

Potomac Torah Study Center

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This Friday is the second day of Rosh Hodesh and Rosh Hashanah LaBehemot

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) at www.PotomacTorah.org. Thanks to Bill Landau for hosting the Devrei Torah archives.

May Hashem protect Israel and Jews everywhere. May Hashem's protection shine on all of Israel, the IDF, and Jews throughout the world. We mourn those of our people who have perished since attacks have resumed. May the IDF and the U.S. soon force Iran to seek peace, and may a new era bring security and rebuilding for both Israel and all others who genuinely seek peace.

Note: My upcoming schedule for Devrei Torah: Ki Tavo – on travel and unable to prepare and post. During my absence, visit my archives at PotomacTorah.org for issues from the last several years.

I am resuming posting my weekly Devrei Torah compilation after a silence of three weeks. Our family left for Israel the Sunday after Tisha B'Av and returned on Monday this week. One of my souvenirs from the two week trip is my first cold since our last trip to Israel (February 2000). As always with my colds, it has turned into bronchitis and a sinus infection. Because I am not well enough to compose a new introduction, I am refreshing what I wrote two years ago.

Shoftim focuses heavily on issues of a Jew in society. Here are a few famous examples: "*Righteousness, righteousness shall you pursue*" – a condition for possessing and living in Hashem's land (16:20). Criminal prosecution requires the testimony of a minimum of two independent witnesses (17:6). One may not deviate in any way from the decision of a Beit Din (religious court) (17:11).

Moshe received the Torah from God more than 3300 years ago and presented it to the Jews of that generation. Rabbi David Fohrman and his scholars at alephbeta.org have demonstrated that many laws in the Torah implement legal decisions based on events earlier in Jewish (and sometimes pre-Jewish) history. This pattern persists in Shoftim. Are legal principles based on events from 5000 or more years ago still relevant to us in our modern world? When conditions change sufficiently, does the Torah provide a process to update halacha in a way that we can be certain is consistent with the Torah?

Rabbi Fohrman analyzes Kayin's killing of his brother Hevel, the first story in the Torah. Was this event murder or manslaughter? As Rabbi Fohrman observes, no human had died before this event. How could Kayin have known that his attack on his brother would kill him? What punishment does God give to Kayin? He exiles him and forces him to wander for the rest of his life. However, God gives Kayin a sign warning others not to kill him. (Rashi observes that there are no other people, so the warning must be to animals.) The punishment is more consistent with manslaughter than murder, and this incident returns in the provision to establish cities of refuge, places where someone responsible for an inadvertent death of another person can go and be safe from revenge.

Rabbi Fohrman also demonstrates that the Torah requirement of a minimum of two eye witnesses goes back to Yosef's

interpretation of the dreams of Paro and his servants while in jail in Egypt. The dreams of two servants provide Yosef with two independent witnesses to demonstrate that the dreams are prophecy rather than coincidence. Paro's two dreams – one before and the second after a period of being awake – also show Yosef that the dreams come from Hashem.

These examples demonstrate that Torah laws date far back, some back to the first family in human history. How relevant are laws from 3300 plus years ago, some based in incidents in history from more than 5000 years ago? The Torah in Shoftim provides a method to modify or extend halacha based on new situations or changes in circumstances based on unanticipated events. For example, how does modern technology affect halacha? During the time of the Torah, all Jews lived near each other. Since the destruction of the Temples and subsequent exiles, Jews have dispersed all over the planet. Jews living far from Israel may not have convenient access to bring halachic issues to the place that Hashem selects.

Shoftim establishes a procedure to resolve new issues as they arrive. Those seeking a solution to a dispute are to bring the matter to the judge or Beit Din of the generation, and the court's decision shall be binding (17:8-12). Pirkei Avot (1:1) discusses the validity of this process. Hashem presented the law to Moshe at Har Sinai. Moshe transmitted the law to Yehoshua, then to the elders, next the prophets, then to the Rabbis of the Talmud, to their students, and down to the Rabbis of the current generation. The key is that this process ties halachic decisions back to Har Sinai. We are to accept the decisions of a valid Beit Din and not to deviate from its decisions.

Rabbi Lord Jonathan Sacks, z"l, notes that prophecy ended around the beginning of the Second Temple period 2500 years ago. Instead of prophets, we have had the men of the Great Assembly, then the Sanhedrin, and later a series of highly respected Rabbis to bring Hashem's message to our people, normally through a process of Beit Din (Rabbinic courts). Prophets would take a heroic stand but not provide a mechanism to ensure that the people would follow their messages. The Rabbis, in contrast, do not take heroic stands, but they intervene repeatedly, if necessary, to try to affect behavior. Rabbi Sacks concludes that prophets were not very effective in changing behavior and that Rabbis are more effective in this process. Practical programs do more to improve human behavior than "fire and brimstone," as one might describe the approach of many of the prophets.

My beloved Rebbe, Rabbi Leonard Cahan, z"l, always found a way to make halachic discussions from the Torah interesting. Justice, especially for disadvantaged individuals and groups, was a favorite topic for many years. Rabbi Cahan led a protest of Rabbis in front of the Soviet Embassy to raise the issue of Russian treatment of Jews approximately 40 years ago and chose to spend two weeks in jail rather than pay a very modest fine. (Public protest in front of an embassy was illegal in those days.) He tied inhumane treatment of disadvantaged individuals and groups to many Torah portions. His focus on social justice fit in with Shoftim, but also with the Haftorah messages during most of the weeks during the weeks since the fast of 17 Tammuz. In this sense, his focus mirrored much of the social commentary in the Torah and Navi.

Shabbat Shalom,

Hannah & Alan

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

Please daven for a Refuah Shlemah for Velvel David ben Sarah Rachel; Moshe Aaron ben Leah Beilah (badly wounded in battle in Gaza but slowly recovering), Daniel Yitzchak Meir HaLevy ben Ruth; Avram David ben Zeezl Esther; Ariah Ben Sarah, Hershel Tzvi ben Chana, Reuven ben Basha Chaya Zlata Lana, Avraham ben Gavriela, Mordechai ben Chaya, David Moshe ben Raizel; Zvi ben Sara Chaya, Reuven ben Masha, Meir ben Sara, Oscar ben Simcha; Miriam Bat Leah; Rena Michal bat Sara, Yehudit Leah bas Hannah Feiga; Miriam bat Esha, Chana bat Sarah; Raizel bat Rut; Rena bat Ilsa, Riva Golda bat Leah, Sharon bat Sarah, Kayla bat Ester, and Malka bat Simcha, and all our fellow Jews in danger in and near Israel. Please contact me for any additions or subtractions.

Thank you.

Haftarat Shabbat Shoftim: Judaism's Views of Government: Democracy or Monarchy?

By Rabbi Dr. Katriel (Kenneth) Brander * (5782)
President and Rosh HaYeshiva of Ohr Torah Stone

Winston Churchill once said, *"Democracy is the worst form of government, except for all those other forms that have been tried from time to time"* (Speech in the British Parliament, November 11, 1947).

What form of government does Judaism prefer? Monarchy, democracy or theocracy?

We're told in this week's Torah portion:

If, after you have entered the land that the Lord your God has assigned to you, and – having taken possession of it and settled in it – you decide, "I will set a king over me, as do all the nations about me..." (Deuteronomy 17:14)

It would seem from the above verses that monarchy is preferred. However, many do not view it as such. First, because of context clues.

The Torah opens Parshat Shoftim with the command:

You shall appoint magistrates and officials for your tribes, in all the settlements that the Lord your God is giving you, and they shall govern the people with due justice. (ibid., 16:18)

You shall not judge unfairly: you shall show no partiality; you shall not take bribes, for bribes blind the eyes of the discerning and upset the plea of the just. (ibid., v. 19)

And this culminates with the clarion call for a clear form of justice:

Justice, justice shall you pursue, that you may thrive and inherit the land that the Lord your God is giving you. (ibid., v. 20)

In fact, we're told if a case is too baffling for the local courts to decide, you don't bring it to the king. Whether it's a controversy over homicide, civil law or assault, any matters of dispute in the courts that can't be judged by the local courts:

...you shall promptly ascend to the place that the Lord your God will have chosen. (ibid., 17:8)

Furthermore:

Go to the priests, the Levites, and the judge... (ibid., v. 9)

The Torah tells us to go to those who have integrity and scholarship – to help us adjudicate and make sure there's justice in the land.

In other words, as James Monroe once stated *"the best form of government is that which is most likely to prevent the greatest sum of evil."*

There is a balance of power here. Etched into the parsha is that the king is not the sole ruler. There is no absolute power, there is no absolute authority.

There are legislative and judicial branches run by the courts: the Kohanim and the judges. In fact, unless he has approval from the Sanhedrin, the king can wage only defensive wars and, according to some, capture the land of Israel.

The king cannot have too many horses, cannot marry too many women, and must write his own Sefer Torah that accompanies him throughout his life, in order to place limitations on his stature and to ensure that there is no abuse of power, to remain mindful of the true source of his power, God. (ibid., 17:16-20)

However, there are those that suggest that even from these verses, there is no clear indication about the responsibility to appoint a king.

Yes, Maimonides and the Laws of Kings (1:1) says that this is one of the commandments.

But Rav Ovadia Seforno comments that a king is despised by God, and is to be appointed only when there is a necessity, when there's a need of protection against the nations of the world (Rav Ovadia Seforno's commentary to Deuteronomy 17:14).

The Abarbanel states, like the Seforno, that it is not a mitzvah. And he reminds us of what happens in the Book of Shmuel when the Jewish people tell Shmuel, *'You've grown old. Your sons have not followed your ways. Therefore appoint a king for us, to govern us, like all the other nations'* (I Samuel 8:5).

Which would seem to be consistent with what we read in our Torah portion.

Shmuel is upset, and God tells him, *'Heed the demand of the people because everything they're saying to you is not because they have rejected you, Shmuel, it's because they have rejected me as a king'* (ibid., v. 6-7).

In fact, the Abarbanel is an advocate for other forms of government and feels a king is only a last resort (Rav Isaac Abarbanel's commentary to Parshat Shoftim).

He supports the idea of government with term limits to avoid corruption, and states clearly that there should be leaders who have a maximum time in office of four years.

The Netziv looks at the paradigms of Maimonides and the paradigms of the Abarbanel, and he merges the perspectives. He says it might be that Maimonides is correct, that it might be a commandment, if necessary, to have a king (Commentary of HaEmek Davar to Deuteronomy 17:14).

But when democracy works better, when democracy can protect the people better, then it's *"pikuach nefesh,"* then it is a form of making sure that every individual life is protected.

Therefore, if democracy can work better, then the commandment, even according to Maimonides, would be suspended in order to make sure we have a better form of government.

What is the message of all this? That leadership is not a right; it is a privilege.

And the responsibility of leaders is to be able to give of themselves. In the process, they become better people, they live more meaningful lives, and in the process, please God, they empower others.

Shabbat Shalom

* President and Rosh Yeshiva, Ohr Torah Stone. Rabbi Brander is on vacation, so I selected a column for Shoftim from his archives. Note: Hebrew text omitted because of software issues.

<https://ots.org.il/parsha-and-purpose-shoftim-5782/>

Parashat Shoftim: The Broad Responsibility of the Judicial System

By Tamar Oderberg *

The portion of Shoftim opens with a description of the establishment of Israel's judicial system:

“Judges and officers shall you appoint for yourself in all your gates which the Lord your God gives you, according to your tribes; and they shall judge the people with righteous judgment. You shall not pervert justice; you shall not show favoritism, and you shall not take a bribe, for a bribe blinds the eyes of the wise and distorts the words of the righteous. Justice, justice shall you pursue, so that you may live and inherit the land which the Lord your God gives you.” (Devarim 16:18–20)

At first glance, the focus of our portion appears to be the establishment of a proper judicial system: the appointment of judges, their placement, the prohibition against bribery, the prohibition against perverting justice, and the assurance that justice will be carried out.

Our portion concludes with the laws of Eglah Arufah, a beheaded heifer:

“When a slain person is found in the land which the Lord your God gives you to possess, lying in the field, and it is not known who struck him, then your elders and your judges shall go out and measure the distance to the cities surrounding the slain person. And it shall be that the city which is nearest to the slain person — the elders of that city shall take a heifer of the herd which has not been worked and which has not pulled with a yoke. And the elders of that city shall bring the heifer down to a flowing stream, to a place that is neither cultivated nor sown, and there they shall break the heifer's neck in the stream... And all the elders of that city who are nearest to the slain person shall wash their hands over the heifer whose neck was broken in the stream. And they shall declare and say: ‘Our hands did not shed this blood, and our eyes did not see.’ ... And you shall remove the guilt of innocent blood from your midst, for you shall do what is upright in the eyes of the Lord.” (Devarim 21:1–9)

This is a strange passage, describing how one should act in a situation where a person is found dead in a field and no one knows who killed him. A mysterious ritual takes place: the elders and judges of the city go out, break the neck of a heifer in a stream, and declare that their hands did not shed this blood.

The law of *Eglah Arufah* belongs to the category of *chukim* — commandments whose true reasons are unknown to us. Nevertheless, the commentators sought various explanations for this mitzvah.

The Talmud explains that the matter is symbolic. A heifer is an animal that has not yet had offspring, and its neck is broken in a stream that will neither be cultivated nor bear fruit. This atones for the murder of a person who was prevented from bringing children into the world — that is, from producing “fruit.”

Some commentators wished to emphasize the responsibility of the elders. Had they accompanied the victim when he left the city, perhaps no one would have harmed him. Therefore, responsibility lies with the elders of the city, who failed to ensure that every traveler was provided with personal protection.

Others suggested that the ritual of the *Eglah Arufah* would create a great commotion, causing the people of the surrounding area to discuss the matter, and perhaps in this way the murderer would eventually be discovered.

The interpretation that particularly caught my attention is that of Rabbi Yosef Bechor Shor:

“God commanded all this so that word would spread about the murdered person, and as a result witnesses would come forward and testify that he had died, so that his wife would not remain an agunah...” (Da’at Zekeinim on Devarim 21:2)

In other words: the unusual ritual would generate publicity and attention. News of the murder would reach the victim's wife,

and she would not remain an agunah — a woman unable to remarry, because her husband was missing but his death has not been legally established.

This interpretation reveals a profound and significant connection between the opening of the portion, which describes the establishment and appointment of the judicial system, and its conclusion, which describes a ritual performed precisely in a situation where there is no murderer who can be identified and brought to trial. The Torah's choice to frame the portion in this way conveys a powerful and deeply meaningful message regarding the true purpose and responsibility of the judicial system.

At the beginning of the portion, the judges sit *"in your gates,"* at the very place where public life unfolds. They remain there, awaiting those who come before them to present their disputes and seek legal resolution. By contrast, at the conclusion of the portion, the judges themselves leave their designated place and go out to the site of the event: *"And your elders and your judges shall go out."* They do not wait for the case to be brought before them; rather, they actively go forth to confront the reality taking place beyond the courtroom.

From this we learn that the role of a judge is not limited to serving as a dayan, a legal arbiter whose sole task is to issue rulings between litigants. Rather, the judge is also a public leader, entrusted with responsibility for society as a whole — even in circumstances where there is no defendant, where no individual can be brought to trial, and where no conventional legal verdict can be reached.

This understanding sheds light on the Torah's repetition in the commandment: *"Justice, justice shall you pursue."* Precisely in those situations where the legal system is unable to uncover the truth — for example, because the identity of the murderer remains unknown — the Torah instructs us not to abandon the pursuit of justice. When justice cannot be expressed through the conviction of the guilty and the imposition of punishment, it must instead be expressed through taking responsibility, engaging in honest self-examination, and seeking to repair wrongs through other means.

The elders and judges of the city go out and declare: *"Our hands did not shed this blood."* Surely no one could suspect them of having committed such a terrible murder?!

Rather, our Sages explain that the elders of the city and its judges are not defending themselves against an accusation of murder, nor are they concerned solely with identifying the murderer. Instead, they engage in cheshbon nefesh — a profound process of introspection — asking whether they truly fulfilled their responsibility toward the victim. Did they ensure his safety? Did they accompany him on his way? Did they foster a society that protects and cherishes the sanctity of human life?

Moreover, their concern extends beyond the victim himself to the future of those left behind. Although it is impossible to restore the murdered person to life, there nevertheless remains a duty to care for his widow and to enable her to begin a new chapter in her life.

It is through this lens that the profound connection between the opening and the conclusion of the parsha becomes fully apparent. The Torah begins with the appointment of judges and concludes with the law of Eglah Arufah in order to teach that the purpose of the judicial system extends far beyond adjudicating disputes between one individual and another. Its mission is to build a just and morally sound society in which the sanctity of human life stands at the very center, and in which — even when it is impossible to punish the guilty or bring the perpetrator to justice — the pursuit of justice itself is never abandoned.

Instead, justice finds expression in the willingness to accept responsibility, to engage in honest self-examination, and to repair whatever can still be repaired, in the hope of healing the rupture and restoring hope.

Ultimately, the success of a judicial system is measured not only by the judgments it renders within its "gates," but also by the extent to which it is willing to step beyond those gates, embrace responsibility for society as a whole, and safeguard the welfare and dignity of every man and woman of Israel.

I will conclude with a prayer in the words of the prophet Yeshayahu:

"And I will restore your judges as at first, and your counselors as at the beginning. Afterwards you shall be called the City of Righteousness, the Faithful City. Zion shall be redeemed through justice, and those who return to her through righteousness." (Yeshayahu 1:26–27)

Shabbat Shalom

* Staff advocate at Yad La'isha: The Monica Dennis Goldberg Legal Aid Center and Hotline for Agunot

<https://ots.org.il/tamar-oderberg-on-parshat-shoftim/>

Dvar Torah: Shoftim: The Bribe of Frankenstein

By Rabbi Label Lam * (© 2000)

You shall not pervert justice; you shall not show favoritism, and you shall not take a bribe, for bribery blinds the eyes of the wise and perverts just words. (Devarim 16:20)

Bribery is bad business. The Torah speaks with strong language against it. Even the best people can become compromised, and correct words can be employed corruptly. Many people have a natural aversion to bribery, and rightly so. Many times I have seen well-meaning parents express their visceral reaction to the idea of giving a child a candy or promising money for the completion of a task. They claim, "Why should I have to bribe my child!?" The Talmud says, "A person should always engage in Torah and Mitzvos even for an ulterior motive, because from the ulterior motive he will come to the noble motive." The word "always" is a strong word. Some part of a person needs to look forward to a worthy prize.

I remember coming to a great person with a friend of mind to share a holy proposal we had dreamt up and were thinking seriously about implementing. After listening careful and expressing some approval, he asked a simple question to my friend/partner and me, "What do you get out of it?" I told him that this is purely for the sake of heaven. Then he told us, "Then it's not going to work!" We were shocked at first and later after discussing and thinking about it more we realized how right he was. At some point our idealism will be tested and if there is no other external benefit to keep us going we will run out of motivational gas."

Why then do these wonderful parents have such an allergic reaction to bribing children? The answer, I do believe, lies in understanding the distinction between an incentive and a bribe. These are two different animals. What is an incentive? That is **what the Talmud means when it says that a person should always do Torah and Mitzvos for an ulterior motive**. Nobody is just one thing. We are two major things at least. We have both a body and soul. They have completely different agendas in this world. The soul wants to come close to HASHEM and the body wants whatever can tickle its fancy in the moment. There is a quiet and not so quiet war going on within each and every one of us. [emphasis added]

The Torah understands that we are not simply logical beings but rather we are psychological creatures. Napoleon said, "When I am awake I am Napoleon, but when I am asleep I am a horse!" I would argue that even when Napoleon was awake he was very much a horse. How do we get our animalistic part to engage in Torah and Mitzvos? Simple as a dimple! Promise candy for kids, money for young adults, and honor for any age. Everyone has their price! It works to initiate action but afterwards the person must be reminded to revel in the very good feelings associated with having done the right thing.

Now what's a bribe? Here is a fictitious story that could be true. I enter my home Thursday early evening to the smell of freshly baked chocolate chip cookies. Immediately I make my way to the hot tray but I am repelled by the officer in charge and the author of these cookies, my wife. She reminds me firmly they are for Shabbos! I appeal for "just one" but I am told that everybody will want just one and then there will be none. I agree and put the cookies in a container on the top of the fridge for safe keeping. One minute later the kids rush in and they aim right for the cookies. Now I tell them that those cookies are for Shabbos. They claim they just want one. I reiterate the party line emphatically that if everybody gets just one then there will be none.

Late-late that same night I come home exhausted from a lecture and long ride. I can't just go to sleep without decompressing. I take out a Sefer and get a tall glass of cold vanilla soy milk. Then I look up at the cookies and I convince myself that it's okay to have a taste of Shabbos before Shabbos! One cookie may not be enough for an after blessing so I decide that five will satisfy all opinions and my hunger. As I settle down, I am confronted by a five-year old in pajamas. He looks at me and then looks curiously at the cookies on the napkin. In that glance, I realized I am busted. I say to him, "I'll give you two and we never had this meeting!"

That's a bribe! To get someone to do what's good is an incentive, and it can lead them to greatness. To induce someone to violate their principles corrupts their basic goodness and may make a monster, like **the bribe of Frankenstein**.

<https://torah.org/torah-portion/dvartorah-5780-shoftim/>

The Sanctity of the Subway

By Rabbi Dov Linzer *

Rosh Yeshiva, Yeshivat Chovevei Torah © 2021

The Torah scroll is one of our most sacred religious objects, and so it is reasonable to ask: What is the best way for us to act so as to honor its sanctity? Intuitively, we should do our utmost to keep it separated and elevated from the grime and gore of our physical reality. But is this really the case?

The Torah, in Shoftim, commands that when a king ascends to his throne he must write a Torah scroll: "It will be with him and he will read it all the days of his life" (Deut. 17:19). By learning from the scroll constantly, the king, it is hoped, will internalize the message that it is God – and not he – who is all-powerful, that he is subject to God and the Torah, and that he must devote his life and his leadership accordingly.

Now, the king wasn't learning from the scroll constantly. He was, in the end, a king and not a Torah scholar. But even when the scroll wasn't being opened and studied, it was right there with him. "He would go out to war, he would take the scroll out with him. He would return from war – he would bring the scroll back with him. He would sit to judge cases, it would be with him. He would recline to eat his meal – it would be in front of him. As it states: *"And it shall be with him, and he will read from it all his life"* (Mishnah Sanhedrin 21a).

In the middle of a war, a king did not stop to read from the Torah before returning fire. He did not open the Torah and read from it when reclining and entertaining dignitaries. While he studied it some of the time, it was the constant, seen presence of the scroll, even more than the learning itself, which shaped, day-to-day, the king's perception of himself and of the world around him.

The Rabbis teach that this scroll was a tiny miniature one, suspended on a bracelet and kept around his wrist. Had the king just worn such a scroll and never learned from it, it could easily have become a talisman. But he did learn from it – he turned to it and devoted himself to it as the source of Divine authority, wisdom and morality. And that relationship – those lessons, values and mandates – were nurtured and internalized in him through the daily presence of the scroll around his wrist, making him and the Torah one.

This is a lesson that extends beyond kings. I tell my students that, as people who want to be Torah leaders, they need to be

an embodiment of Torah. And this can happen when the Torah is always a part of you. It is a part of you because you are always learning Torah. It is a part of you because it informs and infuses all your actions. And it is a part of you because it – a physical volume of the Torah – is always with you. Wherever you are going, I tell them to have a Torah volume, be it Talmud, Tanakh, Mishnah, Chassidus, anything, in their knapsacks or in their back pockets. I tell them: Pull it out when you are waiting for the bus or when you are on the subway and catch those five extra minutes of learning. Be learning at every opportunity.

There was a time I thought that the lesson ended there. That the goal was to turn every place – even a subway – into a beit midrash. But the mitzvah of the king's Torah scroll teaches that not every place is a beit midrash. Some places are battlefields, and some places are dining halls. So in fact the lesson is a different one. It's not always about learning at every moment. Even if you can't learn right now on the subway because it's too loud and too hard to concentrate, you can still have the Torah volume there with you, ready to be learned when the time is right. And because it is there – and by this I mean an actual physical volume, made out of paper, and not just an app on your smartphone – it is real. You see it and you feel it. And that has an impact. Your awareness of what is happening around you is being heightened by its presence; your sensitivity to your moral and religious obligations are being sharpened. And so you see that older man who is having a hard time standing, and you see that woman who needs food to eat, and you get up and give him your seat, and you stop, look her in the eye, give her an apple, share a smile and wish her a nice day.

Indeed, the mitzvah of tefillin can be understood as functioning in exactly the same way. Tefillin, in the Torah, juxtaposes and immediately follows the mitzvah of learning Torah constantly, when you rise and go to sleep, in your home and on the way. And yet, it is not possible to always be learning Torah when going on the way. You will get into a lot of car accidents if your eyes are in the Talmud and not on the road ahead of you. So while you won't always be learning, you can always be wearing your tefillin, and indeed, people in the past wore their tefillin the whole day. And thus even when you are not learning Torah, by wearing these tefillin, this physical sign as a second skin, you and the Torah become physically one. Your perception, your identity, your very body are transformed.

It is precisely because the Torah scroll carries so much symbolic and identity-forming power, that being distanced from it can be experienced as a deep form of exclusion. This is something that many experienced during the age of COVID, particularly when so few were able to attend shul, and this is something that a growing number of Modern Orthodox women and girls feel on an ongoing basis, when access to the Torah scroll is limited to only boys and men.

Which brings us to the other way in which sanctity is expressed. Not through use, but through separation. The Rabbis teach that the king would actually have two Torah scrolls. One – the central one – which would be with him at all times. A second one would be kept locked up in his treasure house.

The obvious question is: What good does that second scroll do anyone? The answer, it seems clear, is that this second scroll was written and locked away to show that we have not forgotten about the other way to demonstrate respect. If the Torah is high, elevated, and sacred, then one way to demonstrate this is to insist that it must be kept as far away from the physical, mundane world as much as possible. Such a precious object can only be taken out of its protected place on rare occasions. You must wear special gloves; you must turn every page slowly and delicately. This is how one treats a holy, precious item.

Many halakhot do embrace this ethos, if not fully, then at least to a significant degree. There are rules that govern how and when the Torah scroll may be taken out of the ark. People must stand when it is being transported. People must approach it. It isn't brought to people for their convenience; it cannot even be moved to a mourner's house unless it will be there for a certain duration of time. The central idea is that access and use must be restricted.

We thus have two competing views of sanctity. One focuses on protecting and preserving the Torah's sanctity, while the other emphasizes bringing and spreading that sanctity to others. Where do we find ourselves on the balance?

Either absolute would not be acceptable. A fully locked up Torah helps no one. It would make it like the fancy sofas that are covered with plastic to only be used for the "good company," which somehow never comes. Or it would be like the good china and fancy goblets that are just too fancy and too delicate to ever really be taken down and used.

A Torah with no protections, however, can become so common, so familiar, so mundane, that it can lose its power. Its sanctity must be protected if it is to spread forth and sanctify others.

The two Torah scrolls of the king tell me that while these two views must both be embraced, the weight must always be in favor of the Torah scroll that is taken into war, brought to the table, and carried with a person on the subway. The sanctity of the Torah is most powerfully expressed when – protected and respected – it is brought into life's dirt and dust. It is the sanctity of the subway, not the sanctity of separation, which has in it the power to sanctify and transform.

Shabbat Shalom.

* Rosh Yeshiva, Yeshivat Chovevei Torah.

<https://library.yctorah.org/2021/08/the-sanctity-of-the-subway/>

Insights from Chassidic Tradition

By Rabbi Ysoscher Katz *

[Ed. note: Rabbi Katz will be on hiatus for July and August. His outstanding parsha messages, including insights from the Chassidic tradition, will resume when he returns.]

* Chair of the Talmud Department and the Director of the Lindenbaum Center for Halakhic Studies, Yeshivat Chovevei Torah, Bronx, NY.

Faith in Humanity?—Thoughts for Parashat Shofetim

By Rabbi Marc D. Angel **

As a fifteen year old prisoner in the Auschwitz concentration camp, Elie Wiesel witnessed three Jewish scholars convene a Beth Din one night in the barracks. The defendant was: God! The men accused the Almighty of abandonment and cruelty, breaking the ancient covenant with the People of Israel. After due deliberations, they pronounced God *chayav*, guilty. God owes His people an apology. He must intervene on their behalf.

After this solemn verdict and tearful silence, the three men began to chant the evening prayers! They were upset with God, but they did not renounce their faith. They prayed.

Elie Wiesel saw this episode as characteristic of the anguished faith of the Jewish People. They expected so much more from God; and yet, they did not waiver in their faith. Somehow, Jews could still pray to their Heavenly Parent in spite of all the sufferings they endured.

But if we reflect a bit more, we will come to a different consideration. God, after all, was not rounding up Jews, torturing them, murdering them by the millions. These horrific acts were committed entirely by fellow human beings. Although God did not intervene miraculously to stop the suffering and carnage, God was not the primary guilty party: Nazis and their collaborators were the ruthless perpetrators. The Holocaust was not caused by God, but by people. If we were to call together a Beth Din today, the defendant should be Humanity, not God.

Strange as it may seem, it may be easier to have faith in God than faith in humanity. The Holocaust is a notorious example of how bad human beings can be. But if we look at humanity today, we still see hatred, violence, anti-Semitism/anti-Zionism, terrorism, vicious conspiracy theories, lies, crimes large and small. Although there are so many good people in the world, there are also so many who perpetrate evil; and there are so many “sheep” who either go along with the forces of evil or simply stay silent.

This week's Torah portion calls for a righteous justice system — honest judges, proper enforcement, civic responsibility. It reminds us how the system is compromised when dishonesty creeps in. “*Justice, justice you shall pursue.*” The Torah's

admonition is included among the Noahide laws applicable to all the nations of the world. If hatred, lies and violence prevail, it is humanity that is on trial...not God.

Let us pray to God...for the sake of a troubled Humanity...

* Founder and Director, Institute for Jewish Ideas and Ideals. and rabbi emeritus of the historic Spanish and Portuguese Synagogue of New York City.

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Why No Tent Protests for Sudan?

By Rafael Medoff *

A major editorial in the New York Times last Sunday was headlined “The World Must Wake Up to the Horror in Sudan.” The week is now almost over, and the world is still sleeping.

The Sudanese group known as the Rapid Support Forces already has “committed acts of genocide” and is now besieging the city of El Obeid, where 600,000 civilians are suffering from “severe shortages of food, water and medicine,” the editors of the Times wrote.

To the Times’s credit, its editorial acknowledged that the RSF is “a predominantly Arab group,” and its atrocities are genocidal because it specifically targets “members of non-Arab ethnic groups.” That is a crucial fact which Times news articles in the past often buried or even omitted.

Sunday’s Times editorial called on “the world” to “make a bigger effort to halt the killing and mass displacement in Sudan.” It urged “the world” to “urgently take action” to protest the genocide.

The Times didn’t say so, but the most obvious part of “the world” that should be protesting is the community of activists who were so vocal in recent years when they thought genocide was being committed in Gaza. Now that there is a real genocide going on in Sudan, why aren’t angry protesters marching in America’s streets and taking over university campuses?

Where are all the idealistic student protesters gone? Why are their tents folded up and their bullhorns silent?

Where are the humanitarians with their placards demanding “Stop the Arab Genocide” and “Free Sudan”?

Where are the passionate op-eds and the politicians pointing accusing fingers?

Sudan is a test. If the Gaza protesters were genuinely concerned about genocide, they will now raise their voices against the actual genocide in Sudan. If they remain silent about Sudan, that will suggest the only time they genuinely care about human suffering is when they can blame it on Israel.

* (Dr. Medoff is director of The David S. Wyman Institute for Holocaust Studies, and the author of more than 20 books about Jewish history, Zionism, and the Holocaust. Follow him on Facebook to read his daily commentaries on the news.)

<https://www.jewishideas.org/node/3473>

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Senators, Shandas and Stoopers

By Rabbi Marc D. Angel *

Imagine a candidate for public office who is an outspoken member of the Ku Kux Klan, who preaches hatred of Blacks, who calls on America to penalize Black African countries economically, militarily and politically. Do you think Black politicians would endorse such a racist? Do you think they would welcome this person into a “big tent” coalition of “progressives?”

Of course not.

Black leaders would have the courage and self-respect to repudiate racism; they would refuse to endorse or coddle up to haters. They would make public statements calling on the American public to renounce racism of all kinds, not to allow racist poison into the American political system. Bravo Black leaders!

But now imagine a candidate for public office who is an outspoken antisemite who preaches hatred of Jews and the Jewish State of Israel, who calls on America to withhold all support of Israel – financial, political, military. Imagine this hateful candidate praising or condoning terrorism against Israelis/Jews. Do you think Jewish politicians would endorse such an antisemite? Do you think they would welcome this person into a “big tent” coalition of “progressives?”

We would think that Jewish leaders – like Black leaders – would stand up mightily against the haters. We would think that they would use every forum to call for a civil society that strenuously rejects racism, antisemitism, and bigotry of all kinds.

Shockingly, though, some Jewish politicians actually endorse and kiss up to blatant antisemites who openly despise Jews and the Jewish State. Isn't it a “shanda” that a senator of Jewish ancestry is one of the most vocal critics of Israel and has sponsored legislation that would seriously endanger Israel's security? Another Jewish senator is a “stooper” who bows down to antisemites for the sake of his party's “big tent.” Such “leaders” not only betray the Jewish People, but they betray the very values upon which American democracy is based. Although they may pay lip service to the notion that “hatred has no place in America,” they condone, encourage and endorse hatred.

How wonderful it would be if instead of shandas and stoopers, we had courageous leaders who refused to be part of any “big tent” that included antisemites, racists and those who would slander and undermine the state of Israel. Wouldn't it be heartening to have Jewish profiles in courage instead of defilers of courage?

When the Jews of the ancient Persian Empire were threatened with extinction, Mordecai sent a message to Esther, the Jewish Queen of Ahasuerus. He asked Esther to intervene on behalf of the Jews but Esther was reluctant. Mordecai told Esther: *“Do not think in your heart that you will escape in the king's house any more than all the other Jews. For if you remain silent at this time then relief and deliverance will arise for the Jews from elsewhere; but you and your father's house will perish; and who knows whether you are in the royal estate for such a time as this?”* (Esther 4:13-14).

Mordecai's advice was relevant to Esther ... and to Jewish leaders of all generations, including our own. **When the Jewish People face peril, unflinching courage is required.** Those in positions of power have the unique opportunity to defend the honor and safety of the Jewish People. They must come to understand that antisemitism is also aimed at those Jews who act against the interests of the Jewish People and the Jewish State. If they remain silent at this time, deliverance will arise for the Jews from elsewhere. And the Jewish shandas and stoopers will go down in perfidy. [emphasis added]

It doesn't have to be this way. The shandas and stoopers might see the light and rise to their historic challenge.

* Founder and Director, Institute for Jewish Ideas and Ideals. and rabbi emeritus of the historic Spanish and Portuguese

Parshas Shoftim -- Elul of Love

by Rabbi Mordechai Rhine *

May this Dvar Torah be a Zechus Refuah Shileima for Cholei Yisroel

There are two great traditions regarding the month Elul which precedes Rosh Hashana. One tradition is that the month of Elul is one of trepidation. The mere saying of the name — E-L-U-L — could make the heart of the devout ones go faint. Yet there is another tradition, one emphasized by Rav Matisyahu Salomon, that Elul is the happiest month of the year. It is the month in which Hashem beckons to us to treasure what should be treasured and to fix that which should be fixed. It is a month which is opportune for us to reconnect with our goodness and our potential.

I imagine that the truth regarding Elul is a blend of the two traditions. It is a serious time. A time when we blow the shofar and herald the coming of Rosh Hashana. Yet, it is a time of benevolence and love, a time for reconnection and closeness with Hashem and what He expects of us. It is a month whose name (לולא) is an acronym for the Hebrew words, “*Ani lidodi vdodi li*,” I am to my Beloved (Hashem) and my Beloved (Hashem) is to me.

Aharon, brother of Moshe, was a person who personified this blend. The Mishna in Avos (1:12) tells us that although Aharon treasured Torah, he spread Torah, not as a preacher, but through friendship. The Mishna says that he showed friendship to people and thereby brought people closer to Torah. As Rabbeinu Yona explains, when Aharon was friendly to people, they felt obliged to live up to the friendship Aharon showed them. Invariably they would improve in the very area they needed to, without Aharon needing to speak about it directly.

Similarly, in our interactions with people, there are certainly times that we need to educate and to encourage people to take things seriously. But often, people know what is expected of them. What we really need to do is to show friendship so that they reconnect with their own goodness.

During the recent summer months, I was walking on the street one Shabbos when I saw a young boy, about ten years old, dressed nicely for Shabbos and walking just a bit ahead of me with his yarmulka in his hand. In my mind I wondered if I should say something to him. Perhaps, a reminder of some sort. But I didn't know this boy; I didn't know his story. “It really isn't my place anyway to say anything.” I thought.

I was walking a bit faster than he was, so in just a few moments I had caught up to him. Instead of commenting on his uncovered head, I decided to just be myself. As I fell in step with him, I greeted him heartily. “Good Shabbos, Tzaddik,” I said. Instantly, his yarmulka found its way back to his head.

As we walked, we chatted a bit. His name was Ari and he was from California. He was visiting his grandparents for Shabbos, and he was out for a walk. After a few minutes of small talk we parted ways, wishing each other good Shabbos. Somehow it occurred to me that Aharon might have commented, “Olam Chessed Yiboneh,” The world is built through kindness.

Rosh Hashana is a holiday, but the commentaries wonder why. Why are we festive on the day of judgement. The Tur (581) explains, “We are confident that Hashem will make a miracle for us.”

We all have shortcomings; we are human. Our attitude is that we are not sure that we can stand up to scrutiny. Yet we are confident in the system of Elul, in the Selichos, the Machzor, the Shofar, and the process of Teshuva, that Hashem will work things out for us. It will take a miracle, but we are people of miracles. Elul is both serious and joyous, wondrous and happy. Elul is a time when Hashem calls out to us, “Hey, Tzaddik,” and we hear His call, we feel his love, and we strive to be our best.

For Family Discussion:

- The author almost said something to Ari about his yarmulka, but instead just greeted him warmly — and the yarmulka went back on by itself. Why do you think that worked better than a direct comment would have?
- If Hashem is calling out to each of us this month, "Hey, Tzaddik" — what do you think He's really saying to you?

With heartfelt blessings for Chodesh Tov and a wonderful Shabbos,

* Rabbi Mordechai Rhine is a certified mediator and coach with Rabbinic experience of over 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, or to help sponsor his Torah insights, contact Rabbi Rhine.**

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.

* Rav at Sha'arei Tefilla and the co-founder of the RI Torah Network in Providence, Rhode Island. For several years, Rabbi Singer was the Rabbi at Am HaTorah Congregation in Bethesda, MD. Rabbi Singer's recent Devrei Torah normally come as podcasts rather than texts.

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 fulfillment of the Mitzvot, 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 Mitzvot 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 **אלפי** – means that it will be distinct, beyond your ability, and the word **טפשה** 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 **מדם** – murder, **דני** – monetary issues, and **עגב** – 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.

Devrei Torah from Rabbi Ovadia this year come from an unpublished draft of his forthcoming book on Tanach, which Rabbi Ovadia has generously shared with our readers. Rabbi Ovadia reserves all copyright rights to this material.

* Senior Rabbi, Congregation Ramath Orah (New York, NY); Judaic faculty, Ramaz High School, New York; also Torah VeAhava. Previously, Rabbi, Beth Sholom Sephardic Minyan (Potomac, MD). Faculty member, AJRCA non-denominational rabbinical school). **Many of Rabbi Ovadia’s Devrei Torah are now available on Sefaria:** <https://www.sefaria.org/profile/haim-ovadia?tab=sheets>. The Sefaria articles include Hebrew text, which I must delete because of issues changing software formats. Rabbi Ovadia retains all rights (copyright) to this and all other Devrei Torah that he permits me to share.

A Bissel of Torah from a Tiny Jewish Community

By Rabbi Natanel Kaszovitz *

Auckland, New Zealand Hebrew Congregation **

Shalom everyone,

We are so happy to be back in Auckland with you all. We look forward to seeing everyone on Friday and Shabbat and having the opportunity to catch up, reconnect, and hear how everyone has been.

In this week's parashah, Parashat Shoftim, we find a very important principle about Torah leadership. The Torah teaches:

"You shall come to the priests, the Levites, and to the judge who will be in those days. You shall inquire, and they will tell you the matter of judgment."

This teaches us the importance of turning to the Torah leaders of our own generation. Throughout history, every generation has continued to learn and teach from the same Torah, following the same principles that were given to Moshe Rabbeinu, while applying them to the reality and challenges of their own time.

There is a beautiful lesson here. If we had the opportunity today to ask Moshe Rabbeinu a question, surely, we would want to hear his answer. Moshe was the greatest prophet and the closest connection to Hashem that we have ever had. However, Moshe would not necessarily be able to answer every practical question that exists today, such as whether a microwave may be used on Shabbat, because those technologies and circumstances did not exist in his time.

The Torah itself teaches us that every generation has its own challenges and its own Torah leaders who apply the eternal values of Torah to the world we live in.

This does not mean changing the Torah to fit the times. Rather, it means understanding how the timeless Torah guides us through every new situation. The Torah remains the same, but our ability to learn, understand, and apply it continues to grow.

This is the beauty of Torah: it is both ancient and eternal, giving us the guidance we need in every generation while keeping us connected to the same path that began with Moshe Rabbeinu.

May we continue to learn, grow, and strengthen our connection to Hashem through the wisdom of Torah.

Shabbat Shalom.

Be'Ahavat Yisrael,
Rabbi Netanel Kaszovitz

* Rabbi Kaszovitz, an Israeli ordained at Ohr Torah Stone, previously served as Rabbi in Nairobi, Kenya. He became Rabbi of Auckland Hebrew Congregation in September 2025. Rabbi Moshe Rube, whose remarks I previously posted in this space, is in the process of starting a new Rabbinic position in Australia. Rabbi Rube is waiting for his visa to enter Australia, when he will be able to start his new position. I plan to use this space to include messages from Rabbi Kaszovitz and Rabbi Rube going forward.

** Rabbi Kaszovitz is now posting his Devrei Torah and classes on You Tube: <https://youtube.com/c/TheNairobisher> .

Rav Kook Torah Shoftim: The Sorcerer and the Gidufi

Which is worse: a sorcerer or an idolatrous heretic?

Theoretical Knowledge

Concerning sorcery, the Torah warns:

When you come into the land that God is giving you, do not learn to do the repulsive practices of those nations. (Deut. 18:9)

What are these “repulsive practices”? The Torah enumerates divination, witchcraft, incantations, communicating with the dead, and so on. These forms of sorcery were an integral part of the idolatrous culture of the Canaanites.

Yet the Sages read this verse with care. The Torah text does not say, “Do not learn their repulsive practices,” but “*Do not learn to do them.*” **Study — with the intent of practicing sorcery — is forbidden.** But one is permitted to study witchcraft “in order to understand and judge,” i.e., to correctly determine who is a sorcerer and should be punished accordingly (Shabbat 75a). [emphasis added]

However, the Torah’s sanction to acquire theoretical knowledge of sorcery is not a blanket authorization. The Talmud contrasts the sorcerer with a far worse category: the **Gidufi**. A **Gidufi** is a fervent believer in idolatry who constantly proselytizes for his idol worship. “*One who learns even one thing from a Gidufi is punishable by death.*” Unlike the sorcerer, this fanatical heretic has nothing to teach us. [emphasis added]

Why is the idolatrous **Gidufi** so much worse than the sorcerer?

Sorcery — Penetrating Evil

Rav Kook explained that the sorcerer’s motivation is an attempt to reconcile the fundamental conflict between the animalistic and Divine aspects of the human soul. The sorcerer’s solution to this constant struggle is to suppress the Divine nature of the soul. This frees the base instincts to rule over the individual, and society in general.

The means and techniques by which the sorcerer achieves his goal are complex. Some aspects of his knowledge may also be utilized for the good. Recognition of evil means awareness of the negative side of creation, which can grant deeper understanding of the positive side.

Heresy — Rejecting Truth

The sorcerer gains his knowledge by focusing his mental powers on the essence of evil. But the idolatrous **Gidufi** is much worse. His methods do not reveal any hidden knowledge, not even with regard to the realm of evil. **The Gidufi simply rejects good and truth. He offers us no new understanding. His path is based on stubbornness, to fill the heart with doubts and intoxication.** [emphasis added]

Deeper awareness of evil, of hidden aspirations to promote evil in the world, entails spiritual dangers. But it has the potential to prepare the soul, and all of society, to define and refine evil, and to purify it from its baseness.

(Adapted from *Ein Eyah* vol. IV, pp. 138-139.)

<https://ravkooktorah.org/shoft61>

Shoftim: A Sage is Greater than a Prophet (5780)

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

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: אבנ (we may gain) and איבנ (a Prophet). In other words, only by suspending our critical faculties is the proof-text a proof.

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

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

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

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

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

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

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. [emphasis added]

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.** [emphasis added]

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. [emphasis added]

FOOTNOTES:

[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.

Around the Shabbat Table:

[1] How did the later Prophets differ from Moses?

[2] Why did the age of prophecy come to an end?

[3] What aspects of the different types of biblical leadership mentioned in the parsha can be found in the later religious leadership of the Sages?

* 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.

The Woodchopper's Secret

By Eliezer Shemtov * © Chabad

Among the causes of anguish and depression are obsessive thoughts. Those who struggle with this (or love someone who does) need little explanation for how paralyzing it can be.

There is a story about a man who suffered from invasive negative thoughts. He went to consult with Rabbi Schneur Zalman of Liadi, the founder of Chabad, known as the Alter Rebbe. The Rebbe directed him to go speak with an experienced woodcutter who lived in the nearby forest. "He will be able to help you understand how to control unwanted thoughts," he said.

The chassid, filled with hope, set out immediately. When he arrived at the woodcutter's home, he found the door closed but there was light inside.

He knocked. No answer.

He knocked harder. Still nothing.

He began to call out: "Please open! I'm freezing out here!"

Nothing.

With no other option, he huddled in a corner and fell asleep.

In the morning the woodcutter opened the door and greeted the chassid warmly.

"What brings you here?" he asked.

"I came to ask you something. But first, why didn't you open the door last night? I was knocking and calling for a long time. Where was your hospitality?"

"Look," said the woodcutter. "This is my house, and in my house, I decide. I decide who enters and when. I don't care how much someone shouts and pounds and makes noise. In my house, I am in charge."

"Thank you," said the chassid, his face lighting up. "You've just given me the answer I came looking for."

The woodcutter stared at him, baffled.

In this week's portion, Shoftim, the Torah commands: "Judges and officers shall you appoint at all your gates."¹ In the literal sense, this refers to placing judges at the entrances to cities, alongside officers to enforce their rulings. But our Sages also read this as a directive for personal inner life. **A human being is like a small city.² The "gates" through which things enter and leave the "city" of the self are the eyes, ears, nose, and mouth. It is our responsibility to station "judges" and "officers" at these gates: to determine what we will allow in, and what we will allow out.** [emphasis added]

Two things are needed. "*Judges*" to determine what is right to see, hear, eat, and say. And "*officers*" to ensure those determinations are actually carried out. Figuring out what is right is often not so hard; we can consult a rabbi, teacher, or mentor. The hard part is implementing it.

How do we bridge that gap? We need "officers." While a judge works through reasoning and logic, an officer works through enforcement without argument. In personal life, this means discipline: choosing to act in accordance with what we know to be right even when our instincts and emotions resist.

"I am master of my own house, and I decide who and what enters." (The question of who that "I" is — which soul claims mastery — is an extensive topic addressed throughout the Tanya, but that is for another time.)

Finally, a note on the Rebbe's perspective on negative thoughts. In many cases, when people consulted him about intrusive thoughts, the Rebbe advised simply ignoring them. Redirect your attention elsewhere. Don't engage. This approach is called *hesech hada'at* — "diverting the mind."

This is very different from the strategy of endlessly analyzing negative thoughts and their possible causes, which often serves only to strengthen them and give them more damaging power over one's life.

The tool for this week: **In the face of obsessive thoughts, remember that you are the master of your own mind.** The mind can entertain only one thought at a time. If you fill it with a positive thought, there is no room for a negative one. This does not mean ignoring real problems; problems need to be addressed. But obsessing in a way that paralyzes rather than resolves is not addressing them; it is surrendering to them. [emphasis added]

FOOTNOTES:

1. Deuteronomy 16:18.

2. Nedarim 32b.

* Chabad-Lubavitch emissary in Montevideo, Uruguay.

https://www.chabad.org/parshah/article_cdo/aid/7457783/jewish/The-Woodchoppers-Secret.htm

Shoftim: Beyond the Call of Duty

By Rabbi Moshe Wisnepsky *

If a Levite [priest] comes from one of your cities out of all Israel, where he sojourns, he may come, whenever his soul desires, to the place that G-d will choose. (Deut. 18:6)

On pilgrim festivals, any priest who made the journey to the Temple would be allowed to participate in the communal offerings, even if it was not his division's turn to serve.

We see here that when a priest decided that his relationship with G-d demanded that he perform some aspect of the Temple rites that would otherwise be performed by someone else, G-d gave him a special dispensation to do so, allowing him into the sacred precincts even when it was not technically his turn to be there.

Similarly, there are times when we feel inspired to set our personal concerns aside and perform some aspect of humanity's collective mission to transform the world into G-d's home that is seemingly not our job. We learn from this verse that when we are inspired this way, G-d Himself assists us, providing us with all the physical and spiritual means to carry out our resolve.

— From *Daily Wisdom 3* *

* Insights by **the Lubavitcher Rebbe** on the weekly parashat from Chabad's *Daily Wisdom 3* by Rabbi Moshe Wisnepsky.

Gut Shabbos,

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Covenant and Conversation

Rabbi Jonathan Sacks, z"l

Greatness is Humility

There is a fascinating detail in the passage about the king in this week's Parsha. The text says: "As he presides upon his royal throne, he must inscribe a copy of this Torah for himself upon a scroll, in the presences of the Levitical priests. It must always be with him, and he shall read from it all the days of his life, so that he may learn to revere the Lord his God, taking care to keep all the words of this commandment and these decrees, not considering himself superior to his people, or straying from the commandments to the right or to the left. Then he and his descendants will reign long in the midst of Israel." Deut. 17:18-20

He must "read it all the days of his life" so that he will be God-fearing and never break Torah law. But there is another reason also: so that he will "not begin to feel superior to his brethren" (Kaplan translation), "so that his heart be not haughty over his brothers" (Robert Alter). The king had to have humility. The highest in the land should not feel himself to be the highest in the land.

This is hugely significant in terms of the Jewish understanding of political leadership. There are other commands directed specifically to the king of Israel. He must not accumulate horses so as not to establish trading links with Egypt. He should not have too many wives for "they will lead his heart astray." He should not accumulate wealth. These were all standing temptations to a king. As we know, and as the Sages pointed out, it was these three prohibitions that Solomon, wisest of men, broke, marking the beginning of the long slow slide into corruption that marked much of the history of the monarchy in ancient Israel. It led, after his death, to the division of the kingdom.

But these were symptoms, not the cause. The cause was the feeling on the part of the king that, since he is above the people he is above the law. As the rabbis said, Solomon justified his breach of these prohibitions by saying:

The only reason that a king may not accumulate wives is that they will lead his heart astray, so I will marry many wives and not let my heart be led astray. And since the only reason not to have many horses is not to establish links with Egypt, I will have many

horses but not do business with Egypt. Sanhedrin 21b

In both cases he fell into the trap of which the Torah had warned. Solomon's wives did lead his heart astray (1 Kings 11:3), and his horses were imported from Egypt (1 Kings 10:28-29). The arrogance of power is its downfall. Hubris leads to nemesis.

Hence the Torah's insistence on humility, not as a mere nicety, a good thing to have, but as essential to the role. The king was to be treated with the highest honour. In Jewish law, only a king may not renounce the honour due to his role. A parent may do so, so may a rav, so may even a nasi, but not a king (Kiddushin 32a-b). Yet there is to be a complete contrast between the external trappings of the king and his inward emotions.

Maimonides is eloquent on the subject: Just as the Torah grants him [the king] great honour and obliges everyone to revere him, so it commands him to be lowly and empty at heart, as it says, 'My heart is empty within me' (Ps. 109:22). Nor should he treat Israel with overbearing haughtiness, for it says, "So that his heart be not haughty over his brothers" (Deut. 17:20). He should be gracious and merciful to the small and the great, involving himself in their good and welfare. He should protect the honour of even the humblest of men. When he speaks to the people as a community, he should speak gently, as it says, "Listen my brothers and my people..." (1 Chronicles 28:2), and similarly, "If today you will be a servant to these people..." (1 Kings 12:7). He should always conduct himself with great humility. There was none greater than Moses, our teacher. Yet he said: "What are we? Your complaints are not against us" (Ex. 16:8). He should bear the nation's difficulties, burdens, complaints and anger as a nurse carries an infant. Maimonides, Laws of Kings 2:6

The role-model is Moses, described in the Torah as "very humble, more so than any person on the face of the earth" (Num. 12:3). "Humble" here does not mean diffident, meek, self-abasing, timid, bashful, demure, or lacking in self-confidence. Moses was none of these. It means honouring others and regarding them as important, no less important than you are. It does not mean holding yourself low; it means holding other people high. It means roughly what Ben Zoma meant when he said (Avot

4:1), "Who is honoured? One who honours others."

This led to one of the great rabbinic teachings, contained in the *siddur* and said on Motzei Shabbat: Rabbi Yochanan said, "Wherever you find the greatness of the Holy One, blessed be He, there you find His humility."

This is written in the Torah, repeated in the Prophets, and stated a third time in the Writings. It is written in the Torah: "For the Lord your God is God of gods and Lord of lords, the great, mighty and awe-inspiring God, who shows no favouritism and accepts no bribe. Deut. 10:17

Immediately afterwards, as Megillah (31a) notes, we read that God, "upholds the cause of the orphan and widow, and loves the stranger, giving him food and clothing..." (Deuteronomy 10:18). God cares for all regardless of rank, and so must we, even a king, especially a king. Greatness is humility.

In the context of the Diamond Jubilee of Queen Elizabeth II, there is a story worth telling. It happened in St James' Palace on 27 January 2005. As Chief Rabbi, I was invited to join a group of Holocaust survivors, and together we marked the sixtieth anniversary of the liberation of Auschwitz. Punctuality, said Louis XVIII of France, is the politeness of kings. Royalty arrives on time and leaves on time. So it is with the Queen, but not on this occasion. When the time came for her to leave, she stayed. And stayed. One of her attendants said he had never known her to linger so long after her scheduled departure time.

The Queen gave each survivor – it was a large group – her focussed, unhurried attention. She stood with each until they had finished telling their personal story. One after another, the survivors were coming to me in a kind of trance, saying, "Sixty years ago I did not know whether I would be alive tomorrow, and here I am today talking to the Queen." It lacerated lives. Sixty years earlier they had been treated, in Germany, Austria, Poland, in fact in most brought a kind of blessed closure into deeply of Europe, as subhuman, yet now the Queen was treating them as if each were a visiting Head of State. That was humility: not holding yourself low but holding others high. And

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where you find humility, there you find greatness.

It is a lesson for each of us. Rabbi Shlomo of Karlin said, *Der grester yester hora is az mir fargest az mi is ein ben melech*, "The greatest source of sin is to forget we are children of the king." We say *Avinu Malkeinu*, "Our Father, our King." It follows that we are all members of a royal family and must act as if we are. And the mark of royalty is humility.

The real honour is not the honour we receive but the honour we give.

[1] This essay was written by Rabbi Sacks in the summer of 2012, at the time of the Queen's Diamond Jubilee.

Shabbat Shalom: Rabbi Shlomo Riskin

Righteousness vs. Idolatry – What is the Connection?

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

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

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

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

Moreover, the Bible has already expressed its displeasure at those who worship trees or stones, which can neither see nor hear nor eat nor smell (Deut. 4:28). Why prohibit

worshipping the Asheira tree specifically if it is planted near the sacrificial altar? Is it not equally forbidden to serve a free-standing Asheira tree even if it is nowhere near the sanctuary (Mishkan) or Temple?

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

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

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

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

"Do not bow down to their gods, do not worship them and do not act according to their practices." (Ex. 23:24)

"Guard yourself lest you seek out their gods.... They burn their sons and daughters in fire to their gods." (Deut. 12:30–31)

"You shall destroy the Hittites...in order that they not teach you to act according to all their abominations." (Deut. 20:17–18)

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

Likutei Divrei Torah

Although Maimonides consistently defines idolatry in pure and absolute theological and metaphysical terms, Rabbi Menachem HaMeiri (thirteenth and fourteenth century, Provence) defined idolatry in terms of the "disgusting immoral acts of the idolaters," whose paganism prevented them from accepting the universal moral laws of the Noahide Covenant. For the Meiri, anyone who was moral was ipso facto not to be considered an idolater. In the final analysis, he understood that to know God is to pursue justice and righteousness; idolatry is not so much a sin of correct theological opinions as it is a sin of social corruption and immorality.

The Person in the Parsha

Rabbi Dr. Tzvi Hersch Weinreb

Tamim - Perfection or Naïveté?

I begin this column with two distinct goals in mind. On the one hand, I want to familiarize you with the complexity of a brief verse in this week's Torah portion, Shoftim (Deuteronomy 16:18-21:9).

On the other hand, my second goal is to introduce you to the use a rabbi made of this verse in a sermon to his Brooklyn congregation long ago.

I refer to chapter 18, verse 13, a mere five words long in Hebrew: *Tamim tihyeh im HaShem Elokecha*. How to translate this significant teaching, particularly the word *tamim*, has tantalized experts throughout the ages and across the spectrum of Bible readers. Here are some sample translations:

First, two Jewish samples: one reads, "You must be wholehearted with the Lord your God." Another reads, "You must be wholly loyal to the Lord your God."

A standard but non-Jewish translation renders it, "You shall be blameless before the Lord your God".

My preferred translation, although admittedly not perfect, is that of Rabbi J.H. Hertz, a former Chief Rabbi of the British Empire: "Thou shalt be whole-hearted with the Lord your God."

His translation differs slightly from the first Jewish sample quoted above. Note especially that besides the use of the archaic "Thou shalt" and the hyphen in "whole-hearted", Rabbi Hertz correctly insists upon "with the Lord" rather than "to the Lord", indicating companionship with the Lord rather than subservience to Him.

Rabbi Hertz provides us an additional benefit. He includes in his notes the comments of Rashi on this verse: "Walk with him wholeheartedly and hope in Him. Pry not into the

veiled future but accept whatever befalls you. Then you will be His people and His portion.”

There is a subtle, but fundamental, difference between the translations just presented and Rashi's conception of the meaning of the verse. The issue at hand is the meaning of the word *tamim*, a word which has had a colorful history.

In modern Hebrew usage, the words *tam* or *tamim* or *temimut* imply simplemindedness, innocence bordering upon ignorance, or perhaps naïveté. One well known example of this usage is the third son, the *tam*, in the Passover Haggadah who comes across as a simpleton who can only utter, “Mah zot?”, “What’s going on?”

Another example is the term used by the Talmud to describe an ox that’s been deemed harmless. It is therefore labeled a *tam*, a naïvely innocent creature.

Many assert that Rashi is defining *tamim* in this sense. He wisely locates our verse in its context in the preceding verses, 9-12. There we find strict prohibitions against following heathen superstitions, black magic, fortune telling, and the conviction that the stars irrevocably determine our destiny.

Rather, as Rashi puts it, “we must trust in Him and not inquire of soothsayers about what our future holds in store. We must accept b’temimut, with simplicity and confidence, ‘with the Lord’, with Him and attached to Him.” There is a sense of naïveté, a stance of stubborn refusal to submit to the dark forecasts and fatalistic predictions expounded by pagan cultures. “Ma zot?”, “What gives with all this nonsense?” asks the *tam*!

The translations that I quoted earlier understand *tam* and *tamim* very differently. They base their translations upon the repeated usage of those terms in the Bible. Noah is described (Genesis 6:9) as a *tamim*; Abraham (Genesis 17:1) is asked to be *tamim*; Jacob in his youth (Genesis 25-27) is an *ish tam*, a mature *tam*; and Job (Job 1:1), is given the title *tam v’yashar*, a sincere *tam*.

Professor Nechama Leibowitz describes the link between these different heroes of the Bible as a *gesher*, a bridge, between them, a common denominator. Ramban is one of the early leaders of the chorus of commentators who therefore define *tam* or *tamim* in accordance with the Aramaic translation of Onkelos, who uses the term *shalem*, complete, total commitment. If I had to render the verse in English in accordance with this approach, I would suggest, “Walk in complete devotion with the Lord your God”.

So far I have outlined my first goal, to convey the subtle complexity of the verse and the definition of *tamim*.

Now, on to my second goal.

For this, I must introduce you to an important American rabbinic figure of the mid-twentieth century, Rabbi Nisan Telushkin. He began his rabbinic career in communist Russia. His heroic leadership during that period are topics I reserve for another opportunity. Fortunately, he escaped Russia and came to America. He assumed a pulpit there, in Brooklyn, and soon faced new and different challenges which he met with spiritual fervor and creative skill.

His congregation consisted of Jews who had arrived in the United States as refugees early in the twentieth century. Their Jewish awareness rapidly eroded as they struggled to cope with a new cultural and economic environment.

During my yeshiva years, I was personally privileged to benefit from his tutelage and halachic writings. His masterpiece, entitled *Taharat Mayim*, remains a practical handbook for the construction of mikvaot, ritual baths. I knew him as a devout chasid, and erudite traditional Talmudic scholar of the first rank. I proudly received *semicha* from him.

Much later, I came across a three-volume collection of his synagogue sermons. It is entitled *HaTorah V’HaOlam* (“Torah and the World”). It was published in 1958, and I discovered it only after I began my own rabbinic career. I continue to cherish it as a model of sermons to inspire an audience with limited Jewish education and Jewish observance. Please recognize that these sermons were delivered in the years prior to the Holocaust, during the Holocaust, and just subsequent to the Holocaust. Orthodox Judaism then was very different from what it is now.

He was able to draw upon the verse we have been discussing and the comments of Rashi on that verse. His homiletic interpretation of those texts markedly differs from the previous discussion. He presents the verse as if it was a message to his audience not to feel inadequate because they were religiously ignorant or insufficiently observant. *Tamim tiyeh* meant “be simple, do your best, be sincere with the little knowledge you have and with the limited degree of observance of which you are capable.” These words of reassurance and encouragement struck home. They remain relevant for those who are imperfect religiously but wish to participate in synagogue life.

For those who are skeptical of this daring homiletic display, Rabbi Telushkin validates it

Likutei Divrei Torah

with an array of sources from Psalms, the Talmud and Midrash, and from Kabbalah.

One example is the Psalm 26:1: “Lord, vindicate me for I have walked b’tumi (the same root as *tamim*) in all innocence...”. The Midrash known as *Sifre* remarks, “He who is a *tam* ranks with King David.”

Another example is the statement of Rava in Tractate Avodah Zara 19: “A person should always study Torah, even if he will forget it all, and even if he does not understand a word he studied...”

Another statement is by Rabbi Akiva in Mishnayot Eduyot 5:6: “Better to be taunted by others as a dunce than to be considered an outlaw by the Lord.”

And so forth. A brave man, this Rabbi Telushkin, but one who reached the hearts and souls of his congregants and kept them close to Torah and engaged in good deeds. This approach permeates all three volumes of his remarkable attempt to meet the needs of his people given their circumstances and the times they lived in.

Mizrachi Dvar Torah - Rav Doron Perez

The Good and Bad of Political Power

There is no force on earth as powerful or as transformative as political power.

When the machinations of the state, through political leadership, is fully mobilized, it becomes an unmatched and unparalleled force, capable of tremendous good or, G-d forbid, catastrophic evil. History offers countless examples: the most notorious being the Nazi regime, which brought about not only the murder of six million Jews but also the deaths of 60 million civilians across Europe, a nation galvanized for death and destruction. Soon after, however, came the Truman Doctrine and the Marshall Plan, which rebuilt Europe, an extraordinary act of good, nearly without parallel in human history.

This stark dichotomy lies at the heart of political leadership and makes the *mitzvah* of appointing a king (appearing in this week’s *parasha*) so complex and filled with ambivalence. On one hand, Rambam teaches that it is a *mitzvah*, indeed the first collective commandment the Jewish people are to fulfill upon entering the Land. Yet the Abarbanel, who lived close to the kings of Spain and Portugal and witnessed the corruption and abuse of power firsthand, argues that it is far from ideal, perhaps even a necessary evil, something best avoided if possible.

The tension stems from the concentration of immense power in the hands of political leaders. That is why our *parasha* emphasizes

the separation of authority: no one figure may hold absolute power. The king has certain powers, the courts others, while the Navi (Prophet) and the Kohen Gadol (High Priest) each have their own spheres of influence.

As we continue to face political challenges in Israel today, it is clear that neither the political leadership nor the judiciary should hold unchecked authority. Power must rest with the people, who must create mechanisms to ensure it is shared fairly and equitably. Only then can the absolute power at the heart of the state be properly balanced. We pray that this equilibrium is achieved, enabling us to build a society that is both transformative and positive for the future.

Torah.Org: Rabbi Yissocher Frand

Krias Shema Protects / Talking While Donning Tefillin Endangers – Which Is It?

Towards the end of Parshas Shoftim, Klal Yisrael goes to war. The “kohen mashuach milchama” (anointed for war) gives them a schmooze (“charge”) to emotionally and spiritually strengthen them: “When you go out to the battle against your enemy, and you see horse and chariot — a people more numerous than you, you shall not fear them, for Hashem your G-d is with you, who brought you up from the land of Egypt. It shall be that when you draw near to the war, the kohen shall approach and speak to the people. He shall say to them, “Shema Yisrael (Hear, O Israel) you are coming near to the battle against your enemies; let your heart not be faint; do not be afraid, do not panic, and do not be broken before them.” (Devorim 20:1-3).

The pasuk here curiously uses the expression “Shema Yisrael.” Rashi, quoting the Sifrei and a Gemara (Sotah 42a) adds: “Even if you have no merit other than the mitzva of reciting Krias Shema alone, you are worthy enough that He shall save you.”

I saw a question cited in the name of the Gerer Rebbe, zt”l, (the Beis Yisrael) which seems to be obvious: The Torah specified certain exemptions from battlefield combat. One of those exemptions is “...who is the man who is fearful and of soft heart, he shall go and return home and not melt the heart of his brethren like his heart.” (Devorim 20:8). There is a machlokes Tanaim (Sotah 44a) regarding to what this expression “of soft heart” is referring. One opinion is that it is to be interpreted literally to mean he is afraid of battle. Rav Yosi HaGlili, however, argues and says it refers to someone who is afraid of the aveiros (sins) he has committed. According to Rav Yosi HaGlili, a soldier who is afraid of the aveiros that he has hiding in his closet is exempt from war. As an example of an aveira (sin) that a person needs to be worried about at the time of battle, the Gemara cites someone

who speaks between the time he put on his Tefillin shel Yad (hand Tefillin) and his Tefillin shel Rosh (head Tefillin). (Speech interruption at that time is forbidden by halacha.)

If you think about it, these two Gemaras contradict one another. On the one hand, the Gemara says that any soldier that merely has the basic mitzva of Krias Shema to his credit is guaranteed safety. On the other hand, the Gemara says that even violation of the relatively minor aveira of speaking between putting on the Tefillin shel Yad and Tefillin shel Rosh is enough to justify fear of falling in battle. How are these two Gemaras to be reconciled?

Before going further, I want to present a very important psychological insight that will help answer our question.

The Gemara (Nedarim 40a) says, “whoever does not visit the sick, it is as if he has murdered the person.” What does that mean? The simple understanding is that someone who is not mevaker cholch, and therefore does not daven for the person, causes the death of the sick person. “Had you davened for him, you could have perhaps invoked the mercy of Heaven and caused the person’s life to be spared.” However, the Netziv in the Meromei Sadeh quotes a mind-boggling Sheiltos in Maseches Nedarim, with a different understanding of this Gemara. Namely, whoever does not visit a sick person in the hospital, it is as if he davened that the sick person should die!

Why would someone be motivated to daven that the fellow should die? The answer is that he is embarrassed that should the sick person get well he may meet him in shul and need to explain why he didn’t visit him in the hospital. It will be uncomfortable and even embarrassing to meet the sick person after his recovery, with no good excuse for not having come to visit him during his illness. Therefore, psychologically, the person is davening that the sick person not get better, but rather expire, so that he can avoid meeting him again.

We see from this Sheiltos that people hate to own up to their mistakes. It is too painful for them to admit to the fact that they were wrong or negligent. Rather than going up to the fellow and apologizing for not visiting him during his illness, rather than needing to say “I’m sorry,” a person davens that the cholch should die so that he will never need to see him again!

Now listen to another Sifrei. The Sifrei says on the pasuk “For a bribe will blind the eyes of the wise...” (Shemos 23:8) that a judge who takes a bribe does not leave this world until he

Likutei Divrei Torah

argues “tzedek” regarding his ruling.” Rabbi Buchspan brings a dayan from Pressburg who gives a phenomenal interpretation of this Sifrei: Someone who takes a bribe to pasken incorrectly will, for the rest of his life, create “lomdus” to justify his incorrect ruling. In other words, when two fellows come before a dayan and present their arguments, the dayan knows the halacha. He knows that Reuven is chayav (obligated) and Shimon is patur (exempt). But when Reuven slips the dayan \$100, the dayan is able to come up with some bogus Talmudic logic to conclude that Reuven is patur and Shimon is chayav.

He did something wrong. He took the money. He should go to the person he cheated, apologize, and make restitution for the loss. At the very least, he should klap al chet on Yom Kippur to confess his aveira for taking the bribe. But that is not what he does. Rather, for the rest of his life he carefully goes through the Talmudic details of the case he ruled upon and comes up with phony interpretations of the sugya to justify his erroneous psak. He does all this because he refuses to say “I was bought.” Rather than come to grips with that, he convinces himself and tries to convince others of a false interpretation of the underlying halachic source material.

As we see, then, (1) a person would rather his friend die than face the humiliation of not having visited him, and (2) a person is willing to rationalize his corrupt psak to allow him to sleep at night despite having illegally ruled in favor of a guilty party, rather than owning up and confessing that he took a bribe.

Based on this, the Beis Yisrael interprets Rav Yosi HaGlili’s opinion (that a soldier returns due to the fear of his aveiros) as follows: The soldier returns from battle due to the “aveiros she’b’yado” (aveiros he has in his hand). This means that the person committed an aveira, but that aveira is still “in his hands” i.e. — he refuses yet to admit that it is an aveira! The Beis Yisrael equates this with the famous Gemara that states that if someone is “tovel v’sheretz b’yado” (immerses with a dead creature in his hand), such immersion does not help because while going to the mikva, he is still holding on to the very item which has contaminated him.

The answer to the aforementioned contradiction is that if a person has repented from the aveiros he has committed, then even if he only has the zechus (merit) of reciting Krias Shema, he will be saved in battle. However, if he persists in justifying his previous misdeeds without remorse — without confessing his shortcomings — that is still “aveira she’b’yado.” The aveira is still present in his hand. For such aveiros that are still in his hand, the zechus of Krias Shema is not enough

to save him, even from a supposedly relatively minor aveira, so he indeed has reason to fear his fate in war, which justifies returning from battle, according to Rav Yosi HaGlili.

Dvar Torah: Chief Rabbi Ephraim Mirvis

For as long as a single hostage, alive or dead, remained in Gaza, the Jewish people was incomplete.

We learn this from the Parsha of Shoftim in which Hashem tells us "Tamim tihiyeh im Hashem elokecha"- you the Jewish people must be tamim, which translates as whole, complete, perfect with the Lord, your God."

Fascinatingly, in Psalm nineteen, verse eight, we read 'Torat Hashem temima', the Torah of Hashem is temima. It's that same word, 'complete', whole, perfect. Rabbi Yitzchak Elchanan of Kovno beautifully said that from here we learn 'Yisrael v'oraita chad hu'- the Jewish people and the Torah are one, because the same term is used in order to describe both. But what's the message of it?

Rabbi Yitzchak Elchanan went on to say, in the same way that if one single letter of the Torah is pasul, if it's rendered unfit, then an entire scroll becomes unfit to be read. So too, if one single Jewish person is suffering, then we as a nation are incomplete.

The Lubavitcher Rebbe explains this on a deeper level, introducing the Talmudic concept of 'kvil mukaf'. What does this mean in regard to writing a Sefer Torah? In a Torah scroll there needs to be spaces between the words, but in addition, there need to be tiny spaces between the letters of each word. If a single letter is joined with ink to the letter before it or after it, it's pasul and the Torah is pasul.

So, what we therefore see in a Torah scroll is that each letter is independent of others and therefore stands as itself, and at the same time, it is an indivisible part of the word which it is part of. So too, the Rebbe said, each one of us lives as individuals but at the same time we are part of our great nation.

Dvar Torah: TorahWeb.Org

Rabbi Ahron Lopiansky - The Double Avodah of Israel and its Monarch

The Jewish monarch is the person who leads the people of Israel, forges them into the unified nation that they ought to be, and keeps them living up to the highest of moral standards. Being that monarchy blinds people and tends to bring out less than ideal character, the Torah imposed strict boundaries and prohibitions on the king: not to have too much money, not to have too many horses, and not to have too many wives (Devarim 17:16-17). These are all understood as reigning in the excesses, which lead to haughty and arrogant

behavior. But the monarch also is obligated with a positive commandment of writing a second sefer Torah for himself (ibid 17:18). Every Jew is obligated to write a Torah (ibid 31:19), but a king is obligated to write a second Torah for himself. As the passuk says: "It shall be, that when he occupies the throne of his kingdom, he must write for himself a duplicate of this Torah in a scroll form [the scroll] before the kohanim—the Levites."

Most of the commentaries see this as a simple message to reinforce his devotion and fidelity to Torah; it is a symbolic gesture of saying, "I need to doubly reinforce my commitments, because of the responsibilities I bear and because of the temptations that come along with the position."

But it seems that there is more to the understanding of the meaning of this obligation. After all, having a copy of the same Torah doesn't really seem to add to commitment and devotion. Rashi explains that there were two Torahs, one that lay in his home in his treasury, and one that would accompany him wherever he went. The two Torah scrolls were used in different locations.

This means that the two Torahs, although exactly identical in content, found very different application, relevant to their location.

If someone were to ask us, "what is the essence of avodas Hashem?" We would answer that the goal is to take transcendent spiritual ideals and values which are not really of this world and make them the essence of this world. Thus, giving away my hard-earned goods to someone who is in need is not a physical value, but rather a value that comes from a different world and a different reality. Having your physical drives and passions reigned in because of something called "sanctity", is not a physical value. It is a value emanating from a world beyond.

In order to accomplish this, two steps are required. First, we must connect to a world that is beyond ours and become part of it. Then, we must take those values and translate them to actions and behaviors in our physical world.

We see this in krias Shema. The first paragraph deals with the totality of commitment to the beyond. It demands of us to give all our life, all our wealth, and all our desires and cravings for that which is beyond: Hashem. This represents a world that negates our world totally and is of a different order. When we have finished reading the first parsha we now need to apply it to this world. This is the second paragraph of krias Shema. It deals with integrating those values into activities that are of this world. Whereas the first paragraph deals with giving up our lives totally for

Likutei Divrei Torah

Hashem, the second paragraph climaxes with our drawing life from that spiritual world into our very physical world.

The king, of all people, is faced with the duality of this task more than anyone else. When the passuk speaks of a Jewish leader, it speaks of the one "that will walk ahead of everyone and then bring everyone along with him" (Bamidbar 27:17). The king on the one hand must have those elevated and superior values that place him ahead of everyone else. He then needs to also know how to implement those values on the national and physical level so that all of Israel will perform based on those values. The king's two sifrei Torah represent this duality. Rashi seems to bring this out by saying that "one sefer Torah remains in the treasure house. The other sefer Torah is constantly going with him on all his missions".

There is an aspect of Torah that remains hidden and treasured in the vault. It is pure spirituality not impacted by the lowliness of mundane life; the demands of mundane life do not in any way affect the truth of absolute spirituality. But only leaving a sefer Torah there will not realize the purpose of it. He then must take a sefer Torah to wherever he goes and translate those values into common action. Even though both Torah scrolls have the same exact words, the king's focus is different, depending which sefer Torah he is connected to at that time. The first Torah is studied with the perspective of "what is the absolute spiritual pureness", while the second Torah is studied with the perspective of "how to draw those truths into this very world".

This same dichotomy is true of Klal Yisroel at large. There are the people of shevet Levi whose lives are focused on the purely spiritual. They are not supported simply out of expediency, i.e. because they don't have time to work. Rather the Rambam describes them as: "Why did the Levites not receive a portion in the inheritance of Eretz Yisrael and in the spoils of war like their brethren? Because they were set aside to serve G-d and minister unto Him and to instruct people at large in His just paths and righteous judgments, ...therefore they were set apart from the ways of the world. They do not wage war like the remainder of the Jewish people, nor do they receive an inheritance, nor do they acquire for themselves through their physical power."

It's not a question of time or ability, it's a question of a mindset. Levi is meant to be someone that is beyond this world. But the other tribes are engaged in taking those very teachings and understandings that are inherently alien to this world, and integrating them into this world, so that the world becomes alive with divine inspiration. "Who is more important" is an irrelevant question,

since Hashem's objective here is that the values of worlds beyond this world are drawn into this world. We must have both halves.

The two sifrei Torah that the king has with him are the roots of both halves of Klal Yisroel. Thus, Klal Yisroel ascends the mountain to retrieve the purely spiritual, and descends into our physical reality and threads those values into the fabric of this world, taking the lifeless physical body of the universe and imbuing it with the soul and spirit of the beyond.

Torah.Org Dvar Torah by Rabbi Label Lam

Smile Back at Us

And the judges shall inquire thoroughly, and behold, the witness is a false witness; he has testified falsely against his brother; then you shall do to him as he plotted to do to his brother, and you shall abolish evil from among you. And those who remain shall listen and fear, and they shall no longer continue to commit any such evil thing among you. (Devarim 19:18-20)

This is a fascinating law in the Torah. Witnesses who give testimony can have the results they were aiming at the defendant boomerang back at them. Whatever punishment that was aimed at the convict will be enacted upon them.

If they were trying to get him to pay a million dollars then they must pay and if they were trying to deliver him to a death penalty then they are put to death. It's really an amazing feature of Torah justice but not surprising to anyone who is slightly familiar with the way HASHEM runs the world.

The Talmud (Sota 8b) spells out a simple formula that explains many phenomena in the world of human interaction. It states, "With the measurement that a person measures with, so he will be measured." This helps explain a troubling line in Pirke Avos where it says, "know before Whom you will give judgment and accounting".

The question is asked, "Are we the ones to give the judgment?" I can understand that we give an accounting, but how are we the ones rendering the judgment!? The answer is that the final judgment is heavily impacted by how we judge others.

If we witness, even our own behavior in the abstract, unaware that we the ones in the center of the trial, we will give a final verdict based on the habits of judgment we developed and employed upon others during our lifetime. If we were extra strict and harsh with others then we can expect the same fate. However, if we were tolerant and understanding of others then that will be our saving grace. Perhaps that is

why the Mishne in Avos wisely advises, "judge every person to the side of merit". Not bad advice!

The Baal Shem Tov pointed this out in a familiar verse from Tehillim (121) "HASHEM TZILCHA" – "HASHEM is your shadow". HASHEM is like a mirror and life is very much a self-portrait. The story is told about a Russian peasant farmer who had never left the small and parochial surroundings of his town. He had occasion to come to the big city of Moscow. He arrived at the elegant hotel with mud on his boots and overalls, looking completely disheveled. The man at the desk assigned him to a room on the top floor and treated him as any other paying customer.

With key in hand, he started the long climb to the hotel room. On the first landing there was a full-length mirror. The man, who had never seen himself before, was suddenly startled and frightened by the imposing image before him. He growled and barked to scare him away only to find that the image in the mirror threatened and shouted back the same. He ran to the next floor and confronted the fearsome giant, again exchanging harsh looks, and almost coming to blows. On the third floor they stood nose to nose and exchanged simultaneous insults as a deepening war-like attitude was taking root in 'both of them'.

Realizing that he could not escape this ugly beast-like fellow who was aggressively stalking him in the hotel, he ran quickly back to the lobby and the front desk to file a complaint. After having been given a detailed description of the perpetrator, the man at the desk understood that he had met the enemy and it was the man in the mirror.

So as to save the face of his guest and to disengage the hostility he offered simple advice. "The fellow whom you confronted is here to protect people. He is really quite harmless. Trust me. If you will show him a harsh and angry countenance, he will do the same. However, if when you see him, you just smile pleasantly and continue on your way he will nod and smile at you as well. Enjoy the rest of your stay." That's what he did and perhaps not so remarkably it worked. At the risk of oversimplifying, if we smile at HASHEM and the people around us, life will then smile back at us!

Rabbi Dr. Norman J. Lamm's Derashot Ledorot

Apologetics Without Apologies

Psalm 27:11-ה' הורני ' מישור ' הורני-ה'
למען שוררי

[Teach me Thy way, O LORD; And lead me in an even path, Because of them that lie in wait for me. - JPS 1917]

Beautiful, but difficult. First, isn't אורח the same as מישור? Second, and more

Likutei Divrei Torah

important: למען שוררי. Most translators render: "because of them that lie in wait for me." Dr. Birnbaum modernizes this succinctly as, "in spite of my enemies." This follows the interpretation of most commentaries. The idea is that אורח comes from the word שור, which means look, i.e., those who look at me with hatred and wait for me to fail. However, the verb is not necessarily evil! Moreover, למען does not usually mean "in spite of," but "because of."

Hence, permit this interpretation: שוררי means onlookers – neutral, or even those who look to me for guidance. Hence, David said: "Teach me Thy way, O Lord," my intentions are noble. But sometimes man misreads the divine directions, and though he wishes to walk in the way of the Lord he chooses a road that is crooked and distorted, one that is misleading. Hence, lead me on the מישור. Why is that so important? In order not to mislead the onlookers – למען שוררי, because of the onlookers.

I refer, in this respect, especially to apologetics or טעמי המצוות, which have a long and honored history in Judaism. There are three attitudes with regard to apologetics: a) that the whole function of a Jew is to explain himself to his non-Jewish peers, and to those of his brethren who are alienated. Apologetics becomes the supreme religious activity. What is most important is the articulation of Judaism in an idiom comprehensible to the non-Jews. b) the second attitude is diametrically opposed: the commandments and all of Judaism are theonomous, and require no explanations. We do what we do only because we are commanded... c) the middle position, to which I subscribe, is that fundamentally the second opinion is correct: the "service of the Lord" is its own excuse. We do because we are commanded, not because we bring God and Torah before the bar of our esthetic and moral judgment. However, we still are obligated to explain ourselves to others and even to our own selves, to make the commandments more meaningful and purposeful in the context of our own lives existentially.

However, let us concentrate on the first of the two extreme ideas, that of apologetics at all costs. With all the good it has done, it has brought many disadvantages in its wake. Thus, when we came to America, a country which values cleanliness, we picked up a thread that was first spun many many centuries ago, and we began to interpret kashrut only as health and "family purity" only as medically sound. And then we discovered that people told us that, if that was the case, refrigeration obviates kashrut, and the glory of America – plumbing – makes "family purity" unnecessary. I have heard tzitzit explained as "a badge" of identity. But in that case, who can argue with a young man whose only sign of Jewish identity is a small mezuzah worn on a necklace?...

Most important in this respect: during the summer I was in England and after the Entebbe affair, in which Israel liberated the hostages from Uganda, the London Times was constrained to applaud Israel – but could not restrain itself from a “jab” by commenting that Israel’s action was in keeping with the harsh biblical doctrine of “an eye for an eye,” which we find in today’s Sidra as well. It reminded me of the New York Times and Time Magazine which, after every time that Israel responded to a terrorist incursion, blamed the “harsh storm God of Israel” (note the residual Christian theological anti-Semitism) who commanded “an eye for an eye.” No matter how often I and others wrote to these media elements, reminding them that the Jewish tradition in its mainstream interprets “an eye for an eye...” as compensation rather than physical retaliation, it did not help. Whose fault is this?

I believe it is our own fault, i.e., those apologists of centuries and centuries ago. It began with Josephus, who took it upon himself to expound Judaism to the then-modern Roman world. The Roman world, and its juridical philosophy, had raised the concept of *lex talionis* to the highest realms. It was, therefore, important for Josephus to show that Judaism, too, agrees with this concept. He, therefore, shaded the truth, in his desire to present God’s Torah as acceptable he did not tell the whole story. And he allowed the impression to be made that Judaism interprets the biblical doctrine literally: an eye for an eye...

This was not accurate. Josephus wanted to go “in the way of the Lord,” but he failed to take “the path of straightness.” His lack of *אורח ישר* has now returned to plague us for the last 2,000 years!

It is best, in all these matters, to be truthful even if it is unpopular. Robert Ingersoll once said that he who is married to the fashion of the hour will soon be a young widow. Intellectual fashions and ideological fads tend to fade out as soon as they arise. It is better, therefore, to tell the whole truth, no matter how unpleasant and uncomfortable, and hope for better days ahead.

In today’s Sidra, we are told *ושפטו את העם* – משפט צדק – which means truth, justice. In Exodus (יט), we are told *את העם בכל עת*, which one Hasidic interpreter translates as: according to the times. It is true that we must do both: make Torah relevant to the times we live in – but, even more important, is to have *משפט צדק*, to be absolutely truthful.



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Table of Contents:

- שום תשים עליך מלך Y. Nachshoni & N. Leibowitz
- Rav Asher Weiss on לא תסור The Authority of Chazal
- Rav Yitzchok Kossowsky on Torah Law and Political Power
- Rav Hershel Schachter on Akiras Davar Min HaTorah
- Rav Yissocher Frand on the Spiritual Reality of Chazal's Decrees
- Lord Rabbi Jonathan Sacks zt"l Testing Prophecy

שום תשים עליך מלך: Mitzvah, Concession, or Mistake?

Adapted by Chaim Shulman from

R. Yehuda Nachshoni, הגות בפרשיות התורה and Prof. Nechama Leibowitz, עיונים בספר דברים

Few Torah institutions are presented as ambiguously as the Jewish monarchy. The Torah appears to command מלך עליך, *you shall appoint a king over yourself*. Yet when Klal Yisrael finally asked Shmuel for a king, Hashem described their request as a rejection of His own Kingship. Was appointing a king a mitzvah, a concession, or a mitzvah that could itself be pursued in the wrong way?

The Torah introduces the subject in a surprisingly indirect way: **כי תבא אל הארץ אשר ה' אלקיך נתן לך וירשתה וישבתה בה ואמרת אשימה עלי מלך ככל הגוים אשר סביבתי שום תשים עליך מלך אשר יבחר ה' אלקיך בו**, *when you enter and settle the Land Hashem gives you, and say, "I will appoint a king like the nations around me," you shall appoint a king whom Hashem chooses* (Shoftim 17:14–15). Why does the Torah not simply begin שום תשים עליך מלך? Why does it first wait for the people to say *I will appoint a king over myself*? And why does their request contain the troubling phrase **ככל הגוים אשר סביבתי**, *like all the nations around me*?

The question becomes much sharper in Sefer Shmuel. Generations later, the elders came to Shmuel and said **הנה אתה זקנת ובניך לא הלכו בדרכיך עתה שימה לנו מלך לשפטנו ככל הגוים**, *you have grown old and your sons have not followed your ways; appoint us a king to judge us like all the nations* (I Shmuel 8:5). Their words sound remarkably close to the Torah's own formulation. Yet Hashem told Shmuel **לא ידעו וראו כי רעתכם רבה אשר עשיתם בעיני ה' לשאול לכם מלך**, *see how greatly you have sinned before Hashem by asking for a king* (12:17). How can מלך be a mitzvah while asking for a king is called רעתכם רבה?

Three Answers in the Tosefta Sanhedrin

The Tannaim themselves confronted this contradiction. The **Tosefta** (Sanhedrin 4:3) cites Rabi Yehudah, the Tanna, who maintains that Klal Yisrael was commanded three national mitzvos upon entering Eretz Yisrael: **לעשות מלך**, **לעשות מלך**, **לעשות מלך**, to appoint a king, build the Beis HaMikdash, and destroy Amalek. The Bavli records the same basic teaching in the name of Rabi Yehudah: **לעשות מלך**, **לעשות מלך**, **לעשות מלך**, to appoint a king, build the Beis HaMikdash, and destroy Amalek. On this view, monarchy is not merely tolerated; שום תשים is a genuine mitzvah.

But if monarchy is a mitzvah, why were the people condemned in Shmuel's time? **The Tosefta records three approaches. One answer** is **לפי שהקדימו עליהם**, they asked prematurely. The institution was proper, but the time was not. **Rabi Nehorai**, another Tanna, takes a more fundamental approach: **לא נאמרה פרשה זו אלא כנגד תרעומתן שנאמר ואמרת אשימה עלי מלך**, the parsha was stated in anticipation of Israel's future complaint (Sanhedrin 20b). On this reading, ואמרת is not necessarily describing what Israel ought to want; the Torah is anticipating what it will eventually demand. A third Tannaitic view, attributed in the Tosefta to **Rabi Elazar ben Rabi Yosi**, distinguishes between different groups within the nation: **וזקנים שאלו כהלכה אבל עמי הארץ חזרו וקלקלו**, the elders asked properly, but the amei haaretz corrupted the request. The elders sought a king to govern them, while the popular demand became **היינו גם אנחנו ככל הגוים**, *we too shall be like all the nations*.

Already in Chazal, then, the fault can be located in three different places: the timing of the request, the very impulse toward monarchy, or the motives and conception of those requesting it. The later Mefarshim develop these possibilities in different directions.

The Rambam: The Right Mitzvah for the Wrong Reason

The **Rambam** (1138–1204) rules unequivocally that **appointing a king is a mitzvah**: **שלוש מצוות נצטוו ישראל בשעת כניסתן לארץ למנות להם מלך** (Hilchos Melachim 1:1). Yet he immediately asks why Hashem was displeased when Israel finally requested one. His answer is striking: **לפי ששאלו בתרעומת ולא שאלו לקיים המצוה אלא מפני שקצו בשמואל הנביא**, *they asked out of complaint; they did not seek to fulfill the mitzvah, but because they had become dissatisfied with Shmuel* (Hilchos Melachim 1:2).

A person can therefore demand the very thing the Torah commands and still be wrong in demanding it. The issue is not only what Israel wanted, but why. Their request began with criticism of the existing leadership: **הנה אתה זקנת ובניך לא הלכו בדרכיך**, *you have grown old and your sons have not followed your ways*. According to the Rambam,

the mitzvah had become an expression of תרעומת, resentment and rejection.

The Ramban: A Mitzvah, but Not Yet

The **Ramban** (1194–1270) reads ואמרת אשימה עלי מלך even more positively. In his commentary to Shoftim 17:14, he understands the people's request itself as part of the mitzvah: **והיא מצות עשה שיחייב אותנו לומר כן אחר ירושה וישיבה**, *it is a positive mitzvah requiring us to say this after conquest and settlement*. ואמרת is therefore not merely a prediction; it describes how the mitzvah is to be initiated.

Why, then, was the generation of Shmuel wrong? In his commentary to Yaakov's blessing מיהודה שבט יסור (Bereishis 49:10), the Ramban explains **that the request came at the wrong time. Shmuel was still serving** as their Shofet and Navi, judging the nation and leading its wars through Hashem's guidance. לא היה להם לשאול מלך. *they should not have asked for a king in his lifetime.*

This also explains why the first king was Shaul of Binyamin rather than a descendant of Yehudah. Because the request was premature, Hashem granted them only a מלכות שעה, a temporary monarchy. The permanent monarchy of Beis David would come later. Shaul himself thus illustrates the distinction between monarchy as a mitzvah and the improper timing of the particular demand that brought him to the throne.

What Was Wrong with ככל הגוים

A problem remains. If, as Rabi Elazar ben Rabi Yosi states **ככל הגוים** reveals the defect in Israel's request, why does the Torah itself say **אשימה עלי מלך ככל הגוים**, *I will appoint a king like the nations around me*? This becomes one of the central difficulties in understanding this topic.

One possible distinction is between adopting an institution used by other nations and adopting their conception of that institution. Israel **may have a king, but its king is immediately defined as אשר יבחר**, *one whom Hashem chooses*. He is not an independent source of law or authority.

The **Netziv** (1816–1893) offers a distinctive intermediate interpretation. He accepts monarchy as a genuine mitzvah but understands **אשימה עלי מלך** as a condition for its implementation. Monarchy cannot simply be imposed upon a nation unwilling to accept מלך; **the mitzvah becomes operative when there is הסכמת העם, national willingness to live under that form of government.**

The Ran: They Wanted the King to Replace Torah Justice

The Ran, R. Nissim of Gerona (c. 1320–1376), focuses on another word in Israel's request: **שימה לנו מלך לשפוטנו ככל הגוים**, *appoint us a king to judge us like all the nations*. In Derashos HaRan (Derush 11), he explains that the Torah's Shoftim and its king have different functions. The judges administer Mishpetei HaTorah, while the king has additional political authority needed to maintain public order and govern the nation.

Israel's mistake was שרצו שיהיו משפטיהם נמשכים מצד המלכות לא מצד שופטי התורה, *they wanted their system of judgment to flow from royal authority rather than from the Torah's judges*. The problem was not that they wanted effective leadership, or even a king to lead their wars. It was **לשפוטנו ככל הגוים**. Among the nations, royal authority could itself become the source of law. In Israel, political authority could never displace Torah justice.

Abarbanel Challenges the Entire Premise

Abarbanel (1437–1508) rejects traditional reconciliations because they contradict the literal text (pesukim). If asking for a king **ככל הגוים** like all the nations was the sin, he asks: **אם ישראל דברו כדברי התורה מה** *If Israel spoke in the very words of the Torah, what was their transgression?* After all, the Torah itself used that exact phrase.

Shmuel's objection is more fundamental than bad timing or poor phrasing. The Navi states that the matter displeased Shmuel the moment they said, *Give us a king* (אמרנו תנה), and he later directly condemns the act of asking for one (לשאול לכם מלך). **To Abarbanel, this indicates a deep opposition to the institution of monarchy itself.**

Abarbanel adds historical proof: If a king were an immediate obligation, why did Yehoshua and the Shoftim allow centuries to pass without appointing one? This long delay proves that שום תשים does not command an absolute duty to establish a monarchy immediately upon settling the Land.

Consequently, Abarbanel reinterprets the passage. **The opening phrase ואמרת אשימה עלי מלך is a prediction of a future human choice, not a directive. As he writes: אבל הנה הוא אין בזה מצוה כלל... הגדת העתיד** *There is no commandment here at all... it is a prediction of the future.*

The actual command only begins with the words: שום תשים עליך מלך. אשר יבחר ה' אלקיך בו. Abarbanel defines this structure as a **מצות עשה** a positive commandment contingent upon a voluntary choice. Crucially, Abarbanel does not completely deny the mitzvah. Israel is not commanded to want a monarchy. However, once they choose to establish one, **the Torah dictates how it must be done:** chosen under divine authority (אשר יבחר ה') and from within the Jewish people (מקרב אחיך).

He compares this to the law of the captive woman (yefas toar). The Torah does not command a soldier to desire a captive; it simply anticipates a human impulse and regulates it. Similarly, **אשימה עלי מלך** predicts a future human desire, while שום תשים provides the boundaries to bring that desire within Torah holiness.

The Mitzvah and the Danger

The debate over **שום תשים עליך מלך** is therefore more subtle than a choice between "mitzvah" and "permission." Some Tanaim in the Tosefta understand monarchy as a **full mitzvah** but find the **sin in the timing or motivation of the request.** The Ran finds it in the kind of authority Israel wanted the king to exercise. Rabi Nehorai criticism already in ואמרת אשימה עלי מלך. Abarbanel goes furthest: **Israel is not commanded to desire monarchy at all;** once it chooses monarchy, Torah commands how that monarchy must be established.

Yet beneath these disagreements lies a common concern. **Israel may have a king, but that king can never simply be a Jewish version of ככל הגוים, like all the nations. His authority does not replace Torah, and his power cannot replace trust in Hashem.** Even as the Torah places a king **עליך, over the people**, it immediately places that monarchy beneath a higher authority: אשר יבחר ה' אלקיך בו (as stated by the Netziv).

The story of Shaul is therefore not merely a contradiction to שום תשים. It exposes the tension built into Jewish monarchy itself. **Clal Yisrael may place a king over itself, but only so long as king and people remember the truth Shmuel insisted upon: והי אלקיכם, Hashem your G-d is your King.**

The Authority of Chazal and the Foundations of Torah

Shebaal Peh Adapted by CS from

Minchas Asher, Parshas Shoftim, סימן ז,

HaRav Asher Weiss Shlit"a

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The Torah establishes the authority of Beis Din in the command, וְעָשִׂיתָ עַל פִּי הַדָּבָר אֲשֶׁר יִגִּידוּ לְךָ מִן הַמָּקוֹם הַהוּא אֲשֶׁר יִבְחַר ה' שֵׁם וּשְׁמֶרְתָּ לַעֲשׂוֹת כְּכֹל אֲשֶׁר יִצְוֶה לְךָ יְיָ מִן הַשָּׁמַיִם, requiring us to follow the ruling issued from the place Hashem chooses and not to deviate from what the judges instruct us, "right or left" (Devarim 17:10–11).

At first glance, the meaning seems straightforward: the Torah commands us to obey its authorized judges. On closer examination, though, two fundamental questions arise. First, to whom does this command apply? Is it specifically a command to obey the Beis Din HaGadol in Yerushalayim, or does it establish the authority of Chazal and the Chachmei Yisrael of every generation? Second, what does the command include? Does it apply only when Chazal interpret the Torah itself, or does it also encompass mitzvos and enactments instituted by Chazal, such as Chanukah, netilas yadayim, and the many other dinim derabbanan?

The Beis Din HaGadol and the Authority of Chachmei Yisrael

The Rambam opens Hilchos Mamrim with a powerful description: בית דין הגדול שבירושלים הם עיקר תורה שבעל פה והם עמודי ההוראה ומהם חוק ומשפט יוצא הגדול. The Beis Din HaGadol in Yerushalayim is the foundation of Torah Shebaal Peh and the central source of halachic authority for Klal Yisrael. Anyone who believes in Moshe Rabbeinu and his Torah must rely on its rulings, for the Torah commands concerning it לא תסור מן הדבר. The Sefer HaChinuch similarly defines the mitzvah as לשמוע מכל בית דין הגדול שיעמדו להם לישראל, to obey every Beis Din HaGadol established for Klal Yisrael.

This language seems to indicate that the formal mitzvah of לא תסור relates specifically to the Beis Din HaGadol. Yet it cannot mean that the authority of Chachmei Yisrael disappears in generations without a Sanhedrin. The entire structure of Torah life depends on the authority of the Chachamim of every generation.

Indeed, elsewhere the Rambam speaks much more broadly. In his introduction to the Mishneh Torah, he writes that the enactments and customs instituted in each generation by the Beis Din of that generation are binding, לפי שאסור לסור מהם שנאמר לא תסור מכל הדבר אשר יגידו לך. Likewise, in the Sefer HaMitzvos he refers not only to the Sanhedrin but more generally to the בעלי הקבלה and מעתיקי השמועה, those entrusted with receiving and transmitting the mesorah.

It therefore appears that although the formal institution described in Hilchos Mamrim is the Beis Din HaGadol, the principle extends more broadly. A body representing the consensus of Chachmei Yisrael can possess, in an important sense, the authority of the Beis Din HaGadol. This reading fits the Rambam's famous position that if all or most of the Chachmei Eretz Yisrael agreed to renew semichah, they could do so. The Torah did not entrust Torah Shebaal Peh to isolated individuals; its authoritative interpretation and transmission were placed in the hands of Chachmei Yisrael.

The words of the Chinuch can be understood the same way. The formal mitzvah centers on the Beis Din HaGadol, while the principle embodied in that mitzvah extends to the leading Chachamim of every generation.

Does לא תסור Include Every Rabbinic Mitzvah?

A second major dispute concerns the scope of לא תסור. The Rambam appears to understand the command broadly. The Ramban, however, raises a famous difficulty. If violating any din derabbanan is itself a violation of the Torah prohibition of לא תסור, why does the Gemara distinguish between a safek deOraisa and a safek derabbanan? We ordinarily rule safek deOraisa but safek derabbanan. If every rabbinic law carries with it the Torah prohibition of לא תסור, every safek derabbanan should become a safek deOraisa.

The Ramban therefore understands the formal prohibition more narrowly. לא תסור principally governs the authoritative interpretation of Torah: traditions received by Chazal and conclusions reached through the accepted methods of Torah interpretation. It does not necessarily turn every new rabbinic enactment into a Torah prohibition in its own right. Some Acharonim sought to narrow even the Ramban's position, suggesting that לא תסור applies specifically to enactments established as a חזקת סייג rather than to every positive mitzvah Chazal instituted. There is some basis for this reading in the Rambam's language in Hilchos Mamrim, where he refers to להם כגון הדברים שעשאו סייג לתורה והשעה צריכה להם כגון הגזירות והתקנות והמנהגות.

But the Rambam's position cannot readily be confined to protective gezeiros. In the Sefer HaMitzvos he speaks broadly of matters Chazal established through tradition, interpretation, consensus, or because they regarded them as proper and as a חזקת סייג: אין הבדל בזה בין הדבר שיסברוהו או הדבר שיוציאוהו בהקשר מן ההקשרים שהתורה נדרשת בהם או הדבר שהסכימו עליו שהוא סוד התורה או לפי ענין מן הענינים שיהיה דעתם שהוא ישר ושווה. The Rambam also challenges the Behag for counting Chanukah and Megillah among the 613 mitzvos, a discussion that itself shows Chanukah and similar mitzvos derabbanan are included within the Torah's command to heed Chazal. לא תסור therefore cannot be restricted to classic protective gezeiros.

Why Must We Obey Chazal?

The question runs deeper still. Even according to the Ramban, who limits the formal prohibition of לא תסור, there is plainly a binding obligation to obey Chazal far beyond their interpretation of Biblical law. Chazal repeatedly speak in sweeping terms, including כל העובר על דברי מצוה לשמוע דברי חכמים and חכמים חייב מיתה.

Rabbi Akiva, while imprisoned, was prepared to endanger himself in order to wash for netilas yadayim, declaring מוטב אמות מיתת עצמי ולא אעבור. Yet netilas yadayim is clearly a rabbinic enactment rather than an interpretation of an explicit Torah command.

Most strikingly, concerning the bracha on Chanukah candles, the Gemara asks והיכן צונו, where did Hashem command us to light Chanukah candles? The Gemara answers מלא תסור. Chanukah was instituted by Chazal generations after Matan Torah and is not merely a fence around an existing Torah prohibition, yet the Gemara connects it directly to לא תסור.

Even the Ramban indicates elsewhere that rabbinic enactments do not violate תוסף precisely because the Torah empowered Chazal to establish them. The real question, then, is not whether Chazal have authority to enact mitzvos and gezeiros; clearly they do. The question is how that authority relates to the specific mitzvah of לא תסור.

Two Approaches to the Obligation of Rabbinic Law

Rav Elchonon Wasserman records two approaches he heard from his rebbeim. One, associated with Rav Shimon Shkop, holds that every enactment of Chazal rests on a genuine reason perceived by the Chachamim. Once they identify that reason and determine the proper conduct, the underlying סברא itself obligates us. Since sevara can carry the force of Torah, the truth Chazal recognized generates an obligation to follow their ruling.

This explanation is difficult. Sevara can certainly reveal and define a din, but it is much harder to understand how sevara alone can create an entirely new mitzvah. Ultimately, it is the command of Chazal, not merely the reasoning behind it, that obligates us.

A second explanation is attributed to Rav Chaim Brisker. Here, both the Rambam and Ramban agree that rabbinic law is rooted in לא תסור, but they disagree about the nature of that relationship. According to the Rambam, when Chazal establish a mitzvah such as Chanukah, observing it becomes included within the Torah command to obey Chazal; one who refuses to observe it therefore violates a Torah command. According to the Ramban, by contrast, the particular mitzvah remains derabbanan, while לא תסור stands as the broader Torah command requiring obedience to Chazal.

This distinction helps explain how rabbinic law can retain its own rules, including ספק דרבנן לקולא, even though deliberately rejecting Chazal ultimately conflicts with a Torah command.

רצון השם and the Formal Mitzvah

There is, however, a more fundamental way to understand the matter. The Chiddushei HaRan explains the Ramban's position by suggesting that when the Gemara connects rabbinic mitzvos with לא תסור, the pasuk may function as an asmachta rather than as the literal halachic source of every rabbinic obligation. Nevertheless, once the Torah entrusted Chazal with receiving, interpreting, and transmitting Torah, Klal Yisrael must also obey them when they establish the safeguards and enactments necessary to preserve Torah.

This suggests an important distinction between the formal scope of the mitzvah of לא תסור and the broader רצון השם expressed through it. Formally, לא תסור may apply specifically to the Beis Din HaGadol or to defined categories of rulings. But the mitzvah also teaches a broader principle: Hashem wants Klal Yisrael to live under the guidance and authority of Chachmei HaTorah.

They are charged with להודיע להם המעשה אשר יעשו ויהדור ילכו בה, to teach Klal Yisrael the conduct they should follow and the path they should walk. Beyond the technical definitions of particular mitzvos lies the obligation to fulfill רצון השם as revealed through Torah. When Chazal speak of a מצוה לשמוע דברי חכמים, they are expressing this broader principle: לא תסור teaches that Hashem entrusted Torah to its Chachamim and expects Klal Yisrael to follow their guidance.

This resolves the apparent tension in the Sefer HaChinuch. On one hand, he defines the formal mitzvah as obedience to the Beis Din HaGadol. On the other, he speaks broadly about the obligation to follow the great Torah authorities of every generation. There is no contradiction: the specific halachic command may center on the Beis Din HaGadol, while the broader principle it expresses establishes the authority of Chachmei HaTorah throughout the generations.

There are therefore two dimensions of לא תסור. One is a specific halachic din connected to the Beis Din HaGadol and the laws of zaken mamrei. The other is a broader principle: the Torah entrusted its mesorah and authority to Chachmei Yisrael, and Klal Yisrael must accept their rulings and guidance. The Sifrei's derashah, ובאת לרבות בית דין שביבנה, extending the verse to the Beis Din in Yavneh, likewise shows that the concept cannot be confined narrowly to the Sanhedrin sitting in the Lishkas HaGazit.

The Authority of Chazal Is Built Into Torah Shebaal Peh

We may go even further. It is not entirely accurate to say that the authority of Chazal originates in the pasuk of לא תסור. The obligation to accept the authority of Chachmei Yisrael is intrinsic to Torah Shebaal Peh itself.

Moshe received the Torah at Sinai and transmitted it to Yehoshua, the Zekeinim, and the generations that followed. Without the authority of

those charged with transmitting and interpreting Torah, there could be no functioning Torah Shebaal Peh. The Chachamim are not merely commentators on a completed written code; they were entrusted with preserving Torah, interpreting it, strengthening its observance, and establishing the enactments each generation required. Moshe Rabbeinu himself instituted takanos and gezeiros.

This may explain the precise wording of the Gemara regarding Chanukah. The Gemara does not ask why we are obligated to obey Chazal. It asks והיכן צונו, how can we recite צונו, that Hashem commanded us, over a mitzvah Chazal instituted? The answer is מלא תסור. The pasuk establishes that obeying Chazal can properly be described as obeying Hashem, but that does not necessarily mean the entire authority of Chazal was created by this single pasuk. Their authority is already built into the structure of Torah Shebaal Peh.

Obeying Chazal Is Obeying Hashem: בקולו של מקום

This approach sheds light on several difficult sugyos. The Gemara teaches regarding a ben sorer umoreh that he must be שומע בקולנו. If he violates a rabbinic prohibition, such as eating during a rabbinically established fast, he may nevertheless be described as one who does not listen בקולו של מקום.

One might argue this proves the Rambam's position: if rabbinic prohibitions are themselves included in לא תסור, violating them is literally disobedience to Hashem. But that conclusion is unnecessary. Even according to the Ramban, רצון השם is that Jews obey Chazal. A person who deliberately rejects their authority can therefore properly be described as failing to listen בקולו של מקום, even if the particular rabbinic prohibition has not itself become a mitzvah deOraisa.

The same principle appears elsewhere. A person occupied with a mitzvah derabbanan may be considered עוסק במצוה and thereby exempt from another mitzvah. Similarly, a woman prohibited to a man אשה הראויה לו may nevertheless not be considered an אשה הראויה לו where a Torah law requires a woman he may marry. Once Chazal establish a law within the Torah system, it becomes part of the halachic reality that system recognizes.

A Minor, a Blind Person, and the Reach of Rabbinic Authority

This principle also resolves an unusual difficulty raised by the Acharonim. According to Rabbi Yehudah, a blind person is exempt from mitzvos. If so, how can he be obligated in mitzvos derabbanan? If rabbinic authority depends entirely on the formal mitzvah of לא תסור, one exempt from Torah mitzvos would seemingly be exempt from that command as well.

The question is even stronger regarding a minor. A child is plainly not personally obligated in the ordinary system of Torah mitzvos. Nevertheless, Chazal imposed chinuch and established various rabbinic obligations relating to children. How can their authority extend to someone not yet obligated in the formal mitzvah of לא תסור?

The answer follows from the distinction already developed. Even one exempt from a particular formal mitzvah is not thereby free to disregard רצון השם when it is directed toward him. If Hashem Himself were to command such a person through nevuah to perform a particular act, his general exemption from mitzvos would obviously not permit him to disregard that command. Similarly, Chazal, whom the Torah appointed to guide Klal Yisrael, give authoritative expression to רצון השם within the Torah system. Thus even where the technical mitzvah of לא תסור may not apply in its ordinary form, the obligation to heed the authority of Chachmei HaTorah remains.

Why Later Generations Do Not Overrule Earlier Ones

This discussion ultimately leads to a broader question concerning the authority of earlier generations of Torah scholars. The Rambam rules that a later Beis Din may sometimes disagree with an earlier Beis Din's

interpretation: בית דין גדול שדרשו אחד מן המצוות כפי מה שנראה בעיניהם שהדין כך ודנו דין ועמד אחריהם בית דין אחר ונראה לו טעם אחר לסתור אותו הרי זה סותר ודן כפי מה שנראה בעיניו.

If so, why do Amoraim generally not disagree with Tannaim? Why do Rishonim not simply reject conclusions of the Gemara? The Kesef Mishneh famously explains that with the completion of the Mishnah, later generations accepted upon themselves not to dispute the Tannaim, and a similar acceptance took place with the sealing of the Gemara: שמיום שנחתמה לא ניתן רשות לשום אדם לחלוק עליה. Yet this explanation itself requires clarification. How can one generation bind all future generations through such an acceptance?

A striking approach is attributed to Rav Chaim Brisker: in principle, an Amora could disagree with a Tanna. When the Gemara challenges an Amora from a Mishnah or braisa, the assumption is merely that had the Amora known the earlier source, he would likely have reconsidered his ruling. This approach, however, is difficult to reconcile with the many Rishonim who clearly assume that an Amora does not have the authority simply to reject the ruling of a Tanna.

The Rambam's own formulation suggests another approach. A later Beis Din may overturn the ruling of an earlier Beis Din when it understands the earlier position and concludes it is mistaken. But once later generations recognized that the earlier generations were incomparably greater in Torah and that they did not fully grasp the depth of their reasoning, they could no longer claim to have refuted their rulings. One cannot overturn a Torah ruling whose foundations one does not fully understand.

This does not mean earlier generations were incapable of error. Regarding explanations of pesukim or matters with no practical halachic consequence, later scholars sometimes do disagree with statements of Chazal. The principle, then, is not one of absolute infallibility; rather, it is essential to the continuity of halachah. If every generation were free to overturn the Torah rulings established by previous generations, the structure of mesorah itself could not endure.

אמת לאמיתיה and Halachic Truth

The episode of עכנאי של עכנאי reveals an even deeper principle. Even when a Bas Kol supported the position of Rabbi Eliezer, Rabbi Yehoshua declared לא בשמים היא. Halachah was not determined by the Bas Kol, but through the process the Torah itself entrusted to Chachmei Yisrael.

There is therefore a distinction between אמת לאמיתיה and halachic truth as determined through the Torah's own rules. A halachic ruling does not become binding because the Chachamim who issued it were incapable of error. It becomes binding because Hashem Himself established that Torah is to be determined through the deliberation, transmission, and authority of Chachmei Yisrael.

לא תסור The Meaning of

This is the deeper meaning of לא תסור. It is not merely a prohibition against defying a particular Beis Din; it reveals the structure of Torah Shebaal Peh itself. Hashem did not give Klal Yisrael a written Torah and leave every individual free to determine its meaning. He entrusted the Torah to its Chachamim, charged them with interpreting it, preserving it, applying it, and protecting it, and commanded Klal Yisrael to live within that mesorah.

The Rambam and Ramban may disagree about the precise technical scope of לא תסור and whether each mitzvah derabbanan itself falls within the Torah prohibition. But beneath that disagreement lies a principle on which the entire Torah system rests: obedience to Chazal is not an addition to Torah from the outside. It is part of the very structure of Torah Shebaal Peh and one of the ways through which השם רצון is transmitted to Klal Yisrael.

Mishpat Tzedek - Torah Law and Political Power

Adapted by CS from

רב יצחק קוסובסקי (1872 - 1951) – שבת ומועד חלק ג'

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Torah Law, Political Power, and the Upright Judge

The parsha opens שופטים ושופטים תתן לך בכל שעריך ושפטו את העם משפט צדק, you shall appoint judges and officers in all your gates, and they shall judge the people with righteous judgment, and concludes צדק צדק, righteousness, righteousness shall you pursue, so that you may live and inherit the Land that Hashem your G-d gives you (Shoftim 16:18–20). Rashi, citing the Sifrei, makes the remarkable statement כדאי הוא מנני הדיינים, the appointment of proper judges is sufficient to sustain Israel and settle them upon their land (Rashi to Shoftim 16:20).

Why should so much depend upon the judges, and what does Rashi mean by the unusual expression הדיינים הכשרים? The answer emerges from the structure of the parsha itself. A just society requires more than good laws. It requires a proper source of law, the power to make justice effective, and judges whose own character will not distort what the law demands. The parsha addresses all three.

From Law to Justice

Rashi explains that משפט can refer to טענות בעלי הדין, the claims of the litigants, גמר הדין, the determination of the law, or עונש הדין, its enforcement (Rashi to Tetzaveh 28:15). משפט is therefore not merely an abstract rule; it is the process through which right and wrong are determined and justice becomes reality.

This explains why the Torah commands both שופטים ושופטים. The שופטים determine the law, while the שופטים ensure that their judgments are obeyed (Rashi to Shoftim 16:18). A judgment that exists only on paper cannot protect the weak, restrain wrongdoing, or preserve society. Chazal therefore place דין among the foundations of civilization itself. Rabban Shimon ben Gamliel teaches על שלשה דברים העולם קיים על הדין ועל האמת ועל השלום, the world endures upon justice, truth, and peace (Avos 1:18), while another Mishnah warns חרב באה לעולם על עיני הדין ועל עיוות הדין because of delayed and distorted justice (Avos 5:8).

The obligation of דין was therefore not given only to Israel. It is one of the seven mitzvos of Bnei Noach (Sanhedrin 56a), and the Rambam requires them to establish courts throughout their lands (Hilchos Melachim 9:14). No society can survive without law, judges, and the power to restrain violence and oppression.

Yet there is a fundamental difference between the משפט of Israel and the law of other nations. Every society requires a legal order, but Israel did not receive its משפט from the state. The Torah introduces its civil laws with ואלה המשפטים אשר תשים לפניהם, these are the judgments that you shall place before them (Mishpatim 21:1), and Rashi explains מה הראשונים מסיני אף אלו מסיני, just as the preceding commandments were given at Sinai, so too these were given at Sinai (Rashi there, citing the Mechilta). The laws governing money, damages, and disputes between one person and another are Torah no less than Shabbos or kashrus. They are משפטי ה', the judgments of Hashem, and do not become binding merely because a ruler enacted them.

This helps explain why the Torah turns almost immediately from the judges to an apparently different subject: the king.

Why the King Cannot Become the Source of משפט

The Torah says כי תבוא אל הארץ וגו' ואמרת אשימה עלי מלך ככל הגוים אשר סביבותי שום תשים עליך מלך, when you come to the Land and say, "I will place a king over myself like the nations around me," you shall appoint a king over yourself (Shoftim 17:14–15). Chazal teach that appointing a king was one of three mitzvos given to Israel upon entering Eretz Yisrael (Sanhedrin 20b; Rambam, Hilchos Melachim 1:1).

Yet when the elders later approached Shmuel and said שימה לנו מלך, appoint us a king to judge us like all the nations (I Shmuel 8:5), Shmuel reacted sharply: וירע הדבר בעיני שמואל כאשר אמרו, the matter was displeasing to Shmuel when they said, Give us a king to judge us (8:6). If appointing a king is itself a mitzvah, what was wrong with asking for one?

Chazal distinguish between the elders and the common people: זקנים שבדור כהוגן שאלו שנאמר תנה לנו מלך לשפטנו אבל עמי הארץ שבהן קלקלו שמואל והיינו גם אנחנו ככל הגוים ושפטנו מלכנו, the elders of that generation asked properly, but the amei haaretz corrupted the request by saying, We too shall be like all the nations and our king shall judge us (Sanhedrin 20b).

But even the elders' request seems problematic, because the very words תנה לנו מלך לשפטנו displeased Shmuel. The crucial word is לשפטנו.

The Ran, R. Nissim of Gerona (c. 1320–1376), explains that Torah establishes two distinct forms of authority. The king is responsible for the הסידור המדיני, the political order necessary for society to function. Government must preserve public order, protect the nation, wage war, and respond to dangers that require immediate action. These needs exist in Israel as they do in every country (Derashos HaRan, Derush 11).

But the king does not thereby become the source of משפט התורה. Among the nations, political sovereignty and legal authority may rest in the same ruler. Israel has a different structure. The king may possess enormous power, but the law does not originate with him. The Shoftim administer משפט התורה; the king exercises the authority required for the הסידור המדיני and the needs of the hour. Both possess authority, but their functions are not interchangeable.

This was the subtle error in the demand לשפטנו מלך. As the Ran explains, they wanted their central system of governing בין מלך ומשפט, from royal authority, rather than from the demand לשפטנו מלך. The issue was therefore much larger than the form of government. It concerned the relationship between law and power. Torah does not reject political power. On the contrary, society cannot survive without it. משפטי השופטים are needed to enforce judgments, and a מלך is needed to preserve the wider political order. But power must serve משפט rather than become its source. The king may govern, protect, and enforce; he may not redefine Torah justice.

The amei haaretz went further. Their declaration והיינו גם אנחנו ככל הגוים, we too shall be like all the nations (I Shmuel 8:20), expressed not merely a desire for monarchy but a desire to erase the distinction between Israel and the nations. Hashem therefore tells Shmuel כי לא תהיה אתה כדומה לאומות הארץ, it is not you whom they have rejected, but Me whom they have rejected from reigning over them (I Shmuel 8:7).

We can now understand why the king belongs in a parsha that begins with שופטים ושוטרים. The Torah is defining the proper relationship among law, judgment, enforcement, and political power. The שופט

determines משפט התורה, the שופט gives the judgment practical force, and the מלך preserves the wider order of the nation. Political authority is indispensable, but it must remain the servant of justice rather than its master.

Yet even when the law comes from Sinai, political authority respects its limits, and judgments are properly enforced, one danger remains: the person sitting in judgment can still bend what is straight. That is why everything ultimately depends upon הדיונים הכשרים.

What Is a כשר?

Rashi's expression is striking because כשר can mean simply legally qualified. The Mishnah states הכל כשרים לדון דיני ממונות, all are qualified to judge monetary cases (Sanhedrin 4:2). Surely Rashi means something more when he says that the appointment of הדיונים is sufficient to sustain Israel upon its land.

Chazal speak of an אדם כשר, a worthy and upright person. In this deeper sense, כשר approaches the idea of ישר. Koheles says ומהם בקשו ישר ומהם בקשו חשבונות רבים, Hashem made man upright, but they sought many calculations (Koheles 7:29). Man was created ישר, capable of allowing his higher judgment to govern his lower desires. The danger begins when fear, ambition, anger, self-interest, or appetite bends what he knows to be right.

Nowhere is that danger greater than in a judge. A crooked law is obviously dangerous, but even a perfectly straight law can produce crooked justice when administered by a crooked person.

This gives force to the statement ישרים עדיפי מצדיקים, the upright are superior even to the righteous (Rashi to Taanis 15a). A tzaddik may stumble and then rise again, as the pasuk says וקם צדיק וקם, a tzaddik may fall seven times and rise (Mishlei 24:16). The ideal of ישר is different: to remain straight, resisting the forces that would bend a person away from the הישר הדרך.

For this reason, our Avos are described by Chazal as ישרים (Avodah Zarah 25a). Their defining path was ה' לעשות צדקה ומשפט, the way of Hashem, to perform righteousness and justice (Vayeira 18:19). A ישר is therefore more than a dayan who knows the law, and more even than one who is formally qualified for office. He must be an איש ישר.

He cannot allow the identity of the litigants to affect his judgment, לא תכיר פנים, you shall not recognize faces; money cannot bend him, ולא תקח שוחד, you shall not take a bribe (Shoftim 16:19). Nor may fear, popularity, social pressure, or even misplaced compassion distort what the law requires.

Yet ישר does not mean hardness. The Navi commands דרשו משפט, seek justice, strengthen the oppressed, judge the orphan, plead for the widow (Yeshayahu 1:17). The same judge who must resist corruption must be deeply sensitive to the vulnerable. His challenge is precisely to ensure that neither cruelty nor compassion bends משפט away from אמת.

When Justice Is Truly Straight

We can now understand why the parsha begins with שופטים ושוטרים and concludes צדק צדק תרדוף למען תהיה וירשת את הארץ. A just society requires three safeguards: the law itself must be straight, governmental power must remain subordinate to that law, and the judge applying it must himself be straight.

Without the first, משפט becomes whatever those in power wish it to be. Without the second, justice remains powerless. Without the third, even the Torah's own משפט can become distorted in human hands.

That is the force of Rashi's statement כדאי הוא מנוי הדיינים הכשרים להחיות את ישראל ולהושיבם על אדמתם, the appointment of upright judges is sufficient to sustain Israel and settle them upon their land (Rashi to Shoftim 16:20).

A nation may possess laws, courts, enforcement, and government and still lack משפט צדק. What sustains Klal Yisrael is a society in which power serves Torah justice, and Torah justice is entrusted to people ישרים enough not to bend it.

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Akiras Davar Min HaTorah

Rav Hershel Schachter

לא תסור מן הדבר אשר יגידו לך ימין ושמאל

"You shall not deviate from the word that they will tell you, right or left" (Devarim 17:11).

Rashi, based on the Sifrei, explains the extraordinary reach of this obligation: אפילו אומר לך על ימין שהוא שמאל ועל שמאל שהוא ימין — even if the Chacham tells you that right is left and left is right. At first glance, this seems to mean that even when Beis Din HaGadol is mistaken, its ruling remains binding. Herman Wouk reportedly told his literature class at Yeshiva University that this idea — the binding force of authority even when it errs — inspired the theme of *The Caine Mutiny*.

The Ramban, however, argues that this cannot be the Sifrei's intent. The Mishnah in Horayos (1:1) teaches that a member of Beis Din, or a qualified talmid who knows that Beis Din has ruled incorrectly, may not simply follow its decision. If he does so, he remains personally responsible and must bring a Korban Chatas. The authority of Beis Din therefore cannot mean that a ruling known to be erroneous somehow becomes correct merely because Beis Din issued it.

The Ramban accordingly cites the reading אפילו מראין בעיניך על ימין — even when it appears in your eyes that they are calling right left. The Torah addresses the person who finds a ruling difficult or counterintuitive but does not actually know it to be mistaken. לא תסור then demands emunas Chachamim: he must recognize the limits of his own understanding and presume that the Sanhedrin has ruled correctly.

Rav Elchonon Wasserman Hy"d (*Kuntres Divrei Sofrim* 4:13) suggests a different understanding. The Sifrei is not discussing a mistaken ruling at all. It refers to a case in which the Chachamim knowingly direct us not to fulfill a Torah requirement — an עקירת דבר מן התורה.

Chazal possess authority to enact safeguards for Torah observance, based upon שמירתם את משמרת — *"You shall safeguard My charge"* (Vayikra 18:30), which Chazal interpret as שמירת למשמרת, an instruction to create safeguards around Torah law (Yevamos 21a). The Gemara goes further and teaches יש כח ביד חכמים לעקור דבר מן — the Chachamim may sometimes suspend a Torah obligation when this is accomplished passively, through שב ואל תעשה (Yevamos 89b–90b).

The classic example is shofar on Rosh Hashanah that falls on Shabbos. Although the Torah requires shofar, Chazal prohibited it out of concern that someone might carry a shofar through a reshuv

harabbim in order to learn how to blow it (Rosh Hashanah 29b).

According to Rav Elchonon, this is precisely the meaning of לא תסור. The Torah commands shofar, yet the Chachamim tell us that on this particular Rosh Hashanah we must not blow it. In that sense, they are telling us that "right is left and left is right," and the Torah itself commands us to obey.

The Gemara limits this authority. Ordinarily, Beis Din may suspend a Torah requirement only through שב ואל תעשה, not by requiring an active violation, קום ועשה. Yet there is an important exception: להוראת שעה, a temporary measure necessary to arrest a serious religious breach.

The model is Eliyahu HaNavi at Har HaCarmel. Once the Beis HaMikdash had been built, korbanos could no longer be offered elsewhere. Nevertheless, Eliyahu built a mizbei'ach on Har HaCarmel and offered a korban in order to defeat the prophets of Ba'al and bring Klal Yisrael back to Hashem. This was an active violation of the ordinary Torah law, but it was permitted as a temporary emergency measure intended למיגדר מילתא.

Tosfos (Sanhedrin 89b; Yevamos 90b), citing Rashi, understands that Eliyahu acted by virtue of nevu'ah. This raises an important question: how can the Gemara derive from the authority of a navi that Beis Din possesses a similar power? A navi has his own Torah mandate of אליו תשמעון — *"to him you shall listen"* (Devarim 18:15). The answer reveals a broader principle. The authority of a navi under אליו תשמעון and that of the Chachamim under לא תסור operate within comparable limits. Neither may create a permanent contradiction to Torah law. Chazal state אין נביא רשאי להחדש דבר מעתה — a navi may not introduce a new Torah law after Sinai (Megillah 2b), based upon אלה המצות אשר צוה ה' את משה אל בני ישראל בהר סיני (Vayikra 27:34).

The same limitation applies to Beis Din.

Here, חידוש does not merely mean an original idea. Tosfos uses the term for something that contradicts the established halachic system. A passive suspension of a mitzvah through שב ואל תעשה is not regarded as an outright contradiction to the Torah and therefore may fall within the authority of the Chachamim. A permanent active violation ordinarily does contradict the Torah and is therefore impermissible. Only when it is temporary and necessary להוראת שעה can it be sanctioned.

This framework explains a striking concept developed by Tosfos in several places (Yevamos 89b; Gittin 32a; Avodah Zarah 13a). Under certain circumstances, the Chachamim may even enact something that results in a permanent and active התורה דבר מן התורה when it can be structured as a דבר הדומה — something that resembles an existing halachic mechanism. Because the enactment operates within the recognizable form of Halachah, it is not viewed as an open contradiction to Torah law.

One example is אפקעינהו רבנן לקידושין מיניה, the power of Chazal in certain circumstances to annul kiddushin retroactively. Where kiddushin was effected with money, the Gemara invokes הפקר בית דין, the authority of Beis Din over property. Yet strictly speaking, money that was given for kiddushin years earlier no longer exists in the husband's possession, and a present act of hefker cannot literally transform that earlier transfer retroactively. According to this approach, הפקר בית דין supplies the enactment with the structure of a familiar halachic mechanism — a דבר הדומה — even though the underlying authority is broader.

Tosfos applies the same idea to one of the most important leniencies concerning an agunah. Ordinarily, matters of marriage require two witnesses, yet Chazal permit a woman to remarry on the testimony of a single witness that her husband has died. The Gemara explains that this testimony possesses special credibility because it concerns a מילתא דעבידא לאיגלווי, a matter whose truth is likely eventually to become known, and because אשה דייקא ומינסבא — a woman will investigate carefully before remarrying, knowing the terrible consequences if her husband later returns (Yevamos 115a). Elsewhere, however, the Gemara describes the rule as משום עיגונא אקילו בה רבנן — because of the plight of the agunah, the Rabbis were lenient (Yevamos 88a). Tosfos understands this to mean that the heter is ultimately rabbinic. Although allowing the woman to remarry appears to involve a קום ועשה contrary to the normal Torah requirement of two witnesses, the principles of לאיגלווי and אשה דייקא ומינסבא make the ruling a דבר הדומה. It can be framed within recognizable Torah principles and therefore is not regarded as an overt contradiction of Halachah.

This interpretation is far from universally accepted. The Chazon Ish (Even Ha'Ezer 22:3) rejects the suggestion that Tosfos intended the agunah heter as an actual rabbinic התורה דבר מן התורה, and Rav Soloveitchik preferred the approach of other Rishonim. The Nemukei Yosef, citing the Ritva and Ra'ah, explains that the testimony of the single witness is genuinely sufficient on a d'oraisa level. What, then, does משום עיגונא אקילו בה רבנן mean? Rav Soloveitchik explained that the phrase describes not the legal basis of the heter but its historical impetus. During periods of Roman persecution, when men disappeared or were killed and adequate witnesses were often impossible to find, Chazal confronted a devastating agunah problem. That crisis drove them to search the existing halachic system for a legitimate solution. The plight of the agunah could motivate the search for a kulah, but human need by itself could not create the heter. Chazal still required a genuine halachic mechanism. They recognized that the established principles of אשה דייקא ומינסבא and מילתא דעבידא לאיגלווי could be applied here, producing a sufficiently strong presumption that the husband had died. On this understanding, the heter is valid even on the level of d'oraisa and involves no התורה דבר מן התורה at all. The distinction is fundamental. Halachah gives Chazal extraordinary authority, including at times the power to suspend a Torah obligation. But that authority is itself governed by Torah. לא תסור does not mean that the Chachamim may simply replace Torah law with whatever seems desirable. Rather, the Torah establishes both their authority and its boundaries: safeguards, הוראת שעה, and recognized halachic mechanisms. Even when extraordinary circumstances demand extraordinary solutions, the solution must emerge from within the structure of Halachah itself.

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subject: **Rav Frand - The Spiritual Reality Created by the Decrees of the Chachomim**

These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Series on the weekly portion: #1478 – Can Women Be Told Not to Come to Shul to Make More Space for Men During Covid? Good Shabbos

The Spiritual Reality Created by the Decrees of the Chachomim

The first mention of the concept of Bnei Yisroel having a monarch is in Parshas Shoftim. The people wanted a melech (king). The Torah presents all the halachos of a melech. The melech may not have too much money or too many horses, nor is he allowed to have too many wives. The Torah mentions a concern that too many wives would cause him to stray from the derech Hashem.

Famously, the Navi says that Shlomo Hamelech had 700 wives and 300 concubines, and, in his old age, (as the Torah predicted) they indeed “turned his heart.” They had a negative effect on Shlomo Hamelech “and his heart was not complete with his G-d as was the heart of Dovid, his father.” (Melachim I 11:4).

The Gemara (Sanhedrin 21b) says that Shlomo had confidently predicted that he would not stumble by violating the Torah's prohibition: “I will take many and I will not stray.” The Gemara says that he was mistaken. The obvious question is, how could the wisest of all men make such a gross error? When we say that he was the wisest of all men, we don't just mean that he knew and understood the Theory of Relativity thousands of years before Einstein. It means he was a chochom who understood life, who understood himself, and who understood the nature of man. So how could he make this mistake and say “It's not going to affect me?” What was his thought process?

The truth of the matter is that we find someone who, in a subsequent generation, made the same mistake. The Gemara says (Maseches Shabbos 12b) that Rav Yishmael ben Elisha said, “I will read (by candlelight on Shabbos) and will not (absentmindedly) tip (the candle in violation of a Shabbos prohibition). The halacha is that reading on Shabbos by candlelight is not permitted. This is a rabbinic decree. The Gemara relates that one time he read by candlelight on Shabbos, confident that he would not tip the candle. He got involved in studying a sugya and was so absorbed in his studies that he almost did tip the candle on Shabbos.

When that happened, he proclaimed, “How great are the words of the chachomim who forbade reading on Shabbos by candlelight.” Now, are we to assume that until this incident occurred, Rav Yishmael did not think “How great are the words of the chachomim?” That would be very difficult to say. What, then, is the meaning of this incident? Rav Elya Baruch Finkel mentions a fundamental principle from Rav Aharon Kotler: The Torah creates a spiritual reality. Just like there are certain laws of nature which affect the reality of this world, so too the laws of the Torah affect the reality of this world. If the Torah writes, “Don't have too many wives lest they will cause his heart to stray...” this creates a reality in creation – like gravity or any other force of nature – that “if you do this, this and this will happen.” This is part of the concept of “He looked into the Torah and created the world.”

If you throw something up, it is going to come down. It is an undeniable fact. So too, if the Torah writes “He shall not take too many wives for they will cause his heart to stray” that creates an incontrovertible fact that it is going to happen. This was Shlomo's mistake. Yes. Shlomo was the wisest of all men. But he didn't realize that once the Torah said this (that too many wives will cause a king's heart to stray), it becomes a reality for every human being, no matter how smart or how wise or how careful he might be.

According to Rav Elya Baruch Finkel, that is, in fact, what happened with Rabbi Yishmael. When he started reading by candlelight on

Shabbos and then saw that he almost tipped the candle towards him, he proclaimed: “I see how great are the words of our chachomim.” That means: I realized that if the Torah says something, that creates a reality. That is Hashem’s word. But I had thought that the chachomim making a gezeira is different. Sure, I respect the chachomim. I know they are wise, but I didn’t think that their gezeiros would also create such a reality. I did not realize that if they make a decree not to read by candlelight lest you absentmindedly tip it, then inevitably, that will happen to someone who reads by candlelight.

Where do we see this nogeah l’maaseh (applicable) in practice? There is a Biblical prohibition of yichud (forbidden seclusion between a man and a woman). People may say: “Fine, when someone is 35 years old and is alone together with a woman in a room, I can understand that his natural inclinations may tempt him to do something inappropriate. But “over the hill” people like me don’t need to worry about yichud.” No. If the Torah says do not seclude because it leads to forbidden relationships, no matter what age you are, the halacha applies.

I recently read an incident with the Minchas Chinuch. He was in his seventies and a woman came to ask him a shaylah (halachic inquiry). The woman closed the door behind her. The Minchas Chinuch realized that he was violating yichud with a woman. What did he do? He jumped out the window! Imagine a man of that stature at his age jumping out of a window! But that was the only way he saw to get out of the problem situation!

That is what the Torah is saying over here. Even Shlomo Hamelech cannot deny the laws of nature and so too, he cannot deny the laws of spiritual nature either.

Biblical Draft Deferments Explained

The Torah lists people who are exempt from going to battle during a time of war. One exception is a person who built a house but did not make a chanukas habayis (house dedication). Another exception is a person who planted a vineyard, but had not yet partaken of the fourth year’s crops. Another exception is a person who betrothed a woman (erusin), but had not yet married her (nisuin).

Finally, the Torah says that a fearful person is sent home lest he weaken the hearts of his fellow soldiers during battle and cause them to flee. Rashi brings the famous machlokes Tanaim as to the nature of this fear. Rabbi Akiva takes the expression literally. A person is frightened by the sounds of battle and cannot bear seeing a drawn sword. Rabbi Yossi Haglilee says the Torah is speaking of a person who is fearful that he may die in battle as a result of his personal aveiros (sins). According to Rabbi Yossi Haglilee, the Torah hides the embarrassment of the person who is afraid to do battle and allows him to take his deferment alongside the others who are newly married or have not yet enjoyed their new home or new vineyard. The Torah invented three other exceptions to spare embarrassment to the person who was afraid of battle.

Rav Baruch Sorotzkin asks an interesting question: How is it that the Torah risks a significant decrease in the number of soldiers available for war, just to protect those soldiers who are afraid to do battle from embarrassment? The Jewish army needs every able-bodied man who can participate! They are going to war! Why allow all these “fake deferments” just to give these people who are scared because of their aveiros, an excuse to not go to battle?

Rav Baruch Sorotzkin answers that we see from here, how important it is to make sure a person does not suffer embarrassment. Saving a person from humiliation is worth risking the loss of a thousand soldiers!

The truth of the matter is, I don’t know if this is really enough of an answer. Perhaps we can suggest a stronger answer based on a very interesting Ramban in this week’s parsha. The Ramban writes that the reason the Torah said “Do not allow the king to have too many horses” is so that the king won’t rely on his military strength, but rather he should place his trust in Hashem. The Torah doesn’t want the Jewish king to have the strongest army on the battlefield. The Torah wants him to realize that he will win or lose not because of the strength of his army, but because of his bitachon in the Ribono shel Olam.

The Ramban adds that in Sefer Shoftim, when Gidon went to war with Midyan, Amalek, and Bnei Kedem, he had an army of 32,000 men. However, the Ribono shel Olam told him that He did not want Bnei Yisrael to think that they were victorious because they had the larger and stronger army. Gideon was told to go to battle with only 300 men. This way he would recognize that the salvation was not coming from his army, but from Hashem.

In our day and age, we don’t have the same giluy Shechina (Divine revelation) so we cannot say that TZahal should get rid of all of their tanks and planes, etc. We don’t have that same level of siyata dishmaya (help from Heaven), but the truth of the matter is, for those of us old enough to remember the Six Day War in which we defeated the Arab armies in six days, the concern mentioned by the Ramban occurred. People were saying that the victory came “because the Israeli Air Force was so skilled” and “they bombed all of Egyptians planes while they were still on the runway.” They were claiming “Kochi v’otzem yadi asah li es hachayil hazeh!” Nonetheless, today, we can’t make such a cheshbon (calculation) because we don’t have the same level of siyata dishmaya.

Therefore, the true answer to Rav Baruch Sorotzkin’s question of how we can exempt all these hundreds of men is answered by the simple fact that we don’t need all those men when we have siyata dishmaya. So there is no kasha about having so many exemptions. In addition, the Rashbam explains the reason for the Torah’s specified draft deferments by providing an insight into human nature. The Torah was afraid that a person who planted a vineyard and did not yet eat its fruits, built a house and did not move in, etc., would become depressed upon being drafted that he has no mazal! A person who feels he has no mazal will fear that he is doomed to die in battle. His perception of himself may become so negative that he might assume he will never see the end of the war. Such an attitude will ruin the morale of the entire army. That is why, the Rashbam says, we exempt these people from battle — because these are people who would be going to fight with the wrong attitude. And when someone goes into battle with the wrong attitude, it is very bad for morale.

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subject: Testing Prophecy 📖 (Rabbi Sacks on Parshat Shoftim)

COVENANT & CONVERSATION

Shoftim: Testing Prophecy

Lord Rabbi Jonathan Sacks zt"l

In his enumeration of the various leadership roles within the nation that would take shape after his death, Moses mentions not only the priest/judge and the king, but also the prophet:

“The Lord your God will raise up another prophet like me from among your own people. You must listen to him.” Deut. 18:15

Moses would not be the last of the prophets. He would have successors. Historically this was so. From the days of Samuel to the Second Temple period each generation gave rise to men and women who spoke God’s word with immense courage, unafraid to censure kings, criticise priests, or rebuke an entire generation for its lack of faith and moral integrity.

There was, however, an obvious question: How does one tell a true prophet from a false one? Unlike kings or priests, prophets did not derive authority from formal office. Their authority lay in their personality, their ability to give voice to the word of God, their self-evident inspiration. But precisely because a prophet has privileged access to the word others cannot hear, the visions others cannot see, the real possibility existed of false prophets – like those of Baal in the days of King Ahab. Charismatic authority is inherently destabilising. What was there to prevent a fraudulent – or even a sincere but mistaken – figure, able to perform signs and wonders and move the people by the power of his words, from taking the nation in a wrong direction, misleading others and perhaps even himself?

There are several dimensions to this question. One in particular is touched upon in our Torah portion, namely the prophet’s ability to foretell the future. This is how Moses puts it:

You may say to yourselves, “How can we know when a message has not been spoken by the Lord?” If what a prophet proclaims in the name of the Lord does not take place or come true, that is a message the Lord has not spoken. That prophet has spoken presumptuously. Do not be afraid of him. Deut. 18:21-22

In the face of it, the test is simple: if what the prophet predicts comes to pass, he is a true prophet; if not, not. Clearly, though, it was not that simple.

The classic case is the Book of Jonah. Jonah is commanded by God to warn the people of Nineveh that their wickedness is about to bring disaster on them. Jonah attempts to flee, but fails – the famous story of the sea, the storm, and the “great fish”. Eventually he goes to Nineveh and utters the words God has commanded him to say – “Forty more days and Nineveh will be destroyed” – the people repent and the city is spared. Jonah, however, is deeply dissatisfied:

But Jonah was greatly displeased and became angry. He prayed to the Lord, “O Lord, is this not what I said when I was still at home? That is why I was so quick to flee to Tarshish. I knew that You are a gracious and compassionate God, slow to anger and abounding in love, a God who relents from sending calamity. Now, O Lord, take away my life, for it is better for me to die than to live.” Jonah 4:1-3

Jonah’s complaint can be understood in two ways. First, he was distressed that God had forgiven the people. They were, after all, wicked. They deserved to be punished. Why then did a mere change of heart release them from the punishment that was their due?

Second, he had been made to look a fool. He had told them that in forty days the city would be destroyed. It was not. God’s mercy made nonsense of his prediction.

Jonah is wrong to be displeased: that much is clear. God says, in the rhetorical question with which the book concludes: “Should I not be concerned about that great city?” Should I not be merciful? Should I not forgive? What then becomes of the criterion Moses lays down for distinguishing between a true and false prophet: “If what a prophet proclaims in the name of the Lord does not take place or come true, that is a message the Lord has not spoken”? Jonah had proclaimed that the city would be

destroyed in forty days. It wasn’t; yet the proclamation was true. He really did speak the word of God. How can this be so?

The answer is given in the book of Jeremiah. Jeremiah had been prophesying national disaster. The people had drifted from their religious vocation, and the result would be defeat and exile. It was a difficult and demoralising message for people to hear. A false prophet arose, Hananiah son of Azzur, preaching the opposite. Babylon, Israel’s enemy, would soon be defeated. Within two years the crisis would be over. Jeremiah knew that it was not so, and that Hananiah was telling the people what they wanted to hear, not what they needed to hear. He addressed the assembled people:

He said, “Amen! May the Lord do so! May the Lord fulfil the words you have prophesied by bringing the articles of the Lord’s house and all the exiles back to this place from Babylon. Nevertheless, listen to what I have to say in your hearing, and in the hearing of all the people: From early times the prophets who preceded you and me have prophesied war, disaster, and plague against many countries and great kingdoms. But the prophet who prophesies peace will be recognised as one truly sent by the Lord only if his prediction comes true.”

Jeremiah makes a fundamental distinction between good news and bad. It is easy to prophesy disaster. If the prophecy comes true, then you have spoken the truth. If it does not, then you can say: God relented and forgave. A negative prophecy cannot be refuted – but a positive one can. If the good foreseen comes to pass, then the prophecy is true. If it does not, then you cannot say, ‘God changed His mind’ because God does not retract from a promise He has made of good, or peace, or return.

It is therefore only when the prophet offers a positive vision that he can be tested. That is why Jonah was wrong to believe he had failed when his negative prophecy – the destruction of Nineveh – failed to come true. This is how Maimonides puts it:

As to calamities predicted by a prophet, if, for example, he foretells the death of a certain individual or declares that in a particular year there will be famine or war and so forth, the non-fulfilment of his forecast does not disprove his prophetic character. We are not to say, “See, he spoke and his prediction has not come to pass.” For God is long-suffering and abounding in kindness and repents of evil. It may also be that those who were threatened repented and were therefore forgiven, as happened to the men of Nineveh. Possibly too, the execution of the sentence is only deferred, as in the case of Hezekiah. But if the prophet, in the name of God, assures good fortune, declaring that a particular event would come to pass, and the benefit promised has not been realised, he is unquestionably a false prophet, for no blessing decreed by the Almighty, even if promised conditionally, is ever revoked ... Hence we learn that only when he predicts good fortune can the prophet be tested. Yesodei haTorah 10:4

Fundamental conclusions follow from this. A prophet is not an oracle: a prophecy is not a prediction. Precisely because Judaism believes in freewill, the human future can never be unfailingly predicted. People are capable of change. God forgives. As we say in our prayers on the High Holy Days: “Prayer (Tefillah), penitence (Teshuvah), and charity (Tzedakah) avert the evil decree.” There is no decree that cannot be revoked. A prophet does not foretell. He warns. A prophet does not speak to predict future catastrophe but rather to avert it. If a prediction comes true it has succeeded. If a prophecy comes true it has failed.

The second consequence is no less far-reaching. The real test of prophecy is not bad news but good. Calamity, catastrophe, disaster prove nothing. Anyone can foretell these things without risking his reputation or authority. It is only by the realisation of a positive vision that prophecy is put to the test. So it was with Israel’s prophets.

They were realists, not optimists. They warned of the dangers that lay ahead. But they were also, without exception, agents of hope. They could see beyond the catastrophe to the consolation. That is the test of a true prophet.

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.

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PARSHAT SHOFTIM

What is the ideal form of leadership for Am Yisrael:
a NAVI [a prophet];
a SHOFET [a judge];
a KOHEN [a priest];
a MELECH [a king]?

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

INTRODUCTION

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

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

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

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

"OR LA'GOYIM"

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

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

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

(see Devarim 4:5-8).

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

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

THE NATIONAL INSTITUTIONS

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

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

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

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

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

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

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

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

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

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

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

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

SHEVET LEVI

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

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

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

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

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

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

THE NAVI

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

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

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

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

SO WHO'S IN CHARGE?

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

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

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

* Who will determine foreign and domestic policy?

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

* Basically, who will run the country?

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

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

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

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

THE "MELECH"

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

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

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

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

* He must NOT amass too much silver and gold.

When he is seated on his royal throne

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

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

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

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

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

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

THE MAKING OF A NATION

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

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

"K'CHOL HA'GOYIM"

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

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

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

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

A CHALLENGE

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

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

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

shabbat shalom,
menachem

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FOR FURTHER IYUN

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

See Kings II- 11:17

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

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

I.

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

Is a dynasty necessary to be considered a king?

How does this question relate to the above shiur?

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

Which type of melech is the Rambam referring to?

See also the Rambam in Hilchot Melachim perek I.

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

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

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

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

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

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

a. Who forms the first standing army?

b. Who first decides to construct the Bet HaMikdash?

c. Who is the first to levy taxes?

D. Who establishes a strong central government?

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

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

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

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

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

INTRODUCTION

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

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

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

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

SUMMARY – OR NOT?

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

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

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

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

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

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

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

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

THE CASE ISN'T CLOSED!

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

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

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

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

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

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

PARTICULAR or GENERAL

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

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

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

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

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

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

PREVENTIVE MEASURES!

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

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

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

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

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

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

A GOOD TEACHER

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

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

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

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

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

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

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

shabbat shalom,

menachem

Parshat Shoftim: Rabbinic Authority

by Rabbi Eitan Mayer

HALAKHIC AUTHORITY:

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

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

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

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

DEVARIM 17:8-13 --

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

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