

## פרשת שופטים

Think for a moment. I will raise a question and you should come up with your own answer before reading what I think.

The question is: when did society begin? At what point in history did people form an interactive group?

Think, please.

This is my answer:

Society began with the creation of *Chava*. Society means a group of people that cooperate and with the creation of 'person number two' and the Divinely decreed interaction between them society was formed.

However, our question is not part of a historical-anthropological pursuit. Our question seeks to understand at which point in history did societal interaction teach us Torah values about the Divine creation of society, its role, its obligations and the role of the individual, personally and vis a vis society and within it.

Because, in fact, society is a Divine creation. The Torah writes at its very beginning in B'reishis Perek 2/Posuk 18):

וַיֹּאמֶר ה' אֱלֹהִים...לֹא טוֹב הָיִיתָ הָאָדָם לְבִדּוֹ אֶעֱשֶׂה לוֹ עֵזֶר כְּנֶגְדּוֹ:

Hashem G-d said, 'It is not good - the state of Man being alone; I will make him a helpmate opposite him.

Rashi explains:

לא טוב היות וגו' - שלא יאמרו שתי רשויות הן הקדוש ברוך הוא יחיד בעליונים ואין לו זוג, וזה יחיד בתחתונים ואין לו זוג:

*It is not good - the state etc.* – in order that people will not say that there are 'two powers' – G-d Who singular and without a partner in the heavens above and Man who is singular and without a partner on the earth below.

That is, that which is not good is the status of man being alone because it may lead to denial of the One G-d<sup>1</sup>.

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<sup>1</sup> Since shortly we will be mentioning the concept of 'appreciation', it is appropriate that I note here that my more mature understanding of this Rashi was reached some

In the second clause of the verse Rashi relates to the interpersonal relationship that will come into being with the creation of Chava:

עזר כנגדו - זכה עזר, לא זכה כנגדו להלחם:

*A helpmate opposite him* – If man merits, she is a helpmate. If man does not merit, she is opposite him – to fight.

Society is now founded. Two people are a society and they will interact. The question posed at this foundational moment is whether they will act in consonance or in dissonance.

*Ibn Ezra* sees the first clause of the verse as relating to society as he expresses an interpretation that differs with Rashi. He writes:

ויאמר טעם לא טוב לאדם. ועזר. כטעם טובים השנים מן האחד (קהלת ד/ט):

*He said* – the reason why it is not good for man. A helpmate: the reason is as it states in *Koheles* – two are better than one.

The Posuk in *Koheles* reads:

טוֹבִים הַשְּׁנַיִם מִן הָאֶחָד אֲשֶׁר יֵשׁ לָהֶם שָׂכָר טוֹב בְּעִמְלָם:

Two are better than one in that they have reward in their toil.

Midrash *Koheles Rabba* on this verse writes:

טוֹבִים הַשְּׁנַיִם וְגו' - רבי יוחנן אמר, טובים השנים - איש ואשתו, מן האחד - זה לעצמו וזו לעצמה...

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50 years ago or so when I was first exposed to the writings of the great *Talmidat Chachamim* Nechama Leibowitz. It was in her *Sefer Bראשית* that I became aware of *dikduk*-careful attention to how the Torah expresses itself and the nuances of that expression. As I continued learning much of that *Sefer*, and some of subsequent ones as well, my understanding of Chumash was qualitatively and quantitatively increased.

She points out that the Posuk does not say לא טוב לאדם – it is not good for Man but just לא טוב היות, which refers to a state of being, that of Man being alone; that state ‘is not good’. And thus we translated the verse accordingly even though others do not understand the Posuk as Rashi did.

*Two are better* - Rabi Yochanan said, '*Two are better*' refers to man and his wife.

*'Than one'* – this refers when he does for himself only and she does for herself only.

Thus, one of the purposes of Creation is the creation of Society. That is what Rambam writes in Moreh Nevuchim (Part 3/Perek 37):

שְׁנוּדָע שֶׁהָאָדָם מְדִינִי בְּטָבַע

It is known that Man is societal<sup>2</sup> by his nature.

And perhaps precisely because Hashem created man to be societal, there are challenges that man has to meet in order to reach that goal that G-d sets.

And thus from the very outset, to meet the Divine goals of society there were many challenges.

So let us review society's beginnings.

We first read in Parshas B'reishis (Perek 2/P'sukim 22, 24):

וַיִּבֶן ה' אֶל־לִקְיָם אֶת הַצֵּלַע אֲשֶׁר לָקַח מִן הָאָדָם לְאִשָּׁה וַיְבָאָהָ אֶל הָאָדָם:

עַל כֵּן יַעֲזֹב אִישׁ אֶת אָבִיו וְאֶת אִמּוֹ וְדִבֵּק בְּאִשְׁתּוֹ וְהָיוּ לְבָשָׂר אֶחָד:

Hashem G-d built the rib that He took from Odom into a woman and He brought her to Odom.

Therefore a man should leave his father and his mother and cleave to his wife and they will be one flesh.

But that oneness about which the Torah speaks is not reached easily whatsoever.

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<sup>2</sup> When we read Moreh Nevuchim we remember that it was written in Arabic and translated into Hebrew (the first time in Rambam's lifetime). Furthermore, the terminology of philosophy in Hebrew and other languages of medieval times is not necessarily understood as it is in contemporary times.

Therefore, even though the word מְדִינִי would be translated today as 'political', with its modern connotations, it means societal based on what Rambam writes and the well-known philosophical terminology that finds its source in ancient Greece.

We continue to read in Parshas B'reishis (Perek 3/Posuk 6), regarding the עץ הדעת טוב ורע, the Tree of Knowledge of Good and Bad:

וַתֵּרָא הָאִשָּׁה כִּי טוֹב הָעֵץ לְמַאֲכָל וְכִי תִתֶּנָּהּ הוּא לְעֵינַיִם וְנִחְמָד הָעֵץ לְהַשְׁכִּיל וַתֵּקַח מִפְּרִיו וַתֹּאכַל וַתֵּתֶן גַּם לְאִישָׁהּ עִמָּה וַיֹּאכַל:

The woman saw that the tree was good for food and that it was desirable for the eyes and the tree was pleasant for intelligence and she took from its fruit and she ate it and also gave it to her husband with her and he ate.

It is evident that the word עמה-with her is superfluous – what does it come to teach?

Rashi explains:

ותתן גם לאישה עמה - שלא תמות היא ויחיה הוא וישא אשה אחרת:

*She also gave it to her husband with her* – So that she would not die and he would live and marry another woman.

Earlier, on the verse והיו לבשר אחד - they shall be one flesh, Rav Shimshon Rafael Hirsch writes:

...ישעבדו את כל כוחותיהם ושאיפותיהם, את כל רצונם והגגם לרצון עליון אחד. - ומכאן ההבדל העמוק - בין חיי המין של שאר היצורים לבין חיי הנישואין של האדם. גם שאר בעלי החיים חלוקים בין זכר לנקבה. אך שני המינים יצאו מן האדמה בנפרד, אין הם זקוקים זה לזה - למילוי ייעוד חייהם. הם מוצאים זה את זה רק לצורך הזיווג ורק לשיעור הזמן הדרוש לו. לא כן הדבר באדם: האשה היא חלק מן האיש, "עזר כנגדו", האיש הוא חסר ישע ונטול עצמאות, אם אין אשתו עמו. רק שניהם כאחד קרויים "אדם". החיים על כל משמעותם דורשים את חיבורם זה עם זה. רק באדם הוא אומר: "ודבק באשתו". רק האדם זכה לחיי נישואין.

The husband and wife are to subjugate their strengths and their ambitions and all of their desires and thought to the One Sublime Will. And this is the profound difference between the nature of propagation of all of the other creatures and the matrimonial nature of Man. [After all], other creatures are also differentiated between male and female.

However, with the other creatures, they came out of the earth separately; they do not need one another in order to fulfill their purpose in their lives.

They find each other only for the purpose of mating and only for the necessary amount of time that they mate.

It is not so for mankind. Woman is part of man; she is his helpmate. The man is helpless and bereft of independence if his wife is not with him. Only when they are together are they called *Odom*-Mankind.

‘Life’ with all of the implications of that term requires their joining one to the other. Only regarding Man it says, ‘he shall cleave to his wife’. Only Man merited matrimonial life.

In this initial society, we do not see echoes of Rav Hirsch’s goals in the intentions that Chava expressed. She was focused on her betterment, not that of *Odom*. It is the very opposite of what the Torah writes (Vayikro Perk 19/Posuk 18<sup>3</sup>) as an expression of Divine Will for which she was created:

ואהבת לרעך כמוך

You shall love your neighbor like yourself.

In Masseches Shabbos (31 a) we read the interpretation that Chazal gave to this Mitzvah:

דעלך סני לחברך לא תעביד

That which is hateful to you, do not do your friend.

Chava spoke exactly the opposite.

How do we view Odom HoRishon in the context of the event of eating from the tree? We read further on in that Perek (Posuk 12):

וַיֹּאמֶר הָאָדָם הָאִשָּׁה אֲשֶׁר נָתַתָּה עִמָּדִי הִוא נָתַתָּה לִּי מִן הָעֵץ וָאֵכֹל:

Odom said, ‘The woman that You gave with me, she gave to me from the tree and I ate.

אשר נתת עמדי - כאן כפר בטובה:

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<sup>3</sup> The entire verse reads:

לא תקום ולא תטור את בני עמך ואהבת לרעך כמוך אני ה':  
Do not take revenge and do not bear a grudge against the members of your people; you shall love your neighbor like yourself; I am Hashem.

*That you gave with me* – Here Odom denied the good that Hashem gave him.

At first glance, Rashi seems to be telling us only that Odom should be reprimanded for not appreciating the mate that Hashem bestowed upon him. G-d gave him a wife and he doesn't appreciate it.

But, with a deeper understanding we can see that this 'denial of good' is far more problematic. Rather than regrouping and understanding that in her deed and in his attitude Odom was missing the point of the institution of matrimony for man, Odom dismisses its importance and the gift that was given to him to distinguish between man and animal.

Sadly enough, the situation of societal challenges does not improve; it only deteriorates. We continue in B'reishis and learn about the next generation following Odom and Chava (Perek 4/P'sukim 8-9):

וַיֹּאמֶר קַיִן אֶל הָבֶל אָחִיו וַיְהִי בִּהְיוֹתָם בַּשָּׂדֶה וַיִּקָּם קַיִן אֶל הָבֶל אָחִיו וַיַּהַרְגֵהוּ: וַיֹּאמֶר  
ה' אֶל קַיִן אֵי הָבֶל אָחִיךָ וַיֹּאמֶר לֹא יָדַעְתִּי הֲשֹׁמֵר אָחִי אָנֹכִי:

Kayin spoke to Hevel his brother and it was when they were in the field and Kayin arose to Hevel his brother and he killed him. Hashem said to Kayin, 'Where is Hevel your brother?'; He said, 'I don't know. Am I my brother's keeper?'

We were told earlier in the Parsha that Kayin and Hevel were brothers. What could the purpose be of mentioning their brotherhood four times in these two verses?

The word אח–brother and the word אחד<sup>4</sup>–one come from the same source. The אחים of Kayin and Hevel were to have been the epitome of togetherness, oneness.

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<sup>4</sup> If you are inquisitive, you might wonder regarding the connection between the word אח and the word אחר which means 'other' – quite the opposite of 'one'.

The explanation is that in *L'shon HaKodesh*, as it is known quite well, different forms of the word may imply the opposite of the original.

See Rashi to Sh'mos Perek 27/Posuk 3 who explains that the word לִדָּשׁ, stemming from the word דָּשׁ which means ashes, has the meaning of removal of ashes.

Rashi explains this idea of one base word providing a meaning in opposition to its original denotation.

They were to be the fulfillment of **לבוש אחד** -representing the oneness that was to result from the union of their parents.

When Kayin asks if he is his brother's keeper – the answer did not have to be given. The silence of G-d was the reply. The expectation from Kayin was to be his brother's keeper almost to the extent that he was to be his own keeper. When he failed to be his brother's keeper, Kayin failed himself at the same time.

Certainly, when Rashi writes:

**לבשר אחד - הולד נוצר על ידי שניהם, ושם נעשה בשרם אחד:**

*To one flesh* – The child is formed by the father and mother and in it their becomes one

he did not mean that it was only the oneness in a physical sense. The oneness is this common and shared goal to which Rav Hirsch referred.

And as we continue throughout the Chumash we see many examples of how living properly in a society was a challenge that was hard to meet.

And that brings us to our Parshas Shoftim as we approach the conclusion of Sefer D'vorim and the culmination of yet another annual cycle of *Krias HaTorah*.

At first glance, the concluding section of Parshas Shoftim appears to be far afield from the topic we have been discussing in these pages. It appears to be some type of ritual which, in and of itself, is challenging to understand and most certainly unrelated to the subject in which we are interested.

What is that final section of Parshas Shoftim? It is called **עגלה ערופה**, the 'broken-necked calf'.

What is it about? We read (Perek 21/P'sukim 1-9):

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For another use of the source word **אח** see, for example, Shulchan Aruch Yoreh Deah Siman 340 which deals with the Halachos of **קריעה**-tearing one's clothing at the death of a relative. Often those tears are forbidden to be re sewn. The Halachah distinguishes between a very non-professional sewing in which the torn pieces are joined together – but the fact that they were torn is obvious and between an exact re sewing where the torn parts are matched precisely. The word used to sew in this latter way is **לאחות**.

כִּי יִמָּצָא חָלָל בְּאֶדְמָה אֲשֶׁר ה' אֱלֹהֵינוּ נָתַן לָנוּ לְרִשְׁתָּהּ נָפֵל בְּשָׂדֶה לֹא נֹדֵעַ מִי הִכָּהוּ: וַיֵּצְאוּ זִקְנֵינוּ וְשֹׁפְטֵינוּ וּמִדְּדוּ אֶל הָעָרִים אֲשֶׁר סְבִיבֹת הַחָלָל: וְהָיָה הָעִיר הַקְּרֹבָה אֶל הַחָלָל וְלִקְחוּ זִקְנֵי הָעִיר הַהִוא עֵגְלַת בָּקָר אֲשֶׁר לֹא עָבַד בָּהּ אֲשֶׁר לֹא מִשְׁכָּה בָעֵל: וְהוֹרְדוּ זִקְנֵי הָעִיר הַהִוא אֶת הָעֵגְלָה אֶל נַחַל אֵיתָן אֲשֶׁר לֹא יַעֲבֹד בוֹ וְלֹא יִזְרַע וְעָרְפוּ שָׁם אֶת הָעֵגְלָה בְּנַחַל: וְנִגְשׂוּ הַכֹּהֲנִים בְּנֵי לֵוִי כִּי בָם בָּחַר ה' אֱלֹהֵינוּ לְשִׁרְתוֹ וְלִבְרָךְ בְּשֵׁם ה' וְעַל פִּיהֶם יִהְיֶה כָּל רִיב וְכָל נִגְעָה: וְכָל זִקְנֵי הָעִיר הַהִוא הַקְּרֹבִים אֶל הַחָלָל יִרְחֲצוּ אֶת יְדֵיהֶם עַל הָעֵגְלָה הָעֲרוּפָה בְּנַחַל: וְעָנוּ וְאָמְרוּ יְיָנוּ לֹא שָׁפְכוּ אֶת הַדָּם הַזֶּה וְעֵינֵינוּ לֹא רָאוּ: כִּפּוּר לַעֲמֹק יִשְׂרָאֵל אֲשֶׁר פָּדִיתָ ה' וְאַל תִּתֵּן דָּם נָקִי בְּקֶרֶב עַמְּךָ יִשְׂרָאֵל וְנִכְפַּר לָהֶם הַדָּם: וְאַתָּה תִּבְעֶר הַדָּם הַנָּקִי מִקֶּרְבְּךָ כִּי תַעֲשֶׂה הַיִּשָּׁר בְּעֵינֵי ה':

When a corpse is found on the ground that Hashem your G-d gives to you to inherit it, fallen in the field; it is not known who hit him. Your elders, judges should go out and measure to the cities are in the vicinity of the corpse. The city that is closest to the corpse - the elders of the city should take a calf of cattle that was never worked and never pulled a yoke. The elders of that city should take the calf down to a hard valley that will never be worked and never be sown and they should decapitate it from the back of its neck in the valley. The Kohanim from the tribe of Levi should approach because Hashem your G-d chose them to serve Him and to bless in the Name of G-d and according to their word every dispute and leprous plague should be decided<sup>5</sup>. And all of the elders of that city that were closest to the corpse will wash their hands over the broken-necked calf in the valley.

They respond and they say, 'Our hands did not spill the blood and our eyes did not see. Hashem, atone for Your people Israel whom You redeemed and do not allow innocent blood [to be spilled] in the midst of your people Israel and allow the blood to be the atonement for them. You, Israel, should rid

<sup>5</sup> In the beginning of Parshas Shoftim we read (Perek 17/P'sukim 8-9):

כִּי יִפְלֹא מִמֶּךָ דְּבַר לְמִשְׁפָּט בֵּין דָּם לְדָם בֵּין דִּין לְדִין וּבֵין נֹגֵעַ לְנֹגֵעַ דְּבַר רִיבֹת בְּשַׁעְרֶיךָ וְקִמַּתְּ וְעֵלִיתָ אֶל הַמָּקוֹם אֲשֶׁר יִבְחַר ה' אֱלֹהֵינוּ...לִקְיָךְ בוֹ: וּבֵאתָ אֶל הַכֹּהֲנִים הַלְוִיִּם וְאַל תִּשְׁפֹּט אֲשֶׁר יִהְיֶה בֵּינֵיהֶם וְיִדְרֹשְׁתָּ וְהִגִּידוּ לָךְ אֶת דְּבַר הַמִּשְׁפָּט:

When a matter will be unknown to you for judgement, whether it is between one type of blood or another type of blood, or whether between one law and another or whether between one leprous plague or another, matters of dispute in your gates. You shall arise and ascend to the place that Hashem your G-d will choose it. You will come to the Kohanim of the Levites and to the judge that will be in those days; and you will inquire and they will tell you the matter of justice.



[the spilling] of innocent blood from your midst when you do that which is straightforward in the eyes of G-d.

We are not surprised to know that there is much to learn regarding this unique Halachah which we find in Masseches Sotah and in Mishneh Torah of Rambam. This is not the venue for a total inquiry into the laws and meanings of this *eglah arufa*. On the other hand we can certainly note some major points.

The Torah's emphasis on the calf never having been worked and the valley in which it is beheaded that will never be worked and that will never be sown makes it evident that there is a theme here. Chazal explain (Masseches Sotah 46 a):

אמר רבי יוחנן בן שאול: מפני מה אמרה תורה הביא עגלה בנחל? אמר הקדוש ברוך הוא: יבא דבר שלא עשה פירות ויערף במקום שאין עושה פירות, ויכפר על מי שלא הניחו לעשות פירות. מאי פירות? מצות.

Rabi Yochanan ben Shaul said, 'Why did the Torah say to bring the calf in the valley? Hashem said, 'let that which has not born fruit be beheaded in a place that will not bear fruit and atone for him who was not allowed to bear fruit.' What fruit was he not allowed to bear? Mitzvah fulfilment.

The calf was created to live, work and bear its own offspring. The valley was created to be worked and to be productive. Man was created to do Mitzvos and to fulfil the Divine mission.

What is the message here? Do we not hear echoes of Rav Hirsch's thoughts on the purpose of human society in its basic form of matrimony? There are goals to be sought and reached and this murdered individual will never be able to fully reach those goals; his path toward them has been blocked for perpetuity.

Let us see if we can legitimately extend this theme. We note that elders are mentioned in two very different roles, roles that are each accomplished by elders, but in two separate groups.

The first group are members of the Sanhedrin HaGedolah, the Supreme Court of Israel, who are required to take precise measurements to determine which city is nearest near the corpse. Now it may be that there is really no question – it may be very clear which city is nearest. Nonetheless, the Torah requires the measurement to be done by members of the Sanhedrin HaGedola.

How did that measurement take place? We learn in Masseches Eiruvim (35 a) that these elders used a rope that was exactly 50 *amos*<sup>6</sup> long and they would continue to measure until they would determine the closest city. If you consider the fact that it is likely that many members of the Sanhedrin HaGedolah were elderly people, the task of two of the elders holding a long and heavy rope tautly and then walking from place to place over what may very well be long distances seems close to impossible<sup>7</sup>.

However, the act of murder that was done is a stain upon all of Israel. It falls upon the highest court of justice, through its members, to ascertain where the fault lies.

After that determination is made, casting responsibility upon the nearest city, then the elders of the Sanhedrin of that city assume their role in this event.

We may ask, as Chazal do, are we holding the inhabitants of the closest city, and particularly their representatives – the members of their Beis Din, liable for a murder for which we really do not suspect them?

That is what Chazal ask when reading the declaration of the elders of the city:

יְדִינוּ לֹא שָׁפְכוּ אֶת הַדָּם הַזֶּה

Our hands did not spill this blood.

Rashi cites Chazal:

יְדִינוּ לֹא שָׁפְכוּ - וְכִי עֲלֵתָה עַל לֵב שְׁזַקְנֵי בֵּית דִּין שׁוֹפְכֵי דַמִּים הֵם, אֲלֵא לֹא רְאִינוּהוּ וּפְטַרְנוּהוּ בְּלֹא מִזְוֹנוֹת וּבְלֹא לִוְיָהּ.

*Our hands did not spill* – Would anyone imagine that elders of Beis Din are murderers [that would require the disclaimer of ‘we are not murderers’]? Rather, [the reason for this declaration is for them to say] ‘We did not see

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<sup>6</sup> In feet, the measurement would be between approximately 75-100 feet.

<sup>7</sup> The Halachah is that only a few members (3 or 5) of the Sanhedrin HaGedolah do the measuring and it stands to reason that its younger members, those who would be more fit for a task that could be most arduous, would go out. Yet, if there were no younger members of the Sanhedrin HaGedolah, it would fall upon those who were elderly to complete a task that was beyond their means.

him and we therefore did not let him leave the city without food and proper escort.'

It is remarkable. Even had the city under the leadership of its elders been remiss in fulfilling their duty and had not provided 'food and proper escort', would we have considered that to be tantamount to murder? But, the Torah does write that such neglect is tantamount to murder to such an extent that the elders proclaim 'our social services are fully operable and fully intact, even for the stranger who is only passing through' and therefore 'we did not spill this blood'.

However, if there is an overall goal for society, one that goes beyond not to commit murder, then the failure to provide comfort and solace is the indication of the fact that the goal was not met.

In fact, a closer look as to how the Torah tells us about the Kohanim who have their own role in this event is instructive. We read above:

וְנִגְשׁוּ הַכֹּהֲנִים בְּנֵי לֵוִי כִּי בָם בָּחַר ה' אֱלֹהֵינוּ לְשָׁרְתוֹ וּלְבָרְךָ בְּשֵׁם ה' וְעַל פִּיהֶם יִהְיֶה כָּל רִיב וְכָל נִגְעַ:

The Kohanim from the tribe of Levi should approach because Hashem your G-d chose them to serve Him and to bless in the Name of G-d and according to their word every dispute and leprous plague should be decided.

Why did the Torah associate the Bracha that the Kohanim recite, *Birkas Kohanim*, with this appointment in connection with the *Egla Arufa*?

The answer is certainly evident when we revisit the third of those blessings (B'midbar Perek 6/Posuk 26):

יֵשָׁא ה' פָּנָיו אֵלֶיךָ וַיִּשֶׂם לָךְ שְׁלוֹם:

Hashem should raise His Face to you and give you peace.

And the very next verse tells us what happens when that blessing, together with the previous two are bestowed:

וְשָׂמוּ אֶת שְׁמִי עַל בְּנֵי יִשְׂרָאֵל וְאֲנִי אֲבָרְכֶם:

They will place My Name upon B'nei Yisroel and I Hashem will bless them.

The fullness of *Shalom* is absent when the transient individual is left on his own without anyone displaying care or concern.

Thus, it appears that the Torah's enactment of the laws of *Egla Arufa* serves to be a reminder of the failure of the nation and of a specific community to meet the goals that the Torah wishes to establish for our society – a goal which is contained in the word *Shalom*.

If the reader might wonder if we are reading too much into this section, we will take the opportunity to learn the concluding words of Rabbenu Bachye (Posuk 9) on this concluding portion of Parshas Shoftim<sup>8</sup>.

וְאַתָּה תִּבְעֵר הַדָּם הַנֶּקִי מִקֶּרְבְּךָ כִּי תַעֲשֶׂה הַיָּשָׁר בְּעֵינֵי ה':

You, Israel, should rid [the spilling] of innocent blood from your midst when you do that which is straightforward in the eyes of G-d.

Rabbenu Bachye writes:

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<sup>8</sup> In his commentary to Posuk 1 here, Rabbenu Bachye presents a number of approaches to understanding the section of *Egla Arufa*. While we will only concentrate on a different approach, it is proper to bring the first approach that he cites – that of Rambam in Moreh Nevuchim (Part III/Perek 40). Rav Chavel in his notation writes that this 'quote' from Moreh Nevuchim is taken verbatim from that text in Ramban's commentary here and based on a particular translation and it differs from the rendition of *Ibn Tibbon* that Rambam himself authorized.

Rambam writes:

בעבור שברוב הפעמים יהיה הרוצח מן העיר אשר סביבות החלל, וכשיצאו הזקנים ויעסקו במדידה  
ההיא וזקני העיר יעידו לפני הבורא יתברך שלא התרשלו בתקון הדרכים ושמירתם, ושאינם יודעים  
מי הרג את זה, וכשיחקר הענין ויאספו הזקנים ויביאו העגלה ירבו בני האדם לדבר בו ויגלה  
הדבר....

Since most of the time the murderer is from the [closest] city or from environs of the corpse, when the elders go out and are involved in that measuring and the elders of the city give witness before Hashem that they were not lazy in making proper roads and keeping them repaired and that they do not know the identity of the murderer, when the incident will be investigated and the elders gather and bring the calf, people will discuss the murder a great deal and the matter will be revealed.

ואפשר לפרש גם כן כי הכתוב הזה הבטחה לעתיד, יאמר: אם תעשה הישר בעיני ה' אתה תבער השופך דם כי לא ימצא בארץ שופך דם נקי, כי בזכות זה תקרב הזמן העתיד שתפסק כל רציחה וכל מלחמה מן העולם, כמו שהבטיח הנביא ע"ה שיפסקו המלחמות, הוא שאמר: (ישעיה ב/ד<sup>9</sup>) "וכתתו חרבותם לאתים וחניתותיהם למזמרות לא ישא גוי אל גוי חרב ולא ילמדו עוד מלחמה", ואז תרבה המנוחה והשלום בעולם לישראל שהם עם מיוחד ונקראים שולמית, שנאמר: (שיר השירים ז/א<sup>10</sup>) "שובי שובי השולמית", ויזבחו לשם המיוחד יתעלה שנקרא שלום, שנאמר: (שופטים ו/כד<sup>11</sup>) "ויקרא לו ה' שלום", ויקריבו העולות והשלמים בעיר שנקראת שלום, שנאמר: (בראשית לג/יח<sup>12</sup>) "ויבא יעקב שלם", ויזכו לשלמות הגוף והנפש בקיום התורה שכלה שלום, שכן אמר שלמה ע"ה: (משלי ג/יז) "דרכיה דרכי נועם וכל נתיבותיה שלום".

It is possible to explain in addition that this verse is a promise for the future. It would say: if you do that which is straight in the Eyes of Hashem you will rid the murderers because murderers will not be found in Eretz Yisroel. In this merit, the future time will draw near when all murder and all war will

<sup>9</sup> The entire verse reads:

וְשָׁפַט בֵּין הַגּוֹיִם וְהוֹכִיחַ לְעַמִּים רַבִּים וְכָתַתוּ חַרְבֹתָם לְאַתִּים וְחַנִּיתוֹתֵיהֶם לְמִזְמֹרוֹת לֹא יִשָּׂא גּוֹי אֶל גּוֹי חֶרֶב וְלֹא יִלְמְדוּ עוֹד מִלְחָמָה:

Hashem will judge between the nations and rebuke many nations and they shall beat their swords into plowshares and their spears into pruning knives; nation shall not lift a sword against nation and they will learn war no longer.

<sup>10</sup> The entire verse reads:

שׁוּבִי שׁוּבִי הַשּׁוּלְמִית שׁוּבִי שׁוּבִי וְנִחֲזָה בָּךְ מַה תַּחֲזֹז בְּשׁוּלְמִית כְּמַחֲלַת הַמַּחֲנִים:

Return, return the *Shulamis*; return, return and we will look at you; what will you see in the *Shulamis* – like the dance of the two camps.

<sup>11</sup> The entire verse reads:

וַיִּבֶן שָׁם גִּדְעוֹן מִזְבֵּחַ לַה' וַיִּקְרָא לוֹ ה' שְׁלֹם עַד הַיּוֹם הַזֶּה עוֹדְנוּ בְּעֶפְרַת אָבִי הָעֶזְרִי:

Gideon built an altar to Hashem there and he called it 'Hashem Shalom'; until this day it is still in *Ofras* of *Avi HoEzri*.

Rashi writes:

ה' שלום - ה' הוא שלומנו:

*Hashem Shalom* – Hashem is our peace.

<sup>12</sup> The entire verse reads:

וַיָּבֹא יַעֲקֹב שָׁלֵם עִיר שָׁכֶם אֲשֶׁר בְּאֶרֶץ כְּנָעַן בָּבֹא מִפָּדָן אֲרָם וַיַּחַן אֶת פְּנֵי הָעִיר:

Yaakov came to *Shalem*, the City of Shechem that is in the Land of Canaan when he came from Padan Aram and he encamped facing the city.

cease from the world like the Prophet *Olov HaShalom* promised that all wars will cease. The Prophet said, 'They will beat their swords into plowshares and their spears to pruning knives; nation will not lift a sword against nation and they will no longer learn war.'

And then respite and peace will increase in the world for Israel who are the singular nation and who are called *Shulamis* [from the word *Shalom*] as it says, 'Return, Return, the Shulamis'. And Israel will offer Korbonos to the One G-d Who is called Shalom as it says, 'And he called it Hashem Shalom'. They will offer Korbonos and *Shlomim* in the city called Shalom as it says, 'Yaakov came to *Shalem*'.

They will merit *shleimus*-completion physically and spiritually when they will fulfill the Torah which is completely *Shalom* because so said Shlomo HaMelech *Olov HaShalom*, 'Its ways are ways of peace and all of its paths are *Shalom*'.

At first glance, these words of Rabbenu Bachye are inspiring. And they do remain that way, but there is a caveat.

That caveat is one that we speak about afterwards, when it's too late. 'Had I only known.' 'If I knew then what I know now.' 'If only...'

That is, the context of these beautiful words of Rabbenu Bachye explaining the richly symbolic section of *Egla Arufa* comes after a murder took place and now we think that we could have avoided it.

Is it not bittersweet to hear and learn a promise that was within our reach but we only found out about it when it was too late?

Why does the Torah present the solution only after the fact?

Or, does it?

A fresh look at the opening section of our Parsha may provide us with the information that we are seeking.

Our Parshas Shoftim begins with Halachos governing the appointment of judges and the police. The opening verse (Perek 16/Posuk 18) reads:

שֹׁפְטִים וְשׁוֹטְרִים תִּתֵּן לָךְ בְּכָל שְׁעָרֶיךָ אֲשֶׁר ה' אֱלֹהֶיךָ נָתַן לָךְ לְשִׁבְטֶיךָ וְשָׁפְטוּ אֶת  
הָעָם מִשְׁפַּט צֶדֶק:

Judges and police officers you shall place for yourself in all of your gates that Hashem your G-d gives to you for your tribes; they shall judge the people with righteous judgment.

Rashi writes:

שופטים ושוטרים - שופטים, דיינים הפוסקים את הדין. ושוטרים, הרודין את העם  
אחר מצותם. שמכין וכופתין במקל וברצועה עד שיקבל עליו את דין השופט:

*Judges and police officers – Shoftim* are the judges who decide the law. *Shotrim* are the police who force the people to fulfill the commandments of the judges. They hit and beat and use a strap and a whip [upon a recalcitrant individual] until he abides by the ruling of the judge.

The brief words of Seforno here teach us that this verse is not presenting an administrative directive only. He writes:

שופטים ושוטרים... צוה עניני מנהיגיו והם המלכים והשופטים והכהנים והנביאים  
אשר בתקונם יתוקן ענין ההמון ובקלקולם יקולקל כמו שהעיר הנביא באמרו (צפניה  
ג/ג-ד) שריה בקרבה אריות שואגים שופטיה זאבי ערב לא גרמו לבקר נביאיה  
פוחזים אנשי בוגדות כהניה חללו קדש חמסו תורה:

*Judges and officers –* The Torah commands [here in this Parsha] matters regarding the people's leaders: the kings<sup>13</sup>, the judges and the Kohanim<sup>14</sup> and the prophets<sup>15</sup> that when they are being proper the matters of the masses will be proper and if they are improper then the masses will be improper. This is like what the prophet said, 'Its officers in its midst are like roaring lions; its judges are like the wolves that feed in the night and leave no bones for the morning. Its prophets are unrestrained they are traitorous men; its Kohanim profaned that which is sanctified and trampled Torah.'

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<sup>13</sup> Perek 17/P'sukim 14-20.

<sup>14</sup> Perek 18/P'sukim 1-8.

<sup>15</sup> Ibid. P'sukim 17-22

If the beginning of our Parsha will be implemented correctly then the conclusion of our Parsha, the *egla arufa* will be made unnecessary. If the leadership sets the tone properly then the masses will follow them.

The institution of courts and police officers, and the other leadership roles that appear in our Parsha and elsewhere are to establish a society that is just, and when there are errors or violations to stop them before they spread and become endemic.

And just like we learned that Parshas Shoftim concluded with a blessing, so it begins in the same way, according to the explanation of the Netziv. He notes that the final Posuk of last week's Parshas R'eh reads (D'vorim Perek 16/Posuk 17):

אִישׁ כַּמֶּתְנֶת יָדוֹ כְּבִרְכַּת ה' אֵל...לִיקִיךָ אֲשֶׁר נָתַן לָךְ:

Each person [should bring Korbonos on the *Shlosh Regolim*] according to the blessing that Hashem your G-d gave you.

Netziv writes at the beginning of our Parsha:

שופטים ושוטרים תתן לך. סמך ענין לברכת ה', דברכה מצויה בזמן שמכבדין את הדיינים...

*Judges and officers you shall place for yourself-* The Torah juxtaposes the subject of the appointment of judges to G-d's blessing [to teach] that blessing is found when the people honor the judges.

One might think that this blessing is metaphysical. G-d will bless His people for honoring his judges. That is certainly likely to be true.

But there is a practical side as well. When the people honor the judges they will adhere to their words and to their direction. They will avoid improper behavior and will correct such behavior if it does occur.

What could be a greater blessing than having a proper social atmosphere where crime is almost non-existent and if it rears its ugly head it is disposed of immediately?

Isn't this a greater blessing than what we learned regarding *egla arufa* that only after the nation's awareness is aroused following a murder do they rid evil from their midst? In the ideal situation, the evil does not spread.



However, as we have seen, Seforno does not take it for granted that at all times our leaders will be irrefutable role models. The *Novi Tzephania*, and others, already describes unworthy leaders and the damage and havoc that they wreak. And, of course, our awareness of history, distant and contemporary, has taught us that a position of leadership does not automatically confer morality and ethics.

So what is there for us to do if the society is far from its idyllic state and the leaders, even if they are beyond reproach, do not have the influence that would bring a blessing upon all of us?

The Sefarim note that we would have expected the Torah to open our Parsha with the words לתן לכם, 'you should place for yourselves' – in the plural. Instead it begins with לתן לך – place for yourself – in the singular.

It is certainly true that most of the commentators are not disturbed by this because the appointment of the judges and officers are a national duty and thus the nation is being spoken to in the singular – as one group.

However, we find an alternative way to read the words לתן לך – place for yourself – in the singular; it could be interpreted as 'place *within* yourself'.

That is, the individual is being spoken to at the onset of our Parsha. The individual can make the difference and the individual can bring the blessing that is promised.

How does that work? It will work if the individual internalizes a mechanism of judging right from wrong, the attribute of *Shoftim* as well as the discipline and self-control, the attribute of *Shotrim*, that will prevent him from violating that which he knows is forbidden.

S'fas Emes writes extensively about this as we read one example (5739 d.h. *shoftim*):

שופטים ושוטרים תתן כו' הוא הבטחה גם כן שביד איש הישראלי למנות על עצמו שופט ושוטר. כמו שנאמר (מכות י ב) בדרך שאדם רוצה לילך [שם מוליכין אותו]. ויש מי שרוצה להשיג האמת. וגם מי שאין בו דעת שלימה ורוצה להיות נכפף בעל כורחו. גם בדרך זה מסייעין לאדם.

*Judges and officers you should place etc.* – this is a Divine promise that it is within the power of each Jew to appoint upon himself a judge and an officer.

And this is in accord with what it says, 'on the path that a person wishes to go [to there they will lead him].

There is a person who wishes to comprehend the truth [-to that end he is the judge]. And also if one does not possess a complete intellect but wishes to insure that he is under the rule [of the Torah] per force [-to that end he is the officer]. And in this way as well they help him from heaven.

The singular individual can do his part to make society, at least the part to which he is uniquely bound, to live up to its calling and its mission.

And thus, because the Mitzvah of *Shoftim v'Shotrim* comes to create a society that is *a priori* striving, Rabbenu Bachye writes an introduction to our Parsha which may seem familiar.

We read:

דִּרְכֶּיהָ דֶּרֶךְ נֹעַם וְכָל נְתִיבוֹתֶיהָ שְׁלוֹם.  
שלמה המלך עליו השלום הודיענו בפסוק זה כי יסוד התורה ועקרה שלום, וכן מצינו  
עיקר בריאתו של עולם שהוא השלום...וידוע כי השמים נבראו תחלה, ונקראו "שמים"  
לפי שהם אש ומים, והנה שני הפכים, לא יתכן זוגם והתחברותם כי אם על ידי  
השלום, הוא שכתוב: (איוב כה/ב<sup>16</sup>) "עושה שלום במרומיו".

Its paths are pleasant and all of its paths are peace. Shlomo HaMelech *Olov Hashalom* let us know in this verse that the foundation of Torah and its major principle is peace. The fundamental of creation is peace. It is known that the heavens were created first and they were called *shomayim* because they are formed from *esh*-fire and *mayim*-water. Behold – these are two opposites and their mating and conjoining is not possible would it not be for *Shalom* and that is what is written in the verse, "He makes peace in His heights'.

הקדוש ברוך הוא נקרא שלום, שנאמר: "ויקרא לו ה' שלום", וכתוב: (שיר השירים א/א) "שיר השירים אשר לשלמה", מלך שהשלום שלו, בחר בישראל יותר משבעים אומות וקראן שולמית, וזהו שדרשו רז"ל (שיר השירים רבה ז א): "שובי שובי

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<sup>16</sup> The entire verse reads:

הַמֶּשֶׁל וְפֶחַד עִמּוֹ עֹשֶׂה שְׁלוֹם בְּמִרְמָיו:

Rule and fear is with Him; He makes peace in His heights.

השולמית", אומה ששלום העולמים דר בתוכה, ונתן להם התורה שכלה שלום, שנאמר: "דרכיה דרכי נועם וכל נתיבותיה שלום"...

G-d Himself is called *Shalom* as it says, 'he called Him Hashem Shalom'. And it is written, 'The Song of Songs of *Shlomo*' – the King for Whom *Shalom* is His. Hashem chose Israel more than the seventy nations and He called Israel –*Shulamis* and this is what Chazal interpreted – Return, Return, the *Shulamis* – a nation that eternal peace dwells in its midst. Hashem gave Israel the Torah because it is totally peaceful as it says, 'Its ways are pleasant ways and all of its paths are peace.'

וגדולה מדת השלום שכל המדות נחתמות בשלום והשלום חתימת הכל, ולכך תקנו לנו רז"ל שתהא התפלה חותמת בשלום: המברך את עמו ישראל בשלום...

The attribute of Shalom is great because all of the attributes conclude with *Shalom* and *Shalom* is the seal for everything. Therefore Chazal instituted that the *Amida* should conclude with *Shalom* as we say, 'Hashem blesses Israel with Shalom'.

אפילו המתים צריכין שלום, שנאמר: (בראשית טו/טו<sup>17</sup>) "ואתה תבוא אל אבותיך בשלום".

Even the dead need peace as it says, 'You will come to your fathers in peace.'

מדת השלום נתנה לאהרן, (מלאכי ב/ה<sup>18</sup>), "בְּרִיתִי הָיְתָה אִתּוֹ הַחַיִּים וְהַשָּׁלוֹם", וזכה זרעו לכהונת עולם לברך את ישראל, שנאמר: "וישם לך שלום". הא למדת שהשלום קיום העולם.

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<sup>17</sup> The entire verse reads:

אַתָּה תָּבוֹא אֶל אֲבוֹתֶיךָ בְּשָׁלוֹם תִּקְבֹּר בְּשִׁיבָה טוֹבָה:

You, Avram, will come to your fathers in peace; you will be buried with good old age.

<sup>18</sup> The entire verse reads:

בְּרִיתִי הָיְתָה אִתּוֹ הַחַיִּים וְהַשָּׁלוֹם וְאֶתְנַם לוֹ מִזֶּרַע וּמִיָּצְאָנִי וּמִפְנֵי שְׁמִי נָחַת הוּא:

My covenant was with him, life and Shalom and I gave them to him in fear and he was in awe of Me; and before My Name he was frightened.

Rashi writes:

החיים והשלום - שנאמר לפנחס את בריתי שלום (במדבר כה/יב) והובטח לו ולזרעו אחריו הרי שיהא זרעו בחיים:

The attribute of Shalom was given to Aharon as it says: “My covenant was with him life and *Shalom*”. Aharon’s descendants merited eternal priesthood to bless Israel as it says, ‘Hashem should give you peace’. You learn from this that Shalom is that which keeps the world alive.

Parshas Shoftim implores us to let society fulfil its goals. Parshas Shoftim presents us with two paths towards those goals.

One path, that of *egla arufa*, is *b’di eved*. After the fact, when society is already deteriorating and disintegrating, you will wish to pull it back from the abyss. But then the price that will have been paid and the price that is yet to be paid will be enormous.

The other path, that of *Shoftim*, is *l’chatchila*. Before society begins to crumble, put into place the mechanisms that will prevent its decomposition. Let the blessing of Shalom, of societal completeness striving to attain the goals for which G-d created it, be the norm, the routine.

We know how great the task is. We know the price of failure. We can imbue within ourselves the mechanism of Shoftim v’Shotrim and make a difference for ourselves and for the world.

Shabbat Shalom  
K’siva Vachasima Tova  
Rabbi Pollock

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*Life and Shalom* – as it was said to Pinchos, ‘My covenant of peace’. It was promised to him and to his descendants after him – that is - his descendants will live.

ואתנם לו - שיקבלם במורא וכן עשה וייראני:  
*I gave them to him* – that they should accept the covenant with awe – and so it was – he feared Me.