

PARSHAT SHOFTIM

August 22, 2020 – 2 Elul 5780

Annual: Deut. 16:18 – 21:9 (Hertz p. 820)

Haftarah: Isaiah 51:12 – 52:12 (Hertz p. 835)

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In its most famous verse, parshat Shoftim provides its own synopsis: “Justice, justice, shall you pursue.” Judges of reliable character are to be appointed for all Israelite jurisdictions. The godliness of administering justice is contrasted with three prohibited idolatrous and misguided cultic practices: the use of sacred posts, idolatrous stone pillars, and the sacrifice of blemished animals. Similarly, cases of apostasy are to be thoroughly investigated. This imperative provides the original context for a general principle of biblical law: no uncorroborated testimony is to be accepted. Only the testimony of two or more witnesses may be treated as dispositive. Major cases are brought “before the levitical priests, or the magistrate in charge at the time.” The verdict of this high court is to be carried out in its every detail. Undermining justice by disregarding the verdict is itself a capital crime. “Thus you will sweep out evil from Israel: all the people will hear and be afraid and will not act presumptuously again.” The appointment of an Israelite king is permitted within carefully prescribed legal parameters. The king must be an Israelite, not a foreigner. He may not amass untoward wealth – in particular he may not acquire an unreasonable number of horses – nor may he marry many wives. The king, too, is subject to the law: he must write (or, some say, commission) a scroll of God’s law, to be kept with him throughout his reign. The levitical priests, too, are defined by both perquisites and restrictions. They have no territorial inheritance among the tribes, but they are provided for through sacrificial offerings and related emoluments. A variety of abhorrent and idolatrous practices, attributed to Canaan’s indigenous population, are forbidden the Israelites: child sacrifice, witchcraft and sorcery in its various forms, and necromancy – inquiring of the dead. Unlike the practitioners of these banned activities, Israel must be “wholehearted” in its service and worship of God. The religious duty to heed the words of God’s prophets is prescribed, as is the analogous commandment to identify and eschew the false prophet. The distinction between unintentional homicide (manslaughter without malice aforethought) and premeditated murder is central to Israelite criminal law, and cities of refuge are to be provided for hapless perpetrators of manslaughter. This is necessary because of the institution of blood vengeance by a relative of the victim – even though manslaughter carried no death penalty, bereaved family members would summarily and with impunity kill anyone responsible for a loved one’s death. Premeditated murder, however, is punishable by death. False witnesses are subject to the penalty that would have befallen the accused, in both capital and non-capital cases. The prohibition against moving a neighbor’s property markers is an analogous safeguard against people who would deprive others of their legal rights and immunities. Laws about warfare follow: the priestly exhortation of combatants and announcement of deferments from military duty; the obligation to offer terms of peaceful surrender before attacking a city; the inapplicability of this provision to indigenous Canaanites, who are to be proscribed; the law against destroying a besieged city’s trees, which later is expanded into a general prohibition against wanton destruction of any useful resource. The final jurisprudential provision is the parsha is the legal and expiatory ritual response to an unsolved murder.

I. “When he is seated on his royal throne, he shall have a copy of this Teaching written for him on a scroll by the levitical priests. Let it remain with him and let him read it all his life, so that he may learn to revere the Lord his God, to observe faithfully all the words of this Teaching as well as these laws. Thus he will not act haughtily toward his fellows or deviate from the Instruction to the right or to the left, to the end that he and his descendants may reign long in the midst of Israel.” Deuteronomy 17:18-20

1. “The greater the person, the more stringently he must take upon himself the yoke of the law in order to remain humble. A king of Israel must take upon himself a double yoke of the Law of God (writing a second Torah scroll, in addition to the one required of all Jews). It was for the same reason that the king had to remain in a bowed position throughout prayer. It was to symbolize that as king, he had to work harder than others to attain humility.” (Yalkut David)
2. “A king must always act sternly in order to preserve discipline and to inspire awe, but this must be on the outside only. In his own heart the king must not regard himself as superior to his brethren. He must never permit the regal dignity he must preserve to the outside to penetrate into his own heart.” (quoted in Maayanah Shel Torah)

3. "A king in Israel was to use the Law to guide him along his life's path. He was to consult the Torah on every issue brought to him, and the views set forth in the Law had to be regarded as decisive in all matters of state. According to the sages (Talmud Berachot 3a) King David would consult the Sanhedrin before declaring a war." (Chatam Sofer)
4. "He shall write for himself a copy of this teaching. The king is to be actively engaged in personally producing a text of the teaching (translations that embellish the simple verb 'write' by representing 'cause to be written' miss the point). The location of religious authority in a text, a revolutionary idea, is made dramatically clear." (Robert Alter, *The Five Books of Moses*)

Questions for Discussion

What impact have the requirements incumbent upon an Israelite king, as detailed in this passage, had on modern democratic governance? How is Israel, as a secular state, to understand the imperative of these verses while avoiding fundamentalism and theocracy?

The Talmud (Gittin 62a) says that rabbinic sages are compared to kings. How might the constraints on monarchs in our verses be applied to contemporary rabbis in their roles as legal decisors? In what ways do Torah study and the punctilious observance of religious law engender humility in the practitioner? What powerful national leaders or influential religious leaders have been models of personal humility? Why the requirement that a king actually write a copy of God's Law? As Yalkut David points out, every Jew is required to write a Torah scroll (or, minimally, to participate in or commission its writing) – the 613th mitzvah. What is the essential significance of this obligation, and its doubly binding application to a king? In what ways – in Jewish life and in a more general sense – does submission to the constraints of law actually result in greater freedom (confirming "thy liberty in law")?

II. "You must be wholehearted with the Lord your God." Deuteronomy 18:13

1. "Walk with God wholeheartedly and hope in Him. Do not delve into the speculative future, but accept whatever befalls you. Then you will be His people and His portion." (Rashi)
2. "Wholeheartedness with God – integrity, inner conviction conjoined with outer behavior – is what Moses strived to achieve for himself. That's what made him unique. And that's what he commands us to achieve as well." (Rabbi Neil Gilman)
3. "Is a faith without action a sincere faith?" (Jean Racine)
4. "I will give my whole heart and soul to my Maker if I can,' I answered, 'and not one atom more of it to you than He allows. What are you, sir, that you should set yourself up as a god, and presume to dispute possession of my heart with Him to whom I owe all I have and all I am, every blessing I ever did or ever can enjoy – and yourself among the rest - if you are a blessing, which I am half inclined to doubt.'" (Anne Brontë, *The Tenant of Wildfell Hall*)

Questions for Discussion

Rabbi Gillman identifies Moshe as an exemplar of wholeheartedness. How do we recognize the wholehearted person? What does it mean to be "very much with God"? How does a person who struggles with belief in God, or for an understanding of God, strive to be "wholehearted with the Lord"?

Halachah L'Maaseh

The commandment found in Deuteronomy 19:14, "You shall not move your countryman's landmarks," has been extended to include a prohibition against a variety of unethical business practices that constitute unfair encroachment on another's livelihood. We may not, as a rule, set up a business that would impede a competitor's ability to make a living. The Gemara (Talmud Baba Batra 21b) gives the paradigmatic example of fishing so close to another person's net that the second net will catch the fish that otherwise would have been caught by the original fisher. The Rashba (Responsa 3:83), in the spirit of free enterprise and on the model of the talmudic fish nets, permits opening a shop in competition with a similar, previously established business, provided that the second does not specifically target customers known to be regular patrons of the first proprietor. Rabbi Moshe Isserles (Shulchan Aruch Choshen Mishpat 156:7) rules that the new business may not be restricted if it offers better quality or lower prices. The Aruch Ha-Shulchan adds the proviso that the lower prices must be reasonable and not predatory: if the original business was offering goods at so low a price that further reductions would prevent it from making any profit, the competitor may not offer similar goods at a lower cost.