

Kol Rina
An Independent Minyan
Parashat Shoftim
September 3, 2022 *** 7 Elul 5782

Shoftim in a Nutshell

https://www.chabad.org/parshah/article_cdo/aid/2278/jewish/Shoftim-in-a-Nutshell.htm

Moses instructs the people of Israel to appoint judges and law enforcement officers in every city. "Justice, justice shall you pursue," he commands them, and you must administer it without corruption or favoritism. Crimes must be meticulously investigated and evidence thoroughly examined—a minimum of two credible witnesses is required for conviction and punishment.

In every generation, says Moses, there will be those entrusted with the task of interpreting and applying the laws of the Torah. "According to the law that they will teach you, and the judgment they will instruct you, you shall do; you shall not turn away from the thing that they say to you, to the right nor to the left."

Shoftim also includes the prohibitions against idolatry and sorcery; laws governing the appointment and behavior of a king; and guidelines for the creation of "cities of refuge" for the inadvertent murderer. Also set forth are many of the rules of war: the exemption from battle for one who has just built a home, planted a vineyard, married, or is "afraid and soft-hearted"; the requirement to offer terms of peace before attacking a city; and the prohibition against wanton destruction of something of value, exemplified by the law that forbids to cut down a fruit tree when laying siege (in this context the Torah makes the famous statement, "For man is a tree of the field"). The Parshah concludes with the law of the eglah arufah—the special procedure to be followed when a person is killed by an unknown murderer and his body is found in a field—which underscores the responsibility of the community and its leaders not only for what they do, but also for what they might have prevented from being done.

Haftarah in a Nutshell

https://www.chabad.org/parshah/article_cdo/aid/548000/jewish/Haftarah-in-a-Nutshell.htm

This week's haftarah is the fourth of a series of seven "Haftarot of Consolation." These seven haftarot commence on the Shabbat following Tisha b'Av and continue until Rosh Hashanah.

The haftorahs of the past two weeks open with Israel's complaint that they have been abandoned by G-d. Israel is not content with consolations offered by the prophets — instead they demand that G-d alone comfort them. In response, this week's haftarah begins with G-d's response: "I, indeed I, will comfort you."

After briefly reprimanding Israel for forgetting their Creator for fear of human and finite oppressors, the prophet describes the suffering and tribulations which Israel has endured. However, the time has arrived for the suffering to end. The time has come for Israel's oppressors to drink the "cup of suffering" which they had hitherto forced Israel to drink: "Awaken, awaken, put on your strength, O Zion; put on the garments of

your beauty, Jerusalem the Holy City, for no longer shall the uncircumcised or the unclean continue to enter you. Shake yourselves from the dust, arise, sit down, O Jerusalem; free yourself of the bands of your neck, O captive daughter of Zion." Isaiah extols the beauty of the messenger who will announce the good tidings of Redemption. "Burst out in song, sing together, O ruins of Jerusalem, for the L-rd has consoled His people; He has redeemed Jerusalem."

The haftorah ends by highlighting the difference between the Egyptian Exodus, when the Israelites hurried out of their exile and bondage, and the future Redemption: "For not with haste shall you go forth and not in a flurry of flight shall you go, for the L-rd goes before you, and your rear guard is the G-d of Israel."

Food For Thought

Environmental Responsibility by Rabbi Jonathan Sacks z"l

<https://www.rabbisacks.org/covenant-conversation/shoftim/environmental-responsibility/>

Some commands in the Torah were understood so narrowly by the Sages that they were rendered almost inapplicable. One example is the ir ha-nidachat, the city led astray into idolatry, about which the Torah states that "you shall put the inhabitants of that town to the sword." (Deut. 13:16) Another is the ben sorer umoreh, the stubborn and rebellious child, brought by his parents to the court and, if found guilty, put to death. (Deut. 21:18-21)

In both of these cases some Sages then interpreted the law so restrictively that they said "there never was and never will be" a case in which the law was applied.

(Sanhedrin 71a) As for the condemned city, Rabbi Eliezer said that if it contained a single mezuzah, the law was not enforced (ibid.). In the case of the rebellious child, R. Yehuda taught that if the mother and father did not sound or look alike, the law did not apply (ibid.). According to these interpretations, the two laws were never meant to be put into practice, but were written solely "so that we should expound them and receive reward." [1] They had only an educational – not a legal – function.

In the opposite direction, some laws were held to be far more extensive than they seemed at first sight. One striking example occurs in this week's parsha. It refers to the conduct of a siege during wartime. The Torah states:

When you lay siege to a town and wage war against it for a long time to capture it, do not destroy its trees; do not wield an axe against them. You may eat from them; you must not cut them down. Are trees of the field human beings, that you should besiege them too? Only trees that you know do not produce food may you cut down for use building siege works until the town that has made war against you falls.

Deut. 20:19-20

This prohibition against destroying fruit-bearing trees was known as the rule of bal tashchit, "do not destroy". On the face of it, it is highly limited in scope. It does no more than forbid a "scorched earth" policy in the conduct of war. It seems to have no

peacetime application. However, the Sages understood it very broadly to include any act of needless destruction. Maimonides states the law thus:

“Not only does this apply to trees, but also whoever breaks vessels or tears garments, destroys a building, blocks a wellspring of water, or destructively wastes food transgresses the command of bal tashchit.”[2]

This is the halachic basis of an **ethic of environmental responsibility**.

Why did the Oral Tradition, or at least some of its exponents, narrow the scope of the law in some cases, and broaden it in others? The short answer is: we do not know.

The rabbinic literature does not tell us. But we can speculate. A posek, seeking to interpret Divine law in specific cases, will endeavour to do so in a way consistent with the total structure of biblical teaching. If a text seems to conflict with a basic principle of Jewish law, it will be understood restrictively, at least by some. If it exemplifies such a principle, it will be understood broadly.

The law of the condemned city, where all the inhabitants were sentenced to death, seems to conflict with the principle of individual justice. When Sodom was threatened with such a fate, Abraham argued that if there were only ten innocent people, the destruction of the entire population would be manifestly unfair:

“**Shall the Judge of all the earth not do justice?**” **Gen. 18:25**

The law of the stubborn and rebellious son was explained in the Talmud by R. Jose the Galilean on the grounds that: “The Torah foresaw his ultimate destiny.” He had begun with theft. The likelihood was that he would go on to violence and then to murder.

“Therefore the Torah ordained: Let him die innocent rather than die guilty.”[3]

This is pre-emptive punishment. The child is punished less for what he has done than for what he may go on to do. Rabbi Shimon bar Yochai, who said the law never was or would be applied, may have believed that in Judaism there is a contrary principle, that people are only judged for what they have done, not for what they will do. Retributive punishment is justice; pre-emptive punishment is not.

To repeat: this is speculative. There may have been other reasons at work. But it makes sense to suppose that the Sages sought as far as possible to make their individual rulings consistent with the value-structure of Jewish law as they understood it. On this view, the law of the condemned city exists to teach us that idolatry, once accepted in public, is contagious, as we see from the history of Israel’s kings. The law of the stubborn and rebellious child is there to teach us how steep is the downward slope from juvenile delinquency to adult crime. Law exists not just to regulate but also to educate.

In the case of bal tashchit, however, there is an obvious fit with much else in Jewish law and thought. The Torah is concerned with what we would nowadays call ‘sustainability.’ This is particularly true of the three commands ordaining periodic rest: the Sabbath, the Sabbatical year, and the Jubilee year.

On the Sabbath all agricultural work is forbidden, “**so that your ox and your donkey may rest.**” (Ex.23:12) It sets a limit to our intervention in nature and the pursuit of economic growth. We become conscious that we are creations, not just creators. The

earth is not ours but God's. For six days it is handed over to us, but on the seventh we symbolically abdicate that power. We may perform no 'work', which is to say, an act that alters the state of something for human purposes. *The Sabbath is a weekly reminder of the integrity of nature and the boundaries of human striving.*

What the Sabbath does for humans and animals, the Sabbatical and Jubilee years do for the land. The earth, too, is entitled to its periodic rest. The Torah warns that if the Israelites do not respect this, they will suffer exile, "then shall the land make appeasement for its Sabbaths, for as long as it lies desolate and you are in your enemies' lands. Then the land will rest and make appeasement for its Sabbaths." (Lev. 26:34)

Behind this are two concerns. One is environmental. As Maimonides points out, land which is overexploited eventually erodes and loses its fertility. The Israelites were therefore commanded to conserve the soil by giving it periodic fallow years, not pursuing short-term gain at the cost of long-term desolation.[4] The second, no less significant, is theological. "The land," says God, "is Mine; you are merely migrants and visitors to Me." (Lev. 25:23)

We are guests on earth.

There is another group of commands which directs us against over-interference with nature. The Torah forbids crossbreeding livestock, planting a field with mixed seeds, and wearing a garment of mixed wool and linen. These rules are called *chukim* or 'statutes'. Nahmanides understood this term to mean laws that respect the integrity of nature. To mix different species, he argued, was to presume to be able to improve on creation, and is thus an affront to the Creator. Each species has its own internal laws of development and reproduction, and these must not be tampered with:

"One who combines two different species thereby changes and defies the work of creation, as if he believes that the Holy One, blessed be He, has not completely perfected the world and he now wishes to improve it by adding new kinds of creatures." [5]

Deuteronomy also contains a law forbidding taking a young bird together with its mother. Nahmanides sees this as having the same underlying concern, namely of protecting species. Though the Bible permits us to use some animals for food, we must not cull them to extinction.

Samson Raphael Hirsch in the nineteenth century gave the most forcible interpretation of biblical law. The statutes relating to environmental protection, he said, represent the principle that "the same regard which you show to humanity you must also demonstrate to every lower creature, to the earth which bears and sustains all, and to the world of plants and animals." They are a kind of social justice applied to the natural world:

"They ask you to regard all living things as God's property. Destroy none; abuse none; waste nothing; employ all things wisely ... Look upon all creatures as servants in the household of creation." [6]

Hirsch also gave a novel interpretation to the phrase in Genesis 1, "Let Us make man in Our image after Our own likeness." (Gen. 1:26) The passage is puzzling, for at that

stage, prior to the creation of man, God was alone. The 'Us', says Hirsch, refers to the rest of creation. Because man alone would develop the capacity to change and possibly endanger the natural world, nature itself was consulted as to whether it approved of such a being. The implied condition is that humans may use nature only in such a way as to enhance it, not put it at risk. Anything else is ultra vires, outside the remit of our stewardship of the planet.

In this context, a phrase in Genesis 2 is decisive. Man was set in the Garden of Eden **"to work it and safeguard it."** (Gen. 2:15) The two Hebrew verbs are significant. The first – le'ovdah – literally means 'to serve it'. Man is not just a master but also a servant of nature. The second – leshomrah – means 'to guard it'. This is the verb used in later Torah legislation to describe the responsibilities of a guardian of property that does not belong to him. He must exercise vigilance in its protection and is liable for loss through negligence. This is perhaps the best short definition of humanity's responsibility for nature as the Bible conceives it.

Man's dominion over nature is thus limited by the requirement to serve and conserve. The famous story of Genesis 2-3 – eating the forbidden fruit, and the subsequent exile from Eden – makes just this point. Not everything we can do, may we do. Transgress the limits, and disaster follows. All of this is summed up by a simple Midrash:

"When God made man, He showed him the panoply of creation and said to him: 'See all My works, how beautiful they are. All I have made, I have made for you. Take care, therefore, that you do not destroy My world, for if you do, there will be no one left to mend what you have destroyed.'"[7]

We know much more than we once did about the dangers to the earth's ecology by the ceaseless pursuit of economic gain. The guidance of the Oral tradition in interpreting "do not destroy" expansively, not restrictively, should inspire us now. *We should expand our horizons of environmental responsibility for the sake of generations not yet born, and for the sake of God, whose guests on earth we are.*

[1] Tosefta Sanhedrin 11:6, 14:1. [2] Hilchot Melachim 6:10. [3] Mishnah Sanhedrin 8:5.

[4] Rambam, The Guide for the Perplexed, III:39. [5] Ramban, Commentary to Lev. 19:19.

[6] S. R. Hirsch, The Nineteen Letters, Letter 11. [7] Kohelet Rabbah 7:13.

Prophets of Faith: Shofetim by Amy Kalmanofsky

<http://www.jtsa.edu/torah/prophets-of-faith-2/>

I often distinguish between faith and belief and consider myself to be a person of faith. Whereas belief implies a degree of certainty that I am uncomfortable with, faith embraces doubt. To my ear, the statement that I believe something to be true communicates that you know something is true. The statement that I have faith that something is true suggests that you desire or suspect something is true. Belief seems restrictive to me—confined by only what is known or can be known—and is at risk of dogmatism.

As a person of faith, I develop a religious language and perspective that extends beyond certainties. One that is not circumscribed by only that which I can know, see,

and prove. And, most importantly, a language that encompasses aspirational qualities of the religious imagination and the human heart and soul.

I think of the distinction between faith and belief in the context of Parashat Shofetim which is concerned with the various types of leaders that governed Israelite society: judges, kings, priests, and prophets. Throughout the parashah, the Torah seems concerned with placing limitations upon Israelite leaders to prevent the abuse of power. Judges must not accept bribes in the pursuit of justice. Kings must not accumulate too many horses or wives. Priests have no territorial claims and are supported only through prescribed cultic offerings. Prophets must speak in God's name and may not practice any forms of divination by casting spells or consulting with spirits.

Prophets stand out among the leaders mentioned in Shofetim. Priests and kings are dynastic leaders born into their positions. Judges are appointed by the people, presumably because they demonstrated wisdom and integrity. Prophets, however, are called into service by God, and therefore must assert their authority over, and prove their legitimacy before, the people. Given this, the question posed by the people in Deut. 18:21 is genuine and vital: How will we know [אִיכָּה נִדְעַע] that the word spoken is the word of God?

The question "How will we know?" sounds to my ear like a fundamental question of belief not faith. The people want to know with certainty that the prophet speaks for God. In other words, they want to believe in the prophet and not have faith that the prophet speaks for God.

In response, the Torah offers two means to test the veracity of a prophet. First, the true prophet speaks in God's name and not in the name of other gods. Second, the prophecy must come true. The first criterion easily is satisfied. Even a false prophet should have enough smarts not to speak in the name of another god, though Jer. 2:8 condemns prophets who apparently spoke in Baal's name. The second criterion is more difficult to fake. The prophet must prove right. There can be no doubt.

I do not blame the people for wanting to believe in (and not solely have faith in) their prophets and for asking the question "How will we know?" I understand their anxiety and desire for certainty. I, too, desire certainty in a world that appears to grow more and more unstable and want to appoint leaders that I know will guide me through it. Yet, unlike my ancient forebearers, I do not expect nor want to believe in my leaders. I want to have faith in them, particularly in my religious leaders. And I want my religious leaders to express themselves with the language of faith, not belief.

I look for religious leaders who strive to hear God, but who don't know they speak for God. I seek religious leaders who are sensitive to the mysteries of our existence and who are poets that can express those mysteries. I seek religious leaders who have faith that we are more than the sum of our parts and who offer some vision for what that means. Faith may lack certainty, but it incorporates hope. Expressions of faith offer a hopeful vision of what can be and not what is. I look for religious leaders who can express that vision and that can inspire me to claim my place within that vision.

In my view, Israel's prophets were people of faith and not belief. Their words were more effective than true. They were Israel's poets who were able to see and express the mysteries of the universe. They also expressed hope with images of a restored Israel. Even their visions of doom were, at some level, hopeful as they were meant to inspire repentance and a renewed commitment to God.

Israel's prophets could see beyond what was happening to what was possible. They could see beyond Israel's sins to Israel's potential for good. They were people of faith. There may be no better example of prophetic faith than Isaiah's words from this week's haftarah. Isaiah addresses a decimated Israel who has suffered God's rebuke—an Israel who swoons in the streets and reels from having drunk from the cup of God's wrath (Isa. 51:20–22).

To this Israel, Isaiah beckons them to arise from the dust and adorn robes of majesty (52:1–2).

To this Israel, the faithful prophet proclaims: “Your watchmen raise their voices. Together, they shout for joy. For every eye will see God's return to Zion. Raise a shout together, Ruins of Jerusalem! For God will comfort the people. God will redeem Jerusalem” (vv. 8–9).

How do we know that the prophet Isaiah speaks the truth? We don't. But I have faith that he does. *(Amy Kalmanofsky is Dean of List College and Kekst Graduate School at JTS)*

[Abolition, Abolition Shall You Pursue! By Cantor Michael Zoosman](https://truah.org/resources/parshat-shoftim-michael-zoosman-moraltorah/)
<https://truah.org/resources/parshat-shoftim-michael-zoosman-moraltorah/>

I do not believe in coincidences. Synchronicities, yes; coincidences, no.

As a hardened death penalty abolitionist and founder of “L'chaim! Jews Against the Death Penalty,” it is natural for me to write about Parshat Shoftim, which we read this Shabbat. It includes multiple references to cases where the death penalty is sanctioned in the Torah.

Indeed, Shoftim includes one of the most difficult verses for me to read: “Nor must you show pity: life for life, eye for eye, tooth for tooth, hand for hand, foot for foot.”

(Deuteronomy 19:21) This parshah also includes one of the Torah's most well-known mandates for social action in the famous call of “Tzedek, tzedek tirdof – Justice, justice shall you pursue.” (Deuteronomy 16:20)

What I did not know at the time I elected to write about Shoftim, months ago, is that the time slot I made in my calendar to write this d'var Torah would be only hours after learning of the passing of my beloved grandmother, Holocaust survivor Clara Grossman, Pesia bat Chaika, zichrona livracha (her memory for a blessing), at the age of 101.

Long before I became an active abolitionist, I was an active researcher alongside generations of my family, trying to pursue a specific kind of justice: namely, to discover the identity of the Polish Catholic farmer who was stabbed to death for refusing to give up the whereabouts of my grandmother and her sisters as they hid on his property

during the Shoah/Holocaust. After nearly 40 years of active searching – and 80 years after his sacrifice – our family finally located the identity of this man: He was Mr. Michal Cegielski, of blessed memory. He will be formally inducted into the group of “Hasidei Ummot ha-Olam,” (“Righteous Members of the Nations of the World”) at Yad Vashem in a ceremony this fall.

I mention our family’s unique pursuit of justice for Mr. Cegielski z’l to emphasize that in fact justice comes in many forms. It is not, as many mistakenly think, mostly punishment and consequences. In our case, it came in the form of honoring a man without whose efforts I would not be alive today. I am starkly reminded here of how the Talmud instructed witnesses in capital offenses so that they understood the gravity of their role. From the Mishnah Sanhedrin 4:5:

How were the witnesses inspired with awe? Witnesses in capital charges were brought in and intimidated [thus]: “..in civil suits, one can make monetary restitution and thereby gain atonement [for an error]; but in capital cases one is held responsible for [the accused’s] blood and the blood of their[potential] descendants until the end of time. For this reason was Adam created alone, to teach you that whosoever destroys a single soul, scripture imputes [guilt] to them as though they had destroyed a complete world; and whosoever preserves a single soul, scripture ascribes [merit] to them as though they had preserved a complete world.”

There can be no doubt that Mr. Cegielski’s selfless actions saved generations of human beings in our family and enabled me to write these very words right now. It is this same Talmudic reference to “saving a life, saving a world” that informs my own kind of “pursuit of justice” as a death penalty abolitionist. I encounter many people in my advocacy who have little to no understanding of how rabbinic law – like in the very mishnah quoted above – made the imposition of the biblical death penalty so extremely difficult. (I have been called a slew of horrific names and been the subject of antisemitic attacks for our group’s advocacy for those facing death, particularly from some readers of our anti-death penalty blog in the Times of Israel.) Nor do they recognize that the trajectory of interpretations of biblical law over the millennia have led to an increasing consensus in the Jewish world that the death penalty is, indeed, an abomination. (Please see the sources that our partner Death Penalty Action has collected.) Instead, they, ironically, blindly invoke “eye for an eye,” and leave it at that. And yet, we shall not stop this pursuit of restorative justice – a form of justice that ends the continuing cycle of killing and violence and reflects the necessary ingredients for humanity’s spiritual evolution, particularly in the wake of the onslaught of state-sanctioned murder that has taken place in the 20th and 21st centuries. It was none other than Elie Wiesel z’l who famously said of capital punishment: “Death is not the answer.” Prof. Wiesel also said this:

With every cell of my being and with every fiber of my memory I oppose the death penalty in all forms. I do not believe any civilized society should be at the service of death. I don’t think it’s human to become an agent of the angel of death.

And so, on this Shabbat Shoftim, I offer a toast to my grandmother Clara Grossman, to her savior Michal Cegielski, and to all who have engaged in pikuach nefesh/saving

a life and in “rescuing those taken off to death” (Proverbs 24:11), as we loudly chant: “Abolition, Abolition Shall You Pursue!” And, of course...

“L’chaim...to Life!” *(Michael Zoosman is an ordained cantor (JTS, 2007), multifaith federal hospital chaplain, and former Jewish prison chaplain. He lives in Maryland with his wife and two daughters and is honored to be a T’ruah chaver (rabbinic member). He is the founder of “L’chaim! Jews Against the Death Penalty” and an Advisory Board Member at Death Penalty Action.)*

Bribery in Parshat Shoftim and Today by Rabbi Avi Novis-Deutsch

<https://schechter.edu/bribery-in-parshat-shoftim-and-today/>

This week’s parsha is Shoftim, “Judges” and coincides with the beginning of the new month of Elul. Elul is the month in which we prepare for the holidays and start the process of introspection and self-improvement. The parsha of Shoftim opens with verses that are very relevant to these days, especially in Israel as we anticipate the coming election that will take place in about two months.

The parsha opens, “You shall appoint magistrates and officials for your tribes, in all the settlements that your God is giving you, and they shall govern the people with due justice. You shall not judge unfairly: you shall show no partiality; you shall not take bribes, for bribes blind the eyes of the discerning and upset the pleas of the just.” (Deut. 16:18-19).

The parsha starts with the need to appoint judges and police to make sure we have a government and a judicial authority as well as people that will implement the policy, the police officers.

The text tells us to avoid bribery because it tempts judges to rule in favor of the party that has done wrong. Usually we read it as a very direct outcome: when a person takes bribery he doesn’t judge according to what’s correct and incorrect, rather the money he receives makes him lean toward one opinion. Even if the person giving the judge money is correct, the money makes the judge no longer objective.

I want to offer a different reading that I think has lots to do with trying to analyze the reality in Israel and the atmosphere that I see here. When we say that you shouldn’t divert the sentence and you shouldn’t take bribery, it doesn’t blind you as the judge, rather it blinds the people who observe you. It actually makes the people who look at the judges, the authorities, the government and all these people who rule, as people that they cannot trust. As people that they cannot truly believe anymore. Regardless of whether they are doing a moral or immoral action, and even when they actually do the moral option, we already are under the impression that they’re doing an immoral action.

When we reach the month of Elul we need to shift from this perspective and from the damage that is done when we hear once again about corruption. We need to return to trusting our judges and the judicial process so that we truly believe the verse later in the parsha that says what the judges declare is right is right and what they declare is left is left. *(Avi Novis-Deutsch is presently the Dean of the Schechter Rabbinical Seminary. Ordained as a Masorti rabbi by the SRS in 2003, Rabbi Novis-Deutsch also has an MA in Jewish*

Studies from JTS. He served for nine years as a pulpit rabbi at two Masorti congregations in Israel, most recently, at Haminyan Hamishpacht Masorti Kfar Veradim. Rabbi Novis-Deutsch also worked for two years as a Jewish educator in Berkeley and in the Bay Area, California. He is married to Dr. Nurit Novis-Deutsch. They and their three children live on Kibbutz Hanaton.)

Yahrtzeits

Merna Most remembers her husband Dr. David Most on Thurs. Sept. 8 (Elul 12).