

JUDGES, KINGS, WORKERS & SCHOLARS

by Shlomo Katz

Parshas Shoftim

Judges, Kings, Workers & Scholars

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Rabbeinu Nissim z"l (14th century; Barcelona, Spain) writes that, unlike other nations, the Jews have a dual judicial system. Every nation has laws, whose purpose is to make civilized life possible, and each nation has a king or other official who appoints judges to enforce those laws. In our parashah we read that Bnei Yisrael, too, are commanded to appoint a king.

The parashah begins, however, with the command to maintain a bet din (later called a Sanhedrin) and a system of courts (independent of the king, since they are mentioned before the mitzvah to appoint a king is taught). This is a reflection of the dual legal system which the Torah contemplates. The Gemara teaches that even if a defendant is not found guilty by the Sanhedrin--which, we are taught, went to any lengths to avoid executing a criminal--the king could apply a stricter form of justice and have the defendant killed anyway, if "law and order" so required.

The laws which the Sanhedrin is enjoined to enforce have a different purpose than the laws that the king enforced--to foster the spiritual growth of the Jewish people. It is clear that such is the purpose of the chukim--laws which we do not immediately understand--such as Parah Adumah and kashruth. It does not seem that "civilization" is furthered by these mitzvot. It is important to realize, however, that even the "logical" mitzvot (e.g. honoring parents and not stealing) are intended to fulfill our spiritual, and not only our societal, needs. If such were not the case, their enforcement would be the sole province of the king, not the bet din. (Derashot Ha'Ran #11)

"So that his heart does not become haughty over his brethren and not turn from the commandment right or left, so that he will prolong years over his kingdom, he and his sons amid Yisrael." (17:20)

R' Hillel Lichtenstein z"l (rabbi of Kolomea, Galicia) writes: We learn in Pirkei Avot, "If his fear of Heaven precedes his wisdom, his wisdom will persist." Fear of Heaven is the foundation for remembering one's Torah studies.

This may be alluded to in our verse, R' Lichtenstein writes. Our Sages say that if one is haughty, his wisdom will be forgotten. And, there is an expression in the Gemara, "Who are royalty? Torah scholars!" Thus, our verse could be read: If one is not haughty and one does not deviate right or left from the mitzvot, i.e., he has fear of Heaven, then he and his descendants will remain royalty, i.e., Torah scholars. (Shiyarei Maskil 1:4)

"According to all that you asked of Hashem, your Elokim, in Chorev on the day of the assembly, saying, 'I can no longer hear the voice of Hashem, my Elokim, and this great eish / fire I can longer see, so that I shall not die'." (18:16)

Rabbeinu Machir z"l (Spain; 14th century) writes: It is important to understand that the Torah uses the word "eish" / "fire" to describe many different phenomena. For example, the eish that descended from Heaven to the altar must have been different from our fire, since it never went out (see Vayikra 6:6). Our Sages say that when the eish on the altar consumed the sacrifices, it took the form of a lion. The fire with which we are familiar obviously would not do that.

Likewise, at the Giving of the Torah, an awesome fire was seen which inspired dread in those who saw it, as our verse relates. Our Sages say that this is the fire that gives life to the souls of tzadikim, as it is written (Devarim 4:4), "But you who cling to Hashem, your Elokim--you are all alive today."

R' Machir continues: Just as there is eish which is destructive, so there is eish which is non-destructive. The eish which Moshe Rabbeinu saw at the sneh / "Burning Bush" was of the latter type.

Finally, the Talmud Yerushalmi (Shekalim 6:1) states that the Torah was given to Moshe as black eish on white eish.

Therefore, writes R' Machir, one should not wonder at the expression, "The eish of Gehinom." [Of course, it does not refer to fire as we know it.] (Avkat Rocheil II ch. 28)

R' Yosef Gikatilla z"l (1248-1310; Spain; author of the kabbalistic work Sha'arei Orah) writes: Based on our verse we can understand the statement in the Pesach Haggadah, "'With great awe' (Devarim 26:8) - this alludes to the revelation of the Shechinah." If the revelation at Har Sinai was so frightening to that holy and pure generation, certainly when Hashem reveals Himself to ordinary people it will cause great awe, dread and trembling. (Haggadah Shel Pesach Tzofnat Paneach)

"Who is the man who has built a new house and has not inaugurated it? . . . Who is the man who has planted a vineyard and not redeemed it? . . . Who is the man who has betrothed a woman and not married her?" (20:5-7)

R' Moshe Sofer z"l (1762-1839; "Chatam Sofer"; rabbi and rosh yeshiva in Pressburg, Hungary) writes: The order of these verses implies that one should first build a house, then establish a means of earning a livelihood, and then get married. However, Rambam z"l (Hil. Dei'ot 5:11) writes that one should have a means of livelihood before building a house. Commentaries explain that Rambam bases himself on the verse in the kelalot / curses (Devarim 28:30), "You will betroth a woman ... ; you will build a house ... ; you will plant a vineyard ..." Since the first part of this verse clearly is out of order, as it places marriage before a livelihood, the rest of this verse must be out of order too. (This is because the kelalot reflect a topsy-turvy view of the world.) Therefore, Rambam infers that the correct order is livelihood-house-marriage.

Chatam Sofer continues: While we now understand the source for Rambam's ruling, this seems to contradict our own verses, which place building a house before earning a livelihood. He explains:

There appears to be a disagreement between Sages of the Mishnah whether one should work for a living (Rabbi Yishmael's opinion) or should devote all his time to Torah study (Rabbi Shimon bar Yochai and Rabbi Nehorai's opinion). In fact, Chatam Sofer writes, they cannot be arguing; after all, Rabbi Yishmael supports his view from a verse (Devarim 11:14), "You will gather in your grain, your wine, and your oil." Rather, everyone agrees that the ideal use of one's time is to study Torah. However, Rabbi Yishmael says, for the sake of the honor of Eretz Yisrael, one must farm the land. Indeed, we find that Boaz (in Megillat Rut) and the prophet Elisha were farmers. This was not because they did not have faith that G-d would support them while they studied Torah. Rather, the honor of Eretz Yisrael requires that we develop it, not only with farming, but with all types of trades and industry. Rabbi Shimon bar Yochai and Rabbi Nehorai, on the other hand, are talking about when we are dispersed in the exile. In that case, when one cannot perform the mitzvah of Yishuv Eretz Yisrael, one should devote himself to Torah study.

With this, the apparent contradiction between our verses and the kelalot can be reconciled. Our verse is not speaking of planting a vineyard for purposes of earning a livelihood, but only for the mitzvah of settling Eretz Yisrael. In that case, building one's own house comes first [because one must take care of his basic needs before devoting himself to performing mitzvot]. In contrast, the verse in the kelalot is speaking of when we are not doing Hashem's will and therefore are exiled. In that case, we will have to make working for a living a priority. [According to Chatam Sofer, Rambam is not describing the ideal situation but only our present reality.] (Torat Moshe)

Elul

R' Moshe ben Maimon z"l (Rambam; 1135-1204) writes: "If one transgressed any mitzvah in the Torah, whether an affirmative commandment or a negative commandment, whether intentionally or unintentionally, when he repents and returns from his sin, he must confess before G-d, He is blessed." (Hil. Teshuvah 1:1)

R' Moshe Leib Shachor z"l (Yerushalayim; 1894-1964) writes: It appears from Rambam's language that one must confess unintentional sins, but not unavoidable sins. [One commits an "unintentional" sin / "shogeg" when the act itself was premeditated, but the actor did not know it was a sin--for example, he performed an act that is prohibited on Shabbat because he forgot that day was Shabbat or he forgot the laws of Shabbat. An example of an "unavoidable" sin / "onnes" might be, depending on the precise circumstances, oversleeping and failing to recite the morning Shma before the halachic deadline.] However, writes R' Shachor, this is not necessarily so. The Gemara (Bava Kama 28b) states: "The Merciful One exempted an 'onnes' [from punishment]." This implies merely that he is not punished, but that he has sinned to some degree. Indeed, the Yom Kippur vidui does include a line, "For a sin that we have committed before You through onnes or through ratzon / desire."

Why must a person confess (and repent for) an onnes? R' Shachor offers several reasons:

First, one must examine his deeds and determine whether the sin truly was unavoidable. Perhaps if one had had greater fear of Heaven, he would have found a way to avoid the seemingly unavoidable sin. For this alone, a person should be heartbroken!

Second, even if the sin began as unavoidable, one might have enjoyed its continuation. This happens because the soul becomes "clothed" in sin even when the sin is unavoidable. Perhaps, R' Shachor adds, this is why the text of the vidui pairs sins committed "through onnes or through ratzon."

Third, one can only claim exemption from punishment for an onnes if he would not have sinned anyway. If one was not inclined to perform the mitzvah anyway, he cannot blame his sin on onnes. [For example, a person who does not recite Shma on time even when he is awake cannot excuse himself by saying that he overslept.] (Koach Ha'teshuvah)

The editors hope these brief 'snippets' will engender further study and discussion of Torah topics ('lehagdil Torah u'leha'adirah'), and your letters are appreciated. Web archives at [Torah.org](https://torah.org) start with 5758 (1997) and may be retrieved from the [Hamaayan](https://torah.org/torah-portion/hamaayan) page.

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