



D'var Torah – Parshah Shoftim Aug. 19, 2022

By Barry Bergman

Shabbat Shalom. My name is Barry Bergman.

“Justice, justice you shall pursue” are the words that summarize the parsha of Shoftim. Pursuing justice also includes creating a just society. Shoftim starts by calling for the appointment of judges and law enforcement officials to uphold the laws. These judges and officials are to be dispersed throughout the land. Judges are not allowed to show favoritism to friends or to accept bribes. The judges should not show favoritism even to those who appointed them. The parsha says *“You shall not twist judgment, and shall not recognize a face.”* Rabbeinu Bahya says this means that a wealthy man should not be offered a chair while his counterpart, the poor litigant, is made to remain standing. The behavior of the judge in regards to each of the litigants must be the same.

Rabbeinu Bahya also says that once one has received a bribe one can no longer be neutral, objective, or as the Torah says: *“you shall not accept bribery, because bribery blinds the eyes of the wise and causes the word of the righteous to falter.”* From Ketuvot 105 once one accepts a bribe the giver and the recipient become as one. After that, the judge cannot recognize incriminating arguments against the giver.

You can't apply laws without judges and they need to be fair judges. You don't have a chance for a fair trial if the judge is a drinking buddy of the other litigant or if the judge was gifted lavish vacations from a litigant.

The point is that justice must be fair. You are to apply the law equally against everyone in the community. It is also important to have good laws. One of the more famous lines from this parsha appears in Chapter 19 verse 21 where it says *“Your eye must not have pity; life for life, eye for eye, tooth for tooth, hand for hand, foot for foot”*. This is justice at the most basic level. Justice as it has been practiced for centuries without any judges. This is the logic used in vigilante justice practiced every day around the world helping to create the violent society we live in.

Of course, justice is more than missing or broken body parts. Rabbi Samson Raphael Hirsch recognizes that the literal eye for eye logic doesn't always work and that monetary compensation may be more appropriate. The parsha also recognizes that justice can't be served by people just accusing others of

crimes without any corroboration. This parsha says that a minimum of two witnesses is required to secure a conviction in a capital or corporal punishment case. One witness is not sufficient.

Individuals who testify falsely are liable to receive the punishment they sought to have | 2 upon their innocent victim.

What happens when someone accidentally causes the death of another? Should the eye for eye logic apply to this? Of course not. We are told to establish three cities of refuge for the inadvertent murderer. These cities are only for the murderer who kills his neighbor unintentionally and without hate. These cities are established to prevent revenge killings.

If a case is too baffling for a judge to decide, the case is to be referred to a higher court. Other laws include the requirement not to move the boundary marker of our neighbor.

Although Shoftim does not list all the laws that are needed for a just society to exist, it offers a blueprint as to how to construct one. Additional laws need to be created by the leaders of a nation. The fairness of those laws determines how just a nation will be. The king or the president or prime minister today plays an important role in creating a just society.

How do we assure that a king rules justly? Lord Acton said, "Power tends to corrupt, and absolute power corrupts absolutely." History is full of rulers who spent lavishly on themselves and were corrupt. In addition to saying "You shall then set a king over yourself" Shoftim, in chapter 17, lays out how a king should rule. Verse 16 starts with the phrase "Only he must not get himself many horses". Ramban says that the word "only" is important. He says the meaning is "you will set a king over you like all the nations that are around you - only he shall not be like their kings. He should not multiply horses as they do". In addition to not getting many horses, the king is not supposed to get many wives, or amass silver and gold for himself in excess. According to Rabbi Hirsch, the king has a duty of self-restraint. We understand the importance of this as in today's world we have seen how the lack of self-restraint has led these rulers to be deposed and the happiness of their peoples shattered

A leader needs to rule wisely. The parsha addresses this by requiring that the king, when he sits on the throne, write for himself two copies of the Torah. According to Rabbi Hirsch this exercise ensures that the king acknowledges that he is not above the law and that he needs to be devoted to the law.

A king may need to send his citizens into battle against an enemy. Can there really be any justice in war? Shoftim attempts to address this with rules related to war. According to the Eitz Chaim chumash, these are the oldest known rules of war. Chapter 20 lists exemptions from military service, which are:

- One who has built a new house but not dedicated it yet.
- One who has planted a vineyard but hasn't harvested it
- One who is engaged, but hasn't married his wife yet
- Anyone who is afraid and faint heartened.

3

Chapter 20 verse 10 says that when you "draw near a city to wage war against it, you must first proclaim peace offers to it". Rabbi Hirsch says that "if the city surrenders of its own accord, it is forbidden

to harm even in the slightest, any person or object within it". If the city does not surrender Chapter 20 verse 16 says "of the cities of these nations which God, your God, is giving you as an inheritance, you shall not allow a soul to remain alive".

Verse 19 says "When in your war against a city you have to besiege it a long time in order to capture it, you must not destroy its trees, wielding the ax against them. You may eat of them, but you must not cut them down."

So, even while laying siege to this city, a city you are going to destroy with residents that you are going to eliminate, you are not allowed to destroy the fruit trees.

Rabbi Jonathan Sacks says that the prohibition against cutting down fruit-bearing trees in the course of war is an example of a more general prohibition against needless destruction. In terms of our world today it is a prohibition against acts that deplete earth's non-renewable resources, or damage the ecosystem, or lead to the extinction of species.

That sounds great today in a world facing an environmental crisis, but one may find it difficult to reconcile saving the fruit trees surrounding a city with killing all the inhabitants of that same city. Chizkuni addresses this by saying "The validity of this commandment is limited to the generation Moses is addressing, i.e. the period during which the Israelites will be engaged in fighting the Canaanites in order to settle in the land promised by G-d to their patriarchs, Avraham, Yitzchok, and Yaakov."

As much as we want to pursue justice Parsha Shoftim shows us how difficult that process is. The laws, qualifications of judges, the duties of the leaders and behavior of the military are all laid out. But maybe as Chizkuni said in the 13th century, some of these commandments were meant for an earlier generation.

Maybe that is the difficulty in pursuing justice. Times change as do those in power. Legal precedents are overturned to reflect changing attitudes. Should the judiciary be independent or reflect the will of the voters? Should the penalties for certain crimes be increased, lessened or eliminated? What rights and freedom are individuals entitled to? It is hard to define justice and even more difficult to implement the systems needed to create a just society. Shoftim calls on us to pursue justice because justice doesn't just happen and it's not just to be pursued by our ancestors. It needs to be pursued again and again and again.

Shabbat Shalom