

Yad Avraham Institute
WEEKLY TORAH COMMENTARY SERIES

Parshas Shoftim

September 9, 2005

Presented By: Rabbi Yosef Kalatsky, *Shlita*

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About the Yad Avraham Institute

The Yad Avraham is a Torah learning institute located in midtown Manhattan. Classes are offered every day during the week starting at 5:50am and throughout the day. Classes in Chumash, Halacha, Hashkofa, Gemara, and general topics are well attended by businessmen, professionals, and students. The Yad Avraham invites you to participate in our extensive offerings of classes and events.

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Parshas Shoftim

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1. Understanding the Significance of the Jew

The Torah states, “**Judges and officers shall you appoint in all your cities...**” This is the positive commandment for every community to appoint a court (bais din). The Midrash Tanchumah states, “...If a Jew and a non-Jew have a dispute, the Jew is not permitted to go to the secular court to settle the dispute. If he does go to the secular court it would be a violation of a negative commandment. As King David states in Psalms, ‘...the laws were given to the Jew and the gentile is unaware of them.’ How is it possible that the gentiles are unaware of the law when one of the Seven Noachide Laws is to establish a judicial system? They are aware of the laws but they have no relevance to the “depth/meticulousness of the laws (dikdukei ha ‘din).” For example, when Ben Zachai would interrogate witnesses, to establish the credibility of their testimony, he would ask them, ‘What was the length of the stems of the figs at the scene of the crime?’”

The Midrash continues, “This level of precision and interrogation has no relevance to the non-Jew. A non-Jew is convicted by the testimony of a single witness before a single judge – even without being forewarned. This is not the case with the Jew. If it is a monetary issue a Jew must be tried before a court of three judges. If it is a capital crime he must be tried before a court of 23 judges. He must be forewarned of the extent of his transgression. Two witnesses, who have been properly interrogated by the judges, must testify against him etc...The judges must interrogate the witnesses with a minimum of seven questions (which were extremely detailed).”

The Midrash explains that the non-Jew is unaware of the laws because he has no relevance to the meticulousness of the law. The criteria for evidence and trying a Jew is far more complex and detailed than that for a gentile. Why does the Torah require greater scrutiny to establish, beyond any doubt, that the Jew should be convicted? Why does this level of precision not apply to the gentile?

The Midrash tells us that the Judges (in a Jewish court) need to interrogate the witnesses with a minimum of seven questions. The number seven connotes existence/creation/nature – G’d created existence in seven days. The Torah begins, “**Bereishis bara Elokim – In the beginning G’d created...**” The Midrash explains that the word “Bereishis” is alluding to the fact that, “*B’shvil Reishis bara Elokeem...* – for the sake of ‘the choicest’ (which is Torah) G’d created Heaven and Earth...” The term “Bereishis” also alludes to the Jewish people who are the chosen people/choicest who will receive the Torah at Sinai. Thus, all existence came to be in order to accommodate the Torah and the Jewish people. Thus, the Jew’s behavior/conduct has a profound impact on all existence. The judges interrogate the witnesses with seven questions to reflect the Jew’s crucial role in maintaining existence, which was created for his benefit. Since the gentile did not receive the Torah, he has no relevance to affecting the world in the same manner as the Jew.

The Mishna in Tractate Sanhedrin states, “Whoever saves the life of one Jew, it is as if he sustained the entire world.” The Mishna specifies the saving of one Jewish life because it is only the Jew who impacts all existence. The Torah tells us that one is permitted to violate the most stringent laws of the Torah in order to save a single Jewish life. This is not the case regarding the life of a gentile. This is because the objective of creation is to accommodate the Jew in his fulfillment of the Torah. All existence is based on the value of the Jew.

The value of the gentile establishing a judicial system, based on the Noachide commandment, is only to maintain a level of order. The gentile judicial system is only to assist/guarantee that the non-Jew adheres to the other six Noachide laws. If he should violate them, he will be prosecuted. Thus, the laws that govern the Jew have no relevance to the gentile. Therefore he cannot be tried in a non-Jewish court. When the Jewish court is properly established, in a manner that reflects G’d’s Justice, He is present among the Judges and gives them the necessary clarity to adjudicate correctly.

2. The Power of the Sanhedrin

The Torah states regarding the obligation of adhering to the ruling of the Sanhedrin (High Court), **“You shall do according to the word that they will tell you, ... and according to the judgment that they will say to you shall you do; you shall not deviate from the word that they tell you, right or left.”** The Torah could have simply stated, “do not deviate (from their word).” Why does the verse state, “you shall not deviate... right or left?” Rashi cites Chazal who explain, “One should adhere to the ruling of the court even if they should say that the one’s left is his right and his right is in fact his left.”

Chazal are telling us that one may believe that his right is his right, however, the judges/Rabbis who have a greater level of clarity and understanding know that his right is in fact his left. Based on one’s limited understanding, he may believe that something is permitted when in fact it is forbidden. Therefore, one may believe something to be so, However, if the judges say differently, he must adhere to their words because their advanced level of clarity enables them to perceive reality for what it is – even if their ruling is contrary to one’s rational perspective and understanding.

Ramban in his commentary explains that even if the individual’s understanding of something is correct, he must nevertheless adhere to the ruling of the Sanhedrin because their words are synonymous with Torah. The position of the Sanhedrin is the position of the Torah. Thus, regardless of the accuracy of one’s understanding he must abide by their ruling.

The Torah tells us that if there is a dissenting opinion within the Sanhedrin, the minority must follow the majority – regardless of the cogency of the minority opinion. If there is an individual who is qualified to be a judge and does not accept the majority opinion (regardless of the accuracy/cogency of his position) and publicly apposes/defies it, the Torah states that he must be put to death. Ramban explains that the mitzvah of adhering to the ruling of the Sanhedrin, regardless of the accuracy of their position, is a necessary and essential commandment. There was one Torah that was given to the Jewish people at Sinai. Since each individual processes and understands reality in his own way, if people were allowed to follow their own understanding, there would be many opposing positions – regardless of the fact that there is only one Torah. Therefore there is a commandment that one must adhere to the ruling of the Sanhedrin, regardless of its correctness because the Sanhedrin’s ruling is that of the Torah.

The Torah tells us that if the court finds an individual guilty of committing an inadvertent murder, he must flee to a city of refuge and remain there until the passing of the Kohen Gadol (High Priest). The High Priest is responsible pray on behalf of the Jewish people. His role is unique in that he is the only one that is permitted to enter into the Holy of Holies and beseech G’d on their behalf. Thus, if the tragedy of inadvertent murder takes place under his watch, he is held accountable/responsible for it. If he had prayed more intensely, the tragedy would have been averted. This is the relationship between the High Priest and the inadvertent murderer.

It is interesting to note that if a new Kohen Gadol is installed before the ruling of the court, but after the murder, the inadvertent murderer must still be confined to the city of refuge until the passing of the High Priest. The Gemara in Tractate Makos asks, “If an individual were to inadvertently commit murder while the Kohen Gadol was already installed, one could say that the High Priest could have prevented this tragedy if he had only prayed more intensely. However, if the tragedy had occurred prior to the appointment of the High Priest, how could he be held culpable?” The Gemara answers, “As the new Kohen Gadol, he could have prayed that the court find the inadvertent murder not guilty. The fact that he was found guilty indicates that he did not pray sufficiently. Therefore, the inadvertent murder must remain in the city of refuge until the passing of the Kohen Gadol.” If one is in fact guilty, the court should find him guilty. What relevance does the prayers of the High Priest have with the ruling of the court?

The Torah dictates that the ruling of the Sanhedrin establishes reality. The understanding of the judges is guided by G’d Himself. Thus it is possible that if the High Priest had beseeched G’d sufficiently, the judges would have perceived and understood him to be not guilty.

Chofetz Chaim writes in his work *Chofetz Chaim*, that there was a situation in which an individual, who believed himself to be innocent (and was in fact innocent); however despite this, he was found guilty. One of the judges wrote a brief on the ruling and the background of the case. Another individual who read the brief openly criticized the ruling as being baseless and flawed. Chofetz Chaim explains that the individual who criticized the ruling failed in two ways. If he had difficulty with the ruling he should have approached the judges in private and discussed the matter with them and not with the defendant who was found guilty. In addition, the Rosh (an earlier commentator) in Tractate Bava Basera writes that in

certain cases one is found guilty because G'd wants him to be found guilty – regardless of his innocence. Therefore the individual should not have criticized the ruling of the court because it is the word of G'd.

3. *The Value of Sacrifice*

The Torah states, “**Judges and officers shall you appoint for yourself in all your cities.**” The Torah could have stated, “Judges and officers shall you appoint in all your cities.” What is the significance of the expression “**for yourself?**”

The Midrash explains, “The words ‘**for yourself**’ teach us that the judicial system of the Jewish people identifies with Moshe. The judicial system was one of three areas for which Moshe had sacrificed. Moshe had sacrificed himself for the sake of Torah. As it states, ‘He was with G'd (in heaven) for forty days and forty nights...Bread, I (Moshe) did not eat and water I did not drink.’ Since he sacrificed himself for Torah, it identifies with him- as it is written, ‘You should remember the Torah of Moshe my servant.’ In addition, Moshe sacrificed himself for the sake of the Jewish people. As it states (after the sin of the Golden Calf), ‘If You (G'd) will not carry their sin (of the Jewish people) You should obliterate my name from Your book (the Torah).’ Thus, the Jewish people identify with Moshe – as it states, ‘Go down because your people have become corrupted.’ The judicial system is identified with Moshe because he sacrificed himself for the sake of judging another in truth.”

When Moshe had come out of the palace in Egypt he had witnessed an Egyptian beating a Jew. He killed the Egyptian and buried him in the sand. The following day Moshe had interceded between two Jews quarreling and reprimanded them. One of them responded defiantly to Moshe, “Since when have you become a judge?” This was an allusion to Moshe’s killing the Egyptian the previous day. He had risked his life by exacting justice on the Egyptian. He also needed to flee Egypt as a result of his actions – yet it did not interfere with Moshe implementing justice. It is because of his sacrifice that the judicial system is identified with him.

It is interesting to note that when G'd had identified the Jewish people with Moshe- “Go down because your people have sinned...”, Moshe had not as yet pleaded with Him on their behalf. It was only after Moshe had descended the mountain and returned before G'd did he state ‘If You (G'd) will not carry their sin (of the Jewish people) You should obliterate my name from Your book (the Torah).’ If this is the case, then why does G'd

identify the Jewish people with Moshe before it is revealed that he was willing to sacrifice himself for them?

Shaarei Teshuvah cites Avos D'Reb Nosson who explains that if one commits himself to fulfill the entire Torah but because of circumstances beyond his control (such as his own passing) cannot complete his goal, G'd fully accredits the individual as if he had fulfilled his commitment. One can only sincerely commit himself to accomplish a goal. If something should interfere and not allow it to come to fruition, he will not be denied reward. Although Moshe had not as yet enunciated or demonstrated his commitment to sacrifice himself for the Jewish people, G'd knew that he would when the situation presented itself. Thus, Jewish people were identified with Moshe because he was willing to sacrifice himself for their sake.

A parent is willing to sacrifice himself for the sake of his children because of his level of dedication to them. There is a positive commandment that every Jew must love his fellow as himself. This means if one is willing to sacrifice for his own sake, then he should be willing to do the same for his fellow Jew. If one is willing to sacrifice himself for the Jewish people, Torah, or anything else it will be identified with him.

4. *Listening, the Prerequisite to Doing (from Re'eh)*

The Torah states, “**(Moshe said to the Jewish people) See, I present before you today a blessing and a curse. The blessing: that you listen to the commandments of Hashem, your G'd...**” Rashi explains that one will merit blessing if he “listens” to the commandments. It is understood that listening alone accomplishes nothing. Listening has value only if it leads to action. One would think that the Torah should have stated, “The blessing: that you perform the commandments...” Why does the Torah use the term “**listen (tishme'u)?**”

If one “listens” attentively and comes to understand and internalize what he hears to the point of it becoming a reality for him, action will follow. This “listening” goes beyond the physical act of “hearing.” If a person fully grasps and appreciates the value of something as being a blessing, he will do it. Thus, the key factor in attaining blessing is to “listen” properly. If one does not fully understand and comprehend the value of something, it is inevitable that he will ultimately falter.

The Torah states, “**Hear, O Israel: Hashem is our G’d, Hashem is One.**” This is a fundamental aspect of Judaism. The Jew must hear, comprehend, understand, and internalize that Hashem is “our G’d.” One must appreciate that the Omnipotent Being, who created existence, is “our G’d”- it is a personal relationship between G’d and the Jewish people. If one truly appreciates this fact, he will perform the mitzvos without conflict/difficulty.

There is a positive commandment to “fear” G’d. This is not limited to one fearing punishment, but rather, it is also refers to revering G’d. A Jew has the obligation to revere G’d by coming to internalize who He is. If one understands and appreciates His Omnipotence, he will revere Him. Thus, the individual will “listen” to the commandments because one internalizes only that which one values. One cannot possibly value the words of the Torah sufficiently if one does not revere G’d.

King Solomon writes in Proverbs, “The beginning of wisdom is the fear of heaven (G’d).” Meaning, that although one may be a repository of Torah knowledge, if he does not revere G’d sufficiently he will not be impacted by his knowledge. Reverence of G’d is the basis for one to value the Torah. Because it is his will to “listen” he will perform the commandments.

YAD AVRAHAM DAILY CLASS SCHEDULE

Energize your day...

... with a solid morning of Torah study

Monday Through Friday

5:50- 6:00 am	Chumash with Rashi
6:00- 6:15 am	Pirkei Avos
6:15- 6:30 am	Mishna Berurah
6:30- 7:25 am	Halacha
6:30 -6:45 am	Mussar
6:45 -7:25 am	Talmud—Tractate Avodah Zorah
7:25 - 8:20 am	Davening Followed by Breakfast
8:20 - 8:45 am	Mishna
9:00 -10:00 am	Daf Yomi

2:00pm Mincha

Special Weekday Classes

Monday

11:15 – 12:15pm **Talmud: Sanhedrin**
Location: Sunrise Capital 641 Lexington (25th FL.)
Enter on 54th Street

12:30 – 1:30pm **Talmud: Pesachim**
Location: Shandholt 488 Madison Avenue
Between E.51st and E.52st

Tuesday

12:15 - 1:15pm **Torah Insight Based on the Parsha**
Location: Yad Avraham

Wednesday

11:30 – 12:30 pm **Talmud: Sanhedrin**
Location: Sunrise Capital 641 Lexington (25th FL.)
Enter on 54th Street

1:00—2:00 pm Derech **Hashem**
Location: Yad Avraham

Thursday

10:30 –11:30am **Tehilim with Malbim**
Location: Yad Avraham

12:00 – 1:00 pm **Talmud: Sanhedrin**
Location: Sunrise Capital 641 Lexington (25th FL.)
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