to follow his own ruling in private, but it is certain that he can no longer publicly follow his own ruling). If he refuses to knuckle under, it is "curtains" for him.

The Ran, Rabbi Nissim of Gerondi, relates to this last point in his Derashot (a fascinating sefer, which everyone should read; yes, I know that the Ran's authorship of it is at issue, but whoever wrote it, it is an important work). He assumes that the Torah's command to swerve neither "right nor left" refers to the Big Expert, not just to all of us Joe Nobodys:

DERASHOT HA-RAN, DERUSH 11 --

. . . "Even if they tell you right is left and left is right," even if it is clear to you that the truth is not like the words of the ruling of the Sanhedrin [Great Court], nevertheless, obey them, for so commanded Hashem, that we should behave with regard to the laws of the Torah and its mitzvot according to what they [the Court members] decide, whether they coincide with the truth or not! This is like the matter of Rabbi Yehoshua and Rabban Gamliel, that Rabban Gamliel commanded him to come to him, with his walking-stick and his money, on the day that he [Rabbi Yehoshua] believed was truly Yom Kippur -- and so he did! Since Hashem gave over decision-making power to them, **WHATEVER THEY DECIDE IS WHAT HASHEM COMMANDS** about that thing. On this do we rely in the mitzvot and judgments of the Torah, that we fulfill the will of Hashem in doing them [the mitzvot] so long as we rely on whatever the gedolei ha-dor [sages of the generation] agree upon.

Once Rabban Gamliel had heard Rabbi Yehoshua's opinion and rejected it, Rabbi Yehoshua was bound, like the Big Expert whose opinion has been heard by the Great Court and rejected, to accept the opinion of Rabban Gamliel, who was in a position of greater authority than he. The Ran, you may have noticed, appears to expand the authority of the Great Court beyond the Court itself, extending it to Rabban Gamliel and to the "gedolim" of each generation. According to the Ran, the section of Humash we have been studying is not history about a Court that once was, it is law which applies here and now. Whatever the great sages of the generation rule, we are commanded to obey them and forbidden from disobeying. The Ran makes this a bit clearer later on in his sefer:

DERASHOT HA-RAN, DERUSH 12 --

We are commanded to obey . . . the sages of the generations who come after the [Sanhedrin] . . . in whatever they explain in the laws of the Torah But the 'fences' and rabbinic enactments they make . . . rely on the verse, "You shall not turn aside [from what they tell you, right or left]." Just as He gave this power to the Sanhedrin, since they are the teachers and great sages of Torah, so is it appropriate that this power be given to all sages of Israel

The great sages of this generation, for instance, are empowered by "Lo tasur," "Do not turn aside," according to the Ran. Who the sages of this generation are . . . is not for me to say.

The final source we will see on this issue is also probably the most expansive. The Sefer Ha-Hinukh (author unknown, although some conjecture that it was written by the Ra'ah) extends the authority of the Court to the sages of all generations, even when there is no Court -- like the Ran above -- but he also may extend their authority beyond what is defined as strictly halakhic:

SEFER HA-HINUKH, MITZVAH 495 --

It is an obligation to obey the voice of the Great Court and to do whatever they command in matters of Torah -- the forbidden and permitted, the impure and pure, the guilty and the innocent, and in ANY THING THEY BELIEVE STRENGTHENS AND IS CONSTRUCTIVE FOR OUR RELIGION . . . Included in this obligation is to obey -- in all ages - the command of the judge ["shofet"]; that is, the greatest sage among us IN OUR DAYS; as they [Haza] interpreted, may their memory be blessed, "Yiftah in his generation is as Samuel in his generation."

[It is worth mentioning that the Hinukh's language here is similar to that of the Rambam in Sefer HaMitzvot, Positive Mitzvah #174.]

SEFER HA-HINUKH, MITZVAH 496 --

. . . And in every generation also, that we listen to the CONTEMPORARY SAGES, who have received their [the earlier sages'] words by tradition and have drunk water [=Torah] from their books . . . Even if they tell you right is left and left is right, do not stray from their command. In other words, even if they are wrong about a particular thing, it is not worthwhile to argue with them, and instead, we should follow their error. It is better to suffer one error and still have everyone under their good guidance than to have everyone do as he pleases, for this would cause the destruction of the religion, the splitting of the heart of the people, and the total destruction of the nation.

AUTHORITY IN NON-HALAKHIC AREAS --

As long as we have mentioned that the Sefer Ha-Hinukh may feel that the sages are empowered also in non-halakhic areas, let us briefly consider several statements made by great sages over the generations about rabbinic authority in non-halakhic areas. I will not comment on these statements; I put them forward for you to consider. I consider it too controversial a topic for me to comment on in this forum:

1) THE HAFETZ HAYYIM [From "Hafetz Hayyim on the Torah," p. 30]:

(Note that this is not the Hafetz Hayyim writing, it is a student of his.)

"He used to say, 'One whose opinion (da'at) is the opinion of the Torah (da'at Torah) can solve ALL OF THE PROBLEMS OF THE WORLD, IN GENERAL AND IN PARTICULAR.' But he added a condition: 'The Da'at Torah must be pure, without any ulterior motive and any leaning. If you have a person who has Da'at Torah, but it is mixed even a little with other opinions from the marketplace or the newspapers (press), his Da'at Torah is clouded, mixed with refuse, and it is unable to descend to the depths of the matter.'

2) RABBI 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 our neighbors, and set the national agenda and tone.

Only the Kohen, whose mind was saturated with the holy Torah of Rabbi Akiva and Rabbi Eliezer, Abaye and Rava, the Rambam and the Ra'avad, the Beit Yosef and the Rama, could also solve the political and national dilemmas of the nation. That very Kohen was the one to stand before kings, who knew when to speak softly and when to make demands, when to bend and when to be willing to give up life and limb.

In the last generation, a wedge has been driven, for the first time, between the Tzitz and the Hoshen, between the Gaon of the generation and its national leader. Gedolei Yisrael have been shoved into the corner to render judgments on "their" areas of expertise while self-professed "experts" lead the nation on matters of global concern.

This cannot be. There can be no heart devoted to the nation without the holiness of the Tzitz. And there can be no holiness without the overflowing and loving heart of the Kohen Gadol. The Tzitz cannot be severed from the Hoshen. The Hoshen must be carried on the same body that is crowned by the Tzitz.

*****END*****

I am well aware that this statement of the Rav's is a very early one in his career, made while he was part of Agudat Yisrael (and in fact the statement was made at an Aguda convention), before he had broken with Aguda. I am also well aware that many other statements of the Rav exist on this matter (some of them contradictory!).

I suppose you will have what to think about over Shabbat!

Shabbat shalom

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 Hebron, twenty-two years earlier.

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

V. THE ROLE OF THE JUDGES

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

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

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

Text Copyright © 2014 by Rabbi Yitzchak Etshalom and Torah.org. The author is Educational Coordinator of the Jewish Studies Institute of the Yeshiva of Los Angeles.