

## Rabbi Elchanan Shoff

### PARSHAS SHOFTIM

#### Watch your eyes

***You shall place judges and officers in all your gates...according to your tribes (Deut. 16:18).*** The Chida in *Nachal Kedumim* and the *Bnei Yissaschar* in *Agra de-Kallah* explain that “all your gates” refer to the seven bodily orifices that a person has in his head (2 eyes + 2 ears + 2 nostrils + 1 mouth = 7). Accordingly, a person is supposed to set up safeguards to protect him from violating Halacha with those different body parts. However, *Agra de-Kallah* asks that a person’s eyes are not totally within his control, as the Gemara (*Nedarim* 32b) says that Hashem only gave such control to Avraham Avinu, but ordinary people cannot be expected to control their eyes? He answers that when the Torah says “according to your tribes” (לשבטך) this word can also mean “according to your punishment stick” (לשבטך), and it means that a person can teach himself how to exert control over all his limbs by penalizing or punishing himself every time he violates his own expectations. This is akin to using a flogging stick to punish oneself. By penalizing oneself in this way, one can accustom himself to control his eyes and ears and use them to only facilitate positive things not to commit sins. When a person afflicts himself in this way, Hashem will be merciful to him and then He will make sure that only that which a person is fitting to see or hear will be beholden by his eyes or ears.

#### Bribery -> Incline -> Oy! -> Coal

***Do not incline justice, do not show favoritism, and do not take bribery, for bribery blinds the eyes of the wise and falsifies the words of the righteous (Deut. 16:19).*** The Chida, writes in *Nachal Kedumim* that the letters in the Alphabet after each of the letters in the word “bribery” (שחד) spell out the word “incline” (תטה). In his work *Lechem leFi HaTaf*, Chida continues to note that the letters in the Alphabet after each of the letters in the word “incline” spell out the word “woe/oy” (אוי) and the letters after those letters spell out the word “coal” (גחל). He explains that the lesson is that a judge who accepts “bribes” effectively “inclines” or skews his judgement in a certain direction, and “oy” (woe) unto such a person, as he will be punished in the “coals” of hell, as the Talmud (*Yevamos* 96b) warns that a judge should always act as though *gehinnom* is open beneath him.

#### The Justice and the Messiah

***Justice justice shall you pursue (Deut. 16:20).*** Rabbeinu Efrayim of Regensburg writes that the phrase “justice, justice” in *gematria* (צדק צדק = 388) equals “for Moshiach” (למשיח = 388), for in the merit of pursuing justice will one merit to see the Days of the Messiah. The Chida (in *Chomas Onach, Parshas Shoftim*) writes that the phrase “justice, justice” in *gematria* (צדק צדק = 388) equals “reveal” (אשר = 388), which means that in the merit of giving charity (צדקה) will one merit to see the “revelation” of Hashem’s intervention. The Chida also writes that the Chachmei Mussar say that one who gives charity quickly without stopping to think about it is considered to have given charity twice, this is why the Torah uses the word “justice” twice in quick succession.

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It's like planting an Asherah

**Do not plant for yourself an Asherah—or any tree—next to the Altar of Hashem your God which you will make for yourself (Deut. 16:21).** Rabbi Mordechai HaKohen of Safed in *Sifsei Kohen* notes that the phrase “plant for yourself an Asherah—or any tree—next to the Altar of Hashem your God” in *gematria* (ה' אלקיך) = 1515) equals that of the phrase “this is one who buries a wicked person next to a righteous man” (זה שקבר רשע אצל צדיק = 1514 when you include one value for each of the 5 words). Elsewhere, the Talmud (*Sanhedrin* 47a) says that if an unworthy person is appointed to a judicial post alongside other, worthy judges, then it is as though one planted an Asherah next to an altar of Hashem. Rabbi Aryeh Leib Tzintz in *Melo Haomer* explains that that Asherah differs from all other sorts of idols because others idols are fashioned in abominable shapes and are readily apparent that they are idols. But an Asherah is simply a tree cut in certain ways, but its evilness is not so readily apparent to the onlooker. This parallels the case of the unworthy judge who sits on the bench with other judges, for to the onlookers, the unworthy judge's blemish is not readily obvious and one could mistake him for a regular judge, just like one could mistake an Asherah for a regular tree. Based on this, we can explain the same is true when burying a wicked person next to a righteous person. The onlooker will not be able to discern the different between them, and could mistakenly equate the wicked person to the righteous person buried next to him. When this happens, it too is akin to planting an Asherah near Hashem's altar.

The King's Parentage (Rechavam and Agrippas)

**From the midst of your brothers, you shall put on yourselves a king (Deut. 17:15).** The Talmud (*Sotah* 41b and see *Tosafos* there) derives a rule from here; a person may not be appointed as king over the Jewish People unless both of his parents are of Jewish blood. For this reason, the Talmud views the reign of the Herodian king Agrippas (Agrippa II) as illegitimate, because his father was not Jewish. In light of this requirement, many commentaries, including Rabbi Chaim Benveniste in *Knesses HaGedolah* (*Choshen Mishpat* 7, in his glosses to the *Beis Yosef*) ask how Shlomo's son Rechavam was able to be appointed a king if his mother Naamah the Ammonite was a convert to Judaism and was not born of Jewish blood. To resolve this question, Rabbi Yechezkel Landau of Prague writes in his responsa *Noda beYehudah* (*Choshen Mishpat*, 1<sup>st</sup> edition, 1) that the requirement that both of a king's parents be born Jewish only applies to “putting on yourselves a king” that is, to the first king appointed of a dynasty. However, subsequent kings of a given dynasty need not fulfill this requirement because they are not really “appointed” as kings, they simply inherit the right to rule from this royal father. Rabbi Landau compares this to the Halacha that a king ought to be anointed with the Oil of Anointment, but a king whose father was already king need not be anointed. All of this is because the son king inherits the father king's position without a new appointment needed. This explains why Rechavam was legitimately allowed to sit on his

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father's throne after Shlomo died. Even though Rechavam's mother was not born Jewish, he was still allowed to become king because he inherited the throne from his father. In contrast to all of this, Rabbi Landau notes that Herod and the entire Herodian dynasty is viewed as illegitimate because Herod's wife was not Jewish and thus his descendants were not Jewish and none of them had a Halachically legitimate claim to the throne. Because of this, when Agrippas became king, his reign too was illegitimate because was the first of the Herodian kings to actually be Jewish (because *his* mother *was* Jewish), and thus from a Halachic standpoint, he was beginning a *new* dynasty and not inheriting the position of his ancestors. This constituted a new "appointment" to the throne, which may only be done if the both of the candidate's parents were born Jewish (which in Agrippas's case, they were not).

#### Solomon marries too many wives

***And he should not have too many wives and his heart will not deviate (Deut. 17:17). King Solomon looked at this verse and said to himself that he will be able to have many wives and still not allow his heart to be swayed (Sanhedrin 21b).*** The Chida in *Maris HaAyin* writes in the name of Rabbi Avraham Galanti in *Kol Bochim* that Shlomo intended to extricate all the sparks of holiness from all the nations of the world by marrying their kings' daughters. The Chida explains that the Torah only outlawed a king from having too many wives if he does so with for lustful purposes, but Shlomo had noble motivations, for he did it for Hashem's sake, so he thought that for himself it would be permitted. Some of the commentators cited by Chida note that Shlomo switched around the letters *alef* and *yod* in the phrase "he should not have too many" (לא ירבה) to read "and for me, I will have many" (לי ארבה).

#### The non-Machiavellian King

***...and it shall be with him and he shall read it all the days of his life... so that he will not raise his heart above his brethren and so that he will not deviate from the commandment[s] (Deut. 17:19–20).*** Rabbi Avraham Shmuel Binyamin Sofer, the son of the *Chasam Sofer*, writes in his work *Ksav Sofer* that when a king is not obviously a cut above the rest of the nation, then in order to ensure that his subjects fear him and have awe of him, such a king must act in a way that asserts his authority over them. However, when a king is so obviously greater than his subjects, then even if he acts humbly, everyone will still listen to him and heed his commands and he will not have to assert his authority over them as overtly just to show that he's the king. Accordingly, Hashem commands that a Jewish king must read from the Torah all the days of his life, so that he will constantly grow in terms of Torah and Fear of Heaven, such that it will be readily apparent to all that this king deserves the throne, without him having to assert his authority to remind the people of his importance. Accordingly, the Torah gives the reason for the requirement that a king carry with himself a Torah Scroll as "so that he will not raise his heart above his brethren" that is, he will not have to rule with a heavy hand to assert his authority.

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#### The Scroll that Transcends Gender

**...and it shall be with him and he shall read it all the days of his life... (Deut. 17:19).**

The commentators point out a grammatical anomaly in this verse. When the Torah says “it shall be with him” the word “it shall be” in Hebrew is in the female gender (והיתה), yet in the verse next clause, when it says “he shall read it...” the word “it”—ostensibly referring to the same Torah Scroll—appears in the male gender (וקרא בו). Why does the Torah switch the Scroll’s gender in this case? Rabbi Yechiel Michel of Zlatchov in *Mayim Rabbim* (to Parshas Shoftim) cites the work *Sifsei Tzaddikim* (Parshas Metzora) which offers an answer to this question in the name of Rabbi Zev of Zebariz: He explains that originally the Scripture uses a female-gendered word because the antecedent of the word “it” is the word Torah (תורה) which is grammatically female. However, when this verse continues to say “and he shall read it” the antecedent of the word “it” is not the Torah, but rather is himself. This is in line with the idea that when a person internalizes the Torah’s teachings, that person himself becomes an embodiment of the Torah, such that his two kidneys become like two springs of wisdom. In other words, if the king betters himself to become a paragon of a Torah existence, then he will not be said to have been reading a Torah Scroll, he will be considered to have been reading himself! This is because the *neshamah* is driven towards the fulfillment of *mitzvos* in the same way that the physical body is driven towards the fulfillment of physical desires. Thus, if a person makes his *neshamah* into the crux of his existence, then he will automatically be driven after *mitzvos* without needing any external motivation from a Torah Scroll. He himself will be like a walking Torah Scroll. With this in mind, Rabbi Yechiel Michel of Zlatchov explains an enigmatic prayer that Rabbi Avraham Kaliskir would regularly offer: “It should be Your will that I merit that several years before my death, I will not learn from any book, and this will be my goal and my desire continuously”. His intention by offering this bizarre prayer was that he would no longer have to rely on external stimuli to induce him towards fulfilling *mitzvos* but that he will be driven to do so completely of his own accord.

#### Rising above the Holy

**...so that he will not raise his heart above his brethren... (Deut. 17:19–20).** This verse shows a certain concern that a king might try to assert his authority over the rest of the Jewish People. However, the *Sifri* notes that this concern only applies to “his brethren” but not to the realm of the sacred. This seems to mean that while a king may not assert his authority over the rest of the Jewish People, he is given free hand to do so over the Temple and its sacraments. Nonetheless, Rabbenu Hillel of Greece writes that this is not at all the Midrash’s intention. On the contrary, he explains that the opposite is true. When it comes to the Temple and the holy things, it would be nearly *impossible* for the king to overly assert his authority, so the Torah never had to warn him against doing so. This is because the rituals of the sacred and the like are totally outside the king’s purview (unlike in other ancient pagan cults where the line between royalty and clergy was often blurred). If so, then the Torah only had to warn

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that a king may not assert his authority over the rest of his brethren the Jewish People, because his sovereignty did indeed affect them and did otherwise fall within his purview.

#### At the Rate of 1:60

**The choicest of your grain... (Deut. 18:4).** The Mishnah (*Peab* 1:1) teaches that there is not set amount of produce that one must take off in order to fulfill the commandment of *Terumah*. However, as Rashi (here) notes, the rabbis established guidelines for the fulfillment of the commandment of *Terumah*. They said that a generous person gives 1/40, a stingy person gives 1/60, and a regular person gives 1/50 of the produce yielded. Rabbi Efraim Lunshitz in *Olalos Efraim* (vol. 4, 525) explains that the stingy person gives 1/60 because he does not want to feel like he is losing anything from his own pocket, so he gives a small amount of 1/60 which is considered so small and insignificant, that in other areas of Halacha, one unit would become completely nullified within sixty times itself. An example of this is in regard to non-Kosher food that was mixed into kosher food, when the former's taste is completely nullified if the latter is sixty times it. A similar point is made by Rabbi Elchanan Chafetz of Pozna in his work *Kiryat Chana* to the tractate Avos.

We may offer another explanation to this based on the Maharsha. The Talmud (*Brachos* 57b) offers a list of various elements which are to be considered 1/60 of something else: fire is 1/60 of *gehinnom*, honey is 1/60 of manna, Shabbos is 1/60 of the World to Come, sleep is 1/60 of death, and death is 1/60 of prophecy. The Maharsha explains that in regard to all these elements the Talmud uses the ratio of 1/60 which should be understood as those elements being one unit taken out of a total of sixty. In other words, the ratio can be given as 1:59 which is not considered null and void, because there isn't sixty times the 1 to nullify it. Only when there are 60 times the amount of the 1 part do we say that the taste of the 1 part is no longer active. Accordingly, the Maharsha explains that when we say that something is 1/60<sup>th</sup> of something else, we are saying that it's the smallest amount where there is still a tiny bit of taste left, but it's almost gone. If there were any less of it there, one wouldn't notice it at all. Thus, the gemara is saying that Shabbos is 1/60<sup>th</sup> of the world to come – meaning there is a tiny hint of the world to come in Shabbos, and one can taste it – but so little that were there any less, it would not be identifiable at all! It still continues to exist because there is only 59 times against it, not 60. With this in mind, we propose that the lowest rate of suggestion donations for *Terumah* is 1/60 meaning 1:59 such that even the stingy man's tithes must be at least enough for him to feel it. Giving less than 1/60<sup>th</sup> would mean that it doesn't even feel like giving, and that is not satisfactory.

#### Wholesome until the Great Hosanna

**You shall be wholesome with Hashem your God (Deut. 18:13).** The *Bnei Yisaschar* writes in *Agra deKallab* that this verse alludes to the days between Rosh HaShannah (1 Tishrei) and the first ten hours of the night of Hoshanah Rabbah (21 Tishrei) until two hours before



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daybreak, which is considered a time of complete mercy and is the moment of the final sealing for the year. He explains that the *gematria* of the word “wholesome” (תמים = 490) equals the amount of hours in that period of time ( $20 * 24 + 10 = 490$ ). During those 490 hours, “you shall be with Hashem your God.”

#### Diviners and Mussarists

**for these nations whom you are inheriting [their land] listen to diviners and magicians, but you—not so has Hashem your God given you (Deut. 18:14).** The *Bnei Yisaschar* writes in *Agra deKallab* that when an idolater has some fear or affliction, he consults with the diviners and magicians to find out the source of the issues. However, we as Hashem’s nation know that everything comes from His intervention in the world, so we have another way of approaching such occurrences: The Gemara (*Brachos* 5a) says that when somebody is pained with afflictions, he should search into his actions and see if there is something for him to fix in the way he acts and behaves. This stands in stark contrast with the gentile way of looking things. The passuk then reads “lo ken nassan lecha hashem elokecha – Hashem has given you the capacity to say “lo ken - my behavior has not been correct” and that ability, to grow from looking inward, instead of outward is the secret to growth in life, and quite a great gift that Hashem your God has given you.

#### Getting their comeuppance

**And you shall do to him in accordance with what they planned for their brother (Deut. 19:19).** From this verse, we derive the idea that conspiring witnesses only get punished for *planning* to do something nefarious, but not if their plans were actually carried out, such that if their testimony caused an innocent man to be killed by the court, they are not put to death (see Rashi to *Makkos* 2b). Rabbi Shlomo Ganzfried, the author of the *Kitzur Shulchan Aruch*, explains in his work *Apiryon* (to *Parsbas Shoftim*) that really when the first pair of witnesses give their testimony, they are believed to such an extent that there is really no basis for believing the second pair of witnesses who accused the first pair of being conspiracy. It is not intuitive that the second pair should be believed over the first pair and the only reason why this is true is due to a Scriptural imperative declaring such. Accordingly, that Scriptural imperative only applies to a case in which the testimony of the first witnesses did not yet come to fruition to punish somebody, but once it already bore fruit, then the Scriptural imperative and logic dictate that the second pair are not believed to render the first pair conspirators.

#### A tzaddik in thoughts

**And he will say to you ‘listen O Israel’... (Deut. 20:3).** Rashi explains that even if the Jewish people only had the merit of the commandment of reciting Shema, they are still worthy of Him saving them. The *Bnei Yissaschar* asks in *Agra deKallab* what any of this has to with the mitzvah of *Kriyas Shema* which is not mentioned here in this passage at all? He answers that the Talmud (*Kiddushin* 49b) rules that if a man betroths a woman on condition that he is a

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*tzaddik gamur*, and he dies and up until that point, he was a *rasha gamur*, the betrothal is considered to have gone into effect because we suspect that perhaps when he betrothed her he had thoughts of repentance which is good enough for him to be considered a *tzaddik gamur*. This is quite a difficult passage because elsewhere, the Talmud says that there are four categories of sins and only the lowest category—violating a positive commandment—can be forgiven with repentance alone. All other sins require at least some suffering, or the power of Yom Kippur, or even death. How then can “thoughts” of repentance cleanse one’s records such that he can be considered a *tzaddik gamur*? The *Bnei Yissaschar* answers that it says in the Zohar (Vol. 3, 121a) that if a person truly intends to sacrifice himself when he reads the Shema, then it is considered as though he has literally died a martyr and sanctified Hashem’s name, such that even sins which require death in order to be forgiven can be forgiven. Accordingly, reading Shema with such intentions can certainly wipe away sins that require suffering or Yom Kippur. Based on this, he explains that when a man betroths a woman on condition that he is a *tzaddik gamur*, if he had “thoughts” of repentance, i.e. he read Shema with the above-mentioned intentions in mind, that is considered enough for even the most wicked person to become a *tzaddik gamur*. With this in mind, he explains that when Rashi writes about the soldiers, that even if the Jewish people only had the merit of the commandment of reciting Shema they are still worthy of Him saving them, this means that even if they did not truly repent or undergo affliction or experience Yom Kippur or die a martyr’s death, they are still worthy of His salvation if they simply had the proper intentions when reading the Shema which makes them automatically considered like martyrs.

#### Conversion and Repentance

**So that they will not teach you to do... (Deut. 20:18)** Rashi explains that if an idolatrous gentile repents and converts to Judaism, one is allowed to accept them. Rabbi Chaim Palagi (*Pnei Chaim* here, p. 312 in the Shuvi Nafshi edition) writes about this that Rashi was careful to write that the idolatrous gentile must repent and convert in order to be accepted, because if he only repented, then his repentance would be meaningless because a heathen cannot actually repent, only a Jew can. Rabbi Yair Chaim Bachrach of Worms writes in responsa *Chavos Yair* (79) that the principle that a newly-convert proselyte is like a newly-born child refers to the fact when a non-Jew converts to Judaism, this is tantamount to an act of repentance on his part, such that just a newly-repentent penitent is considered like a new person, so is a newly-convert proselyte likewise considered like a wholly new person. He also writes that if a non-Jew was liable for the death penalty in his gentile life, then converting to Judaism and becoming a “new person” cannot exempt him from that punishment, just like if a Jewish man is condemned to death and he repents, the court will not overturn his sentence because of his repentance.

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#### Tree People

**For man is a tree of the field (Deut. 20:19).** Rashi understands this verse as asking a rhetorical question, “Is man [like] a tree of the field?”. The *Zohar* (3:220a), on the other hand, understands it as an absolute statement, “Man is [like] a tree of the field.”

#### The Guilt for the murder

**And it will be the city that is closest to the corpse, and the elders of that city will take a bovine calf which had not been worked with—which did not pull a yoke (Deut. 21:3).**

Ibn Ezra (to Deut. 21:7) explains that perhaps Hashem commanded to perform this ritual because if not for the fact that the residents of that city committed some sort of sin, it wouldn't have happened to them that somebody should be killed nearby. Indeed, Hashem's thoughts are so infinitely deep and lofty that we cannot truly understand them. Maimonides (in his *Guide for the Perplexed*, as cited by Nachmanides to Deut. 21:5) takes a different approach. He explains that the idea behind this is that usually the murderer would be from the city which is closest to the corpse, such that when the elders perform this ritual, they testify before the Creator that they were not recalcitrant in their duty of fixing up the roads and making sure they are safe, and they declare that they do not know who is responsible for this murder. After the matter is investigated, and the guilty party is still not found, the elders gather up to perform this ritual so that everybody will hear about it and because of the great publicity somebody might come forward with more information about the murder. As Chazal say (Talmud Yerushalmi, *Sotah* 9:1), even if a singular maidservant comes forward and says who the murderer is, this ritual is not performed. And indeed if somebody knows the murderer's identity and does not reveal it, it is a great sin, such that if anybody hears anything, they will come forward. According to Maimonides, there is a logical and utilitarian purpose to this ritual, and the ritual itself has not inherent value, but it is simply a means of publicizing the investigation so that anybody who has information will be more likely to come forward. Nachmanides disagrees with Maimonides' assessment and argues that, like ritual sacrifices, this ritual itself has inherent value, it is not just a means of catching the true murderer. According to Nachmanides, the *eglah arufah* is justifiably considered a *chok* (statute whose reason is beyond us), while according to Maimonides, the ritual makes a lot of sense.

Now, we find another disagreement amongst the Medieval commentators concerning the *eglah arufah*. The Talmud (*Bava Basra* 23b) concludes that if there is a big city farther away from the corpse, and a smaller city closer to the corpse, the bigger city incurs the guilt. Maimonides (Murder and Lifeguarding 9:6–7) rules based on this passage that in such a case, the elders of the bigger city must bring the *eglah arufah*, because it is more likely that the actual murderer was from there. However, Rabbi Yishaya of Trani (known as the Rid) rules that if there is a big city farther away from the corpse, and a smaller city closer to the corpse, neither city brings the *eglah arufah*; the bigger city does not bring it is not the closest, and the closest city does not bring it because the murderer is less likely to have come from there.



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Although we generally cannot use exegetical rationale to create Halachic ramifications, perhaps here it makes sense to do so. It makes sense that Maimonides who believed that the purpose of the *eglah arufah* ritual is to help find the true murderer would say that if said murderer is more likely to come from a farther, bigger city, then that city should bring the *eglah arufah*. However, according to Ibn Ezra that the mere fact that a murder happened so close to their city automatically shows that the closest city is guilty in some way, so he might agree with R. Yishaya of Trani that neither city brings the calf.

Similarly, the *Tosafos* cite the Gemara (Sotah 45b) that says that if there is a city without a court that is closer to the corpse, the distance is not measured to that city to determine who must bring an *eglah arufah*. Now, if the reason behind *eglah arufah* is that the murderer is more likely to have come from the closest city, then why would they ignore a city just because it doesn't have a court; it should still be true that the murderer is more likely to have come from there. *Toafos Yesbanim* (there) address this by explaining that the reason behind the *eglah arufah* is not logical but is the result of a Scriptural imperative and that imperative dictates that only a city with a court is considered a city in regard to this ritual. According to Ibn Ezra, this makes more sense because the *eglah arufah* does not necessarily come to atone for this particular murder for the corpse that is discovered, but it atones for some other undisclosed sins done by the people of the closest city, and Hashem simply arranged for the murder to happen nearby in order to show that this city is guilty of something. If so, we might argue that He would only do this for a city that has a court, but if the city does not have a court, then a murder that happened close by is not a sign of something rotten in the sin.