

פרשת שופטים

In this fourth week of שבוע דנחמתא, the seven week period following Tish'a B'av leading up to Rosh Hashanah, we continue to fulfill the mandate of the weekly Haftoros of this period to provide comfort and solace.

In fact, the theme in the introduction that Rav Hirsch presents for our Parshas Shoftim, which is an expansion of the same theme that Rabbenu Bachye presents in *his* introduction, makes our task to find comfort in our weekly reading much easier.

Regarding the Mitzvos in our Parsha Rav Hirsch writes:

The following laws are now dedicated to institutions by means of which representatives of this Torah are appointed from this central point throughout the whole land and thereby the effectiveness of this Sanctuary of the Torah is to be assured in every city of the people.

The 'Sanctuary of the Torah' is the Beis HaMikdosh which is far more than a building. It is the Holy Place, the 'sanctuary' in which the *Kedusha* of the Torah finds a geographical center.

However, that geographical center is not to limit the spirituality, the closeness of the Jewish People to G-d. Rather, it is to be a hub from which that sanctity is to radiate throughout all of Israel.

The Mitzvos that will be the means of that dissemination of spirituality are those that establish national 'institutions' that will unite Am Yisroel and allow a unified message to be spread.

Thus, our Parsha begins with the appointment of a system of justice and its enforcement. That system of justice has reign over the entire Land of Israel. And thus we read the opening verse of our Parsha (D'vorim Perek 16/Posuk 18):

שָׁפְטִים וְשֹׁטְרִים תִּתֵּן לָהֶם בְּכֹל שְׁעָרֵי אֲשֶׁר ה' אֱלֹהֵינוּ לִקְרֹא בְּתוֹךְ לָהֶם לְשִׁבְטֵיהֶם וְשָׁפְטוּ אֶת הָעָם מִשְׁפַּט צְדָקָה:

Judges and officers you shall place for yourselves in all of the gates [of your cities] that Hashem your G-d gives you for your tribes; they shall judge the people with righteous justice.

However, the dispersion of justice does not mean that there is no central authority. The opposite is the truth. Thus we read a number of verses later (Perek 17/P'sukim 8-11):

כִּי יִפְּלֹא מִמֶּךָ דְבַר לְמִשְׁפָּט בֵּין דָּם לְדָם בֵּין דֵּין לְדֵין וּבֵין נֹגַע לְנֹגַע דְבַר רִיבַת
בְּשַׁעְרֶיךָ וְקָמַתְּ וְעָלִיתְ אֶל הַמָּקוֹם אֲשֶׁר יִבְחַר ה' אֱלֹהֵינוּ לְקִיּוֹם: וּבָאתְ אֶל הַכֹּהֲנִים
הַלְוִיִּם וְאֶל הַשֹּׁפֵט אֲשֶׁר יִהְיֶה בַיָּמִים הָהֵם וְדַרְשֶׁתָּ וְהִגִּידוּ לְךָ אֵת דְּבַר הַמִּשְׁפָּט:
וְעָשִׂיתְ עַל פִּי הַדָּבָר אֲשֶׁר יִגִּידוּ לְךָ מִן הַמָּקוֹם הַהוּא אֲשֶׁר יִבְחַר ה' וְשִׁמְרַתְּ לַעֲשׂוֹת
כְּכֹל אֲשֶׁר יֹרֹךְ: עַל פִּי הַתּוֹרָה אֲשֶׁר יֹרֹךְ וְעַל הַמִּשְׁפָּט אֲשֶׁר יֹאמְרוּ לְךָ תַעֲשֶׂה לֹא
תִסּוּר מִן הַדָּבָר אֲשֶׁר יִגִּידוּ לְךָ יָמִין וּשְׂמָאל:

When a matter of judgment is unknown to you, whether between one blood or another, or one law or another or one plague or another, when there are disputes in your gates; you shall arise and ascend to the place that Hashem your G-d will choose. You shall come to the Kohanim¹ the Levi'im and to the judge who will be in those days and you shall seek [the answer] and they will tell you the word of judgment. You shall do according to the word that they will tell you from that place that Hashem will choose and you will guard to do according to all they will teach you. According to the Torah that they will teach you and the law that they will tell you, you shall do; do not turn from the word that they will tell you, not right and not left.

The Beis Din HaGodol, the *Sanhedrin*, is located within the perimeter of the Beis HaMikdosh, though not in the section that is forbidden to non-Kohanim. The center of justice of the Jewish People is adjacent to the Sanctuary of the Torah.

If the message that the 'final word' of Torah is that which is pronounced by the Sanhedrin is not completely clear, the Torah immediately teaches the law of the *Zaken Mamre*.

¹ Here, as well as later on, the Torah writes 'Kohen' to indicate that it is a Mitzvah, though not indispensable, to have Kohanim as part of the Sanhedrin.

The ²ממרא זקן is the member of the Sanhedrin who, even after the Sanhedrin has decided the law, instructs people to act according to his minority opinion that has been overruled by the majority. Regarding this outstanding scholar the Torah writes in the following verses (P'sukim 12-13):

וְהָאִישׁ אֲשֶׁר יַעֲשֶׂה בְּזִדּוֹן לְבַלְתִּי שָׁמַע אֶל הַכֹּהֵן הָעֹמֵד לְשָׁרֵת שָׁם אֶת ה' אֵל... לִקְיָר
אוֹ אֶל הַשֹּׁפֵט וּמֵת הָאִישׁ הַהוּא וּבַעֲרַת הָרַע מִיִּשְׂרָאֵל: וְכָל הָעָם יִשְׁמְעוּ וַיִּרְאוּ וְלֹא
יִזְדָּדוּ עוֹד:

And the man who shall act willfully not adhering to the Kohen who is standing there to serve Hashem your G-d or to the judge; that man shall die and you shall eradicate the evil from Israel. All the people will hear and they will be fearful and they will not act with willful [evil] anymore.

Our Parsha continues with other central institutions of the Jewish People which have the same goals, even though their functions differ, as that of the Sanhedrin.

The Torah tells us that a King is to be appointed. However, that King's behavior is proscribed in matters that limit his royal reach. He is limited in the number of wives he can marry, the horses that he can own and the wealth that he can accumulate. Those limitations are not presented to any of the citizenry other than to the king. Anyone can accumulate unlimited wealth and horses and marry as many women as he wishes, but not the king.

What is to guide the king? The Torah writes (P'sukim 18-20):

וְהָיָה כִּשְׁבָתוֹ עַל כֹּסֵא מַמְלַכְתּוֹ וְכָתַב לוֹ אֶת מִשְׁנֵה הַתּוֹרָה הַזֹּאת עַל סֵפֶר מְלֻפְּנֵי
הַכֹּהֲנִים הַלְוִיִּים: וְהָיְתָה עִמּוֹ וְקָרָא בּוֹ כָּל יְמֵי חַיָּו לְמַעַן יִלְמַד לִירְאָה אֶת ה' אֵל... לְקִיּוֹ
לְשֹׁמֵר אֶת כָּל דְּבָרֵי הַתּוֹרָה הַזֹּאת וְאֶת הַחֻקִּים הָאֵלֶּה לַעֲשׂוֹתָם: לְבַלְתִּי רוּם לְבָבוֹ
מֵאַחֲיוֹ וּלְבַלְתִּי סוּר מִן הַמִּצְוָה יְמִין וּשְׂמֹאל לְמַעַן יֵאָרֶיךָ יְמִים עַל מַמְלַכְתּוֹ הוּא וּבְנָיו
בְּקִרְבֵי יִשְׂרָאֵל:

When the king will be sitting upon his throne, he shall write a copy of this Torah, which is before the Kohanim Levi'im, in a scroll. It shall be with him and he shall read from it all the days of his life in order that he shall learn to fear Hashem his G-d to guard all the words of this Torah and these statutes, in order to do them. In order that his heart not be raised over his brethren and in order that he shall not turn from the Mitzvah, neither right nor left,

² See the central *sugya* of Zaken Mamre beginning with the Mishnah in Masseches Sanhedrin 86 b.

in order that the days of his reign shall be lengthened, he and his sons in the midst of Israel.

The third central institution that is established to assure the spread of spirituality throughout Israel is Prophecy. The Torah writes (Perek 18/Posuk 18):

נְבִיא אֲקִים לָהֶם מִקֶּרֶב אַחֵיהֶם כְּמוֹךָ וְנִתְּנִי דְבָרִי בְּפִיו וְדִבֶּר אֵלֵיהֶם אֵת כָּל אֲשֶׁר אֶצְוֶה:

I Hashem will establish a prophet like you for them from the midst of their brethren and I will place My words in his mouth and he will speak to them all that I will command him.

As he does consistently, Rabbenu Bachye uses a Posuk in Mishlei to lead into the opening subject of the Parsha. His essay for Parshas Shoftim is the overall goal of the system of judges and officers that the Torah requires us to establish. The theme that he espouses is that the presence of a system of Torah law that is enforced appropriately brings a sense of *Shalom*, wholesomeness and welfare to the nation.

Among the sources that he notes is the opening verse in Shir HaShirim that reads:

שִׁיר הַשִּׁירִים אֲשֶׁר לְשִׁלְמֹה

The Song of Songs from Shlomo.

He notes the interpretation of Chazal at the very beginning of Midrash Shir HaShirim Rabba:

מֶלֶךְ שֶׁהַשְּׁלוֹם שְׁלוֹ

Hashem is the King; *Shalom* is His.

That is, Rabbenu Bachye teaches, the system of justice and its execution that the Torah imposes goes far beyond its precise fulfillment. The system brings the holiness of HaKodosh Boruch Hu upon Israel. *He* is שלומו; it is *His* wholeness and peace that descend upon the Jewish People. Certainly, it is the same spirituality

Am Yisroel receives spirituality from the entire Torah but this Mitzvah adds a specific dimension.

It is clear, therefore, that the very theme of Parshas Shoftim is one of comfort. It details the wholeness of Israel through its national bodies that unite Israel before HaKodosh Boruch Hu.

However, there is more to our Parsha than these basic institutions. There are particular Mitzvos that provide us with specific direction as to how these institutions are to operate.

One such example of these specifics is the concluding section of Parshas Shoftim.

Parshas Shoftim concludes with the special Halachah of *Eglah Arufa*. The literal translation of עגלה ערופה is the 'beheaded calf' and the Torah teaches us the situation in which this animal meets its death.

We read (D'vorim Perek 21/P'sukim 1-9):

כִּי יִמָּצָא חָלָל בְּאֶדְמָה אֲשֶׁר ה' אֱלֹהֵינוּ לִקְיָהּ נָתַן לָךְ לְרִשְׁתָּהּ נָפֵל בַּשָּׂדֶה לֹא נֹדֵעַ מִי הַכֹּהֵן וַיֵּצֵאוּ זִקְנֵיךָ וְשֹׁפְטֵיךָ וַיִּמְדְּדוּ אֶל הָעָרִים אֲשֶׁר סְבִיבֹת הַחָלָל: וְהָיָה הָעִיר הַקְּרֹבָה אֶל הַחָלָל וְלִקְחוּ זִקְנֵי הָעִיר הַהִוא עֵגְלַת בָּקָר אֲשֶׁר לֹא מְשֻׁכָּה בְּעֵל: וְהוֹרְדוּ זִקְנֵי הָעִיר הַהִוא אֶת הָעֵגְלָה אֶל נַחַל אֵיתָן אֲשֶׁר לֹא יַעֲבֹד בּוֹ וְלֹא יִזְרַע וְעָרְפוּ שָׁם אֶת הָעֵגְלָה בְּנַחַל: וַנִּגְשׂוּ הַכֹּהֲנִים בְּנֵי לְוִי כִּי בָם בָּחַר ה' אֱלֹהֵינוּ לִקְיָהּ לְשִׁרְתוֹ וְלִבְרָךְ בְּשֵׁם ה' וְעַל פִּיהֶם יְהִי כָּל רִיב וְכָל נִגְעָה: וְכָל זִקְנֵי הָעִיר הַהִוא הַקְּרֹבִים אֶל הַחָלָל יִרְחֲצוּ אֶת יְדֵיהֶם עַל הָעֵגְלָה הָעֲרוּפָה בְּנַחַל: וְעָנוּ וְאָמְרוּ יְדֵינוּ לֹא שִׁפְכָה אֶת הַדָּם הַזֶּה וְעֵינֵינוּ לֹא רָאוּ: כִּפֹּר לְעַמְּךָ יִשְׂרָאֵל אֲשֶׁר פָּדִיתָ ה' וְאַל תִּתֵּן דָּם נָקִי בְּקִרְבַּ עַמְּךָ יִשְׂרָאֵל וְנִכְפַּר לָהֶם הַדָּם: וְאַתָּה תִּבְעֵר הַדָּם הַנָּקִי מִקְּרֹבָה כִּי תַעֲשֶׂה הַיֵּשֶׁר בְּעֵינֵי ה':

If a lifeless body is found on the ground that Hashem your G-d gives to you to inherit it, it is fallen in the field; it is not known who killed him. Then your elders and judges should go out and measure to the cities that surround the lifeless body. It will be that the city that is closest to the lifeless body – the elders of the city should take a calf of the cattle that was never worked with or pulled a yoke. The elders of the city should take the calf down to a harsh valley that will never be worked and will never be

sown and they should behead the calf in the valley. The Kohanim sons of Levi'im should approach because Hashem your G-d chose them to serve Him and to give blessings in the Name of Hashem and according to them will be [adjudicated] every dispute and every plague. And all of the elders of that city that are closest to the lifeless body should wash their hands near the beheaded calf in the valley. They should respond and they should say, 'Our hands did not spill this blood and our eyes did not see. Atone for Your People Israel that You Hashem redeemed and do not place the [guilt for] the blood of the innocent in the midst of Your People Israel and the blood should be atoned for them.'

And so shall you remove the [responsibility] for the blood of the innocent from your midst when you do that which is straight in the eyes of Hashem.

Upon consideration, this section seems a most fitting conclusion to Parshas Shoftim.

As we learned earlier from Rav Hirsch, our Parsha wishes to put in place necessary mechanisms that will let the center of spirituality of the Beis HaMikdosh shed its light on the entire nation. That is one of the reasons that HaKodosh Boruch Hu established the systems of courts, monarchy and prophecy.

However, a centralized system may lead to the false assumption that total responsibility falls upon the national offices, if you will, the government. Individuals may falsely assume that they are absolved of responsibility. If a wrong is done, the King should have prevented it, the courts and the police should have been more scrupulous and the prophet should have been aware of crime. They did not stop it; it is not the responsibility of the citizenry.

The section of *Eglah Arufa* belies such assumptions. There is local responsibility. If a person was murdered and the culprit was not apprehended, then there is something amiss with the city and its inhabitants.

Rashi, citing Chazal, explains the pronouncement of the city's elders. They say:

ידינו לא שפכה³ - וכי עלתה על לב שזקני בית דין שופכי דמים הם, אלא לא ראינוהו ופטרנוהו בלא מזונות ובלא לוייה.

Our hands did not spill-Would we think that the elders of the Beis Din are murderers [and thus are required to say that they are not murderers]?

Rather, [their words mean] 'We did not see this person [in our city] and let him go without food and without escort.'

Of course they did not commit murder. The thought is inconceivable. However, if by inaction they allowed the crime to be committed, they bear a modicum of guilt. Such a modicum of guilt, the Torah says, cannot be dismissed offhandedly. By pronouncing 'we did not murder' we see that even inaction is tantamount to the commission of the most serious of crimes.

It is the local elders⁴ who make this pronouncement because they are the representatives of the city.

There is local responsibility, but the responsibility is not theirs alone. That is why there are representatives of the Sanhedrin at this event as well. The Torah does

³ The careful reader may have noticed that which appears to be a scribal error. The verse says שפכו, they spilled, in the plural, and the word in Rashi's *dibbur ha'maschil* is written שפכה, it spilled.

In fact, there is a distinction in this verse between the כתיב, the way the Torah writes the word and the קרי, the way that we read the word.

Our Massorah teaches us that the word is written שפכה and is read שפכו.

Now, שפכו would seem to be more 'accurate' because the plural is consonant with the word our 'hands'. שפכה would be appropriate with the singular 'hand'.

An explanation for that which is hinted at by the כתיב, the way that the word is written as שפכה, may be to show that the city's elders represent their entire constituency. If one person spilled blood, then all their hands were joined together as one in responsibility for the crime that was committed.

⁴ The first Mishnayos in the ninth Perek of Masseches Sotah describe the outlines of the procedure.

not absolve the individual or specific locale of responsibility but it does not free the national institutions from their obligation of oversight and control.

However, there is an additional point that we should make, one that shows an additional aspect of the comfort that our Parsha provides with its promise of a well-run Torah country of the Jewish People in Eretz Yisroel.

Why did the Torah choose that this calf would be chosen to be killed? What message is there that the Torah is telling us? What is the symbolism of the choice of this particular animal?

Rashi brings Chazal's explanation:

וערפו - אמר הקדוש ברוך הוא תבא עגלה בת שנתה שלא עשתה פירות ותערף במקום שאינו עושה פירות, לכפר על הריגתו של זה שלא הניחוהו לעשות פירות:

They shall behead - Hashem said, 'Bring a less than one-year old calf that has not produced fruit and let its neck be removed in a place that does not produce fruit in order to bring atonement for this murdered person who they did not leave [alive] to produce fruit.

Rashi brought his commentary from Masseches Sotah (46 a), but not the continuation of the Gemara.

We read there:

מאי פירות? אילימא פריה ורביה, אלא מעתה, אזקן ואסריס הכי נמי דלא ערפינן! אלא מצות.

What 'fruit' is being discussed? If you say that it refers to having children, would we then say if the murdered person was elderly or sterile that the laws of *Eglah Arufa* would not apply?

Rather, the 'fruit' being referred to is the performance of Mitzvos.

When I attend to these words of Chazal I think that there is an extraordinarily powerful message hidden within them.

We know that man was created to serve Hashem. His life is to be one devoted to Torah and Mitzvos. Because of such a clearly espoused value, I might think that the *essence* of the individual is the Torah that he learns and the Mitzvos that he performs.

Yet, in Masseches Sotah, Chazal refer to Mitzvos as the person's 'fruit', not his essence. The *moshol* is certainly exact. A tree has fruit. Even when the fruit is removed the tree remains a tree.

The parallel is that man is to produce fruit, to do Mitzvos. However, even if he fails to do so, he still remains 'man'.

That is, we see from here that Man is greater than the Mitzvos that he performs. This is not to say that he is good when he fails at Torah and Mitzvos. Nothing could be farther from the truth.

But the truth is that he still remains 'man' when he fails. And, of course, upon further contemplation we understand that the opportunity for repentance exists only when man remains man, even at a time of abject failure.

The symbolism of *Eglah Arufa* is clear. This murdered individual whose life was taken was robbed of the opportunity for Mitzvah performance. But that is not why the crime of murder is so heinous.

The crime of murder is heinous because this person whose life was taken away was bigger than the Mitzvos he could have performed because he was created *בצלם א-לוקים*, in the image of G-d.

The message contained at the end of Parshas Shoftim is extraordinary. HaKodosh Boruch Hu put into place many instruments to spread the sanctity that He wishes to bestow upon the world.

If mankind is a failure, if the individual is empty, bereft of hope, only left with despair, what is the point of such a gift? Who can benefit from G-d's largesse if Man is incapable?

That is the message with which Parshas Shoftim concludes. The Jew must learn Torah. The Jew must fulfill Mitzvos. However, even when the Jew fails at his task, his personal nature retains the potential to redeem itself. *He* is the man that Hashem made; his Mitzvos are the fruit that will enhance him, but he is *man* even without them.

This idea can explain that which to me, at least, is a mystery.

As we have noted weekly, the Haftoros for the weeks between Tish'a B'av and Rosh Hashanah all deal with *nechama*, the comfort that the benevolent HaKodosh Boruch Hu provides for Israel, even when He brings His destructive hand against us.

All of the Haftoros are taken from the last chapters of *Sefer Yeshaya*, beginning with Perek 40, the Haftorah of the first of these weeks, Parshas Vo'eschanan.

Now, I take it as a given, that the seven Haftoros were not assigned to our Parshos randomly. It is axiomatic that there is a reason for the specific Haftorah reading to be attached to the specific Torah reading.

Now, if the Haftoros were read in the order in which they appear in Sefer Yeshaya I would have thought that all are important and they are written in the order in which they appear. However, that is not the case – we do not read them in the order in which they appear in Yeshaya.

I do not know why each Haftorah was attached to its particular Parsha but I want to suggest an idea regarding this week's Haftorah and the lesson we have just learned regarding Parshas Shoftim. The first verse of the Haftorah (Yeshaya Perek 51/Posuk 12) reads

אֲנֹכִי אֲנֹכִי הוּא מְנַחֵמְכֶם מִי אֶת וְתִירְאֵי מֵאָנוּשׁ יְמוֹת וּמִבֶּן אָדָם חֲצִיר יִנָּתֵן:

It is I, I [G-d] Who is your Comforter; who are you to fear from mortal man and from the offspring of man who will be given to the grass?

It seems to me that this verse is the most powerful comfort. It is different than the first of these Haftoros when Hashem tells the prophets to comfort us. Here it is Hashem Yisborach himself Who comforts us.

We may doubt the ability of a mortal to bring us comfort - but this is Hashem.

And, so, I do not know why this most powerful reading was not the first of the readings or their culmination.

Perhaps, the reason is what we have written. Parshas Shoftim teaches us of the Sanhedrin, the King and the Prophet. These are individuals and groups who are deservedly prominent by virtue of their positions and their accomplishments.

What is left for the 'little man'? That is what the conclusion of Parshas Shoftim teaches us in tandem with the opening verse of the Haftorah which sheds light on the Parsha.

I Hashem bring you comfort. That comfort is in the knowledge that you are My Creation. You are never lost. You are never without hope. The path is open for your redemption and your salvation.

Shabbat Shalom

K'siva Vachasima tova,

Rabbi Pollock