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From: crshulman@aol.com

B'S'D'

INTERNET PARSHA SHEET ON SHOFTIM - 5761

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Note to readers: I am including a new announcements section in the Internet Parsha Sheets, that would for example include: mazal tov, condolences, Refuah Shleimah, etc. So please send to me at crshulman@aol.com any information you would like to include. Please also include the town or neighborhood in mazal tov or condolence announcements. (The information would be revised each week, so that for example in the refuah shleima section, you would have to send me a new email each week, if the person is still ill.) Thanks Chaim crshulman@aol.com

Announcements:

Mazel tov to Shira Abramovitz on her wedding to Michael Goldfischer and to her parents Asher and Rachelle Abramovitz of Fresh Meadows, N.Y.

Mazel Tov to Rabbi Jonathan (Tani) Schwartz of Woodmere (Assistant Rabbi at Fifth Avenue Synagogue and author of the popular Internet Chabura) on his upcoming marriage to Tammy Cohen of Cleveland.

Mazel Tov to Samuel Caplan (from London) and Jessica Panzer (from Connecticut) on their recent marriage.

Mazel Tov to Jules Polonetsky and Na'ama Lewin on the birth of a baby boy.

Please say Tehillim and daven for Chana Bas Esther (sole survivor of deadly helicopter crash); Chana Tova Chaya Bas Pescha (31 year old Modi'in resident gravely wounded in Sbarros); Matan-El ben Orna and Tzvi-El Yehuda ben Orna (2 brothers wounded in shooting in Chevron on Thursday); and Yitzchak Ben Zesael (Thurm).

From: listmaster@shemayisrael.com To: Peninim Parsha
PENINIM ON THE TORAH
BY RABBI A. LEIB SCHEINBAUM
PARSHAS SHOFTIM

You shall not turn from the word that they will tell you, right or left. (17:11)

The spiritual leadership of Klal Yisrael makes their decision only after careful deliberation into the halachah, law. It is rendered by individuals whose relationship with Torah is of a singular nature. Their exemplary love for the Torah goes hand in hand with their profound scholarship. Their interpretation of the Torah is law. We are commanded to listen to them, even when the decision they render seems unjustified or incorrect. They represent the final word. To undermine the words of Chazal is to attack the Torah. The following incredible story was related by Horav David Puvarsky.

The story takes place in Russia where Horav Moshe Feinstein, zl, was rav. In his city there lived a malshin, informer, who went out of his

way to endear himself to the authorities at the expense of his Jewish brethren. As a result of his close relationship with the government, people were afraid of him, never knowing whether they would be his next sacrifice. Undoubtedly, he caused great difficulty and anxiety for the small Jewish community. People shied away from him, as they developed an intense hatred for him.

Everybody is destined to leave this temporary world at one time or another. The informer's turn had come to return his soul to his Maker. On the last day of his life, he asked for the chevra kadisha, Jewish burial society, to come visit him, so that he could make one special request of them. When they arrived, the informer told them that he was acutely aware of the many sins that plagued his life. He fully understood the evil he had perpetrated and the terrible hurt he had caused to so many people. In his desire to expiate a malevolent life, he asked them to bury him in the ground in a fashion similar to that of a donkey - with his legs standing in a vertical position.

The men standing around the informer's bed were moved by the wicked man's plea. Thus, they gave him their word and afterward signed a document stating that they would accede to his request to be buried as a donkey.

After the informer died, word got back to the rav, Rav Moshe Feinstein, that they were about to bury a Jewish person in a manner antithetical to Torah dictate. Rav Moshe was vehement; he would not permit a Jew to be buried in such a denigrating manner.

As soon as he spoke, the people accepted his decision and buried the informer in the proper manner. The next morning, the mishtarah, secret police, showed up immediately following the burial, demanding to have the corpse exhumed so that they could see in what manner the informer was buried. The chevra kadisha refused to exhume the body. They claimed it was against Jewish law to dig up a body. The police said that it was not their responsibility if the Torah law was being undermined or not. They wanted to view the body, and no one could prevent them from doing what they wanted to do.

The chevra kadisha saw that arguing with the police was to no avail. They had made up their mind to exhume the informer. They proceeded to dig up the grave. They peered inside, saw the manner in which the informer was buried and left peacefully. It was only then that the members of the chevra kadisha realized the incredible miracle that had just occurred for them. The reason that the police sought to search the burial site was because the informer told his gentile friends that the Jews hated him, and they would surely bury him like a donkey. Even as he stood at his death's threshold, the miscreant attempted to take one last shot at his People. This person's self-hate prevailed over his sense of reason. He was willing to go to his death, to his eternal punishment, with one more sin on his record. Had he been buried in accordance with his wish, the entire Jewish community's lives would have been in danger. Such was his evil.

It was only the Daas Torah, the wisdom that is the result of being immersed in Torah that characterized Rav Moshe, that prevented a tragedy from occurring. This narrative is a tribute to the greatness in Torah that personified the individual who was the posek hador, halachic arbiter, whose decisions encompassed and addressed every area of human endeavor. We also note the evil that permeates some people. The informer knew he was dying. Rather than repent, he was determined to make one more attempt to hurt the People from whom he had become estranged. While condemning this person is easy, we might want to ask ourselves what could have happened in his life that prompted such virulent hatred towards his People?

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From:Ohr Somayach[SMTP:ohr@ohr.edu] To: weekly@ohr.edu

Subject: Torah Weekly - Shoftim

YOU BE THE JUDGE

"Judges and officers shall you appoint for yourselves..."(16:18).

The Torah could just as easily have written "Judges and officers shall you appoint;" the words "for yourselves" seem superfluous. Yet, the Torah here hints that a person needs to appoint himself as judge over himself to adjudicate whether his actions are befitting. He needs to be his own "policeman" to ensure that he carries out that which he has judged fitting, and to "fine" himself if necessary if his behavior is not up to this standard.

Rabbi Moshe Feinstein

GOOD GOOD

"Righteousness, righteousness, you shall pursue "(16:20).

This verse teaches us the opposite of the popular adage "The end justifies the means." The Torah insists that we pursue righteousness only with righteousness and not by any means and not at all costs.

Rabbi Bunim m'Pschische

Written and compiled by Rabbi Yaakov Asher Sinclair To subscribe to this list please e-mail weekly-subscribe@ohr.edu

From: RABBI YESSOCHER FRAND ryfrand@torah.org To: ravfrand@torah.org Subject: Rabbi Frand on Parshas Shoftim

Dedicated to Baila bat Rachel, and Aharon ben Leah for a complete recovery- refuah shelayah - with Hashem's Help- by Devorah.

Home is Where the Beis Din Is

The Parsha begins with the pasuk [verse] "You shall appoint for your tribes, judges and policemen in all your settlements that G-d your L-rd is giving you, and make sure that they administer honest judgment for the people" [Devorim 16:18]. The Sifri derives a halacha [Torah law] from this pasuk that it is necessary to set up courts in every district and in every city in Eretz Yisroel [The Land of Israel]. When there were different regions within Eretz Yisroel, there was a commandment to have courts at both the local and regional levels.

The halacha states that outside of the land of Israel, it suffices to have courts at the regional level. It is not necessary to have courts in each city. The question must be asked - why is there such a distinction between the Land of Israel and outside the Land of Israel?

Rav Mordechai Gifter (1916-2001) suggests the following answer: A Court system allows society to function. Any efficiently functioning society needs a judicial system. An efficient society needs all types of courts: small claims courts, traffic courts, probate courts, superior courts, appeals courts, etc.

By introducing the above mentioned dichotomy, the halacha is making the statement that since Chutz L'Aretz [outside the Land of Israel] is not really our home, we do not need to establish such an efficient society with the whole range of Courts. The halacha makes it clear to us that in no way should we ever think that outside the Land of Israel we can have the entire infrastructure to run an efficient Jewish society. In fact, the halacha does not want us to have such an efficient society outside the Land of Israel. We should not feel like "this is our home" and that therefore we need both the state court and the local court and the whole infrastructure of an efficient judicial system. We should feel that we are somehow lacking and that things are not set up properly in Chutz L'Aretz.

I have a connection with a Gentile who produces my tapes. He lives in Woodstock, Maryland. He has a beautiful home on a beautiful estate. When one drives up to his home, one sees a sign "The Promised Land". He can make such a statement. He has the home and the grounds and the pool. For him, this IS the promised land. But this IS NOT our promised land. We need to have reminders that this is not our promised land. The reminder is that we do not have the full range of Courts that Jewish Law optimally requires. "For you have not yet come to the resting

place and to the inheritance that the L-rd, your G-d, will give you" [Devorim 12:9].

The 'Bigger' The Person, The Happier The Person

The Parsha enumerates the various draft deferments that were granted to certain members of society during a time of war. "The officers shall then speak to the people and say, 'Is there any man among you who has built a house and has not begun to live in it? Let him go home, so that he will not die in war and have another man live in it'" [Devorim 20:5].

There is a very interesting Rashi on this pasuk. Rashi (1040-1105) explains that "this would be a matter of great aggravation to the person".

It would seem understandable if the Torah had said that this deferment was granted because it would be distressing for a man to build a new house and never dedicate the house or never live in the house. That would be very distressing. But that is NOT what the Torah says. Rather, the Torah says "lest he die, and SOMEONE ELSE will live in the house".

Rashi emphasizes that the person would experience extreme aggravation specifically regarding someone else living in the house. How ironic! If the worst case scenario had 'only' been that he would die in war, that would not be enough of a tragedy to justify a deferment. But the thought that as a result of his death, someone else would live in his house is unbearable! That thought would drive him crazy. It would affect his morale to such an extent that he could not be an effective soldier. The Torah recognized this reality and excused such a soldier from the army, lest his negative morale effect the whole military unit.

Rav Leib Chassman calls our attention to this Rashi and emphasizes that the Torah deals with reality. This is the nature of human beings. A human being may not be so upset, perhaps, at the specter of never having lived in the house that he built. But the specter of building a house, never living in it, and someone else living in that house, is too much to bear.

However Rav Chassman admonishes that if we were more spiritual and had loftier character traits, we would have a different perspective. We would feel differently about someone else living in our house. We would think, "Well, if I cannot live in this house, at least somebody else will be able to live in it." That which Rashi refers to as causing "great aggravation" is not necessarily intrinsic to the human condition. The aggravation is caused by our own poor character traits (midos). My own lack of generosity of spirit causes my aggravation.

And so it is with many things in life: The loftier the character traits that a person possesses, the bigger giver he is. The bigger giver he is, the more generous he is. The more generous he is, the less self-centered he is. The less self-centered a person is, the happier the person is. The biggest incentive that a person has to be a less selfish person is not that as a result he will achieve the status of being a righteous person (a 'Tzadik'). No! The biggest incentive a person has to be a less selfish person is that he will thus become a happier person. He will be happier, because he will not be constantly 'eaten up' by his own selfishness and jealousies.

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These divrei Torah were adapted from the hashkafa portion of Rabbi Yissocher Frand's Commuter Chavrusah Tapes on the weekly portion: Tape #382, Circumstantial Evidence. Tapes or a complete catalogue can be ordered from the Yad Yechiel Institute, PO Box 511, Owings Mills MD 21117-0511. Call (410) 358-0416 or e-mail tapes@yadyechiel.org or visit <http://www.yadyechiel.org/> for further information. RavFrand, Copyright © 2001 by Rabbi Yissocher Frand and Torah.org. Torah.org: The Judaism Site <http://www.torah.org/> 17 Warren Road, Suite 2B learn@torah.org Baltimore, MD 21208 (410) 602-1350

From: RABBI JONATHAN SCHWARTZ jschwrtz@ymail.yu.edu
To: chabura613@hotmail.com Subject: internet Chaburah -- parshas Shoftim

Prologue: When engaging in the appointment of leaders, the Torah goes into great detail as to their sterling qualities. The Torah commands: Tzedek Tzedek Tirdof (Devarim 16:20). Why the repetition of the phrase Tzedek?

Often people approach conflict with the understanding that there is a difference of opinion about the given issue. However, what they neglect to mention is the fact that many approach the conflict with the initial stance that they are right (B'tzedek). The art of conflict resolution and couples counseling is in getting the conflicting parties to recognize that there is legitimacy to the alternative position. Once that goal is achieved, the conflict has been successfully resolved, and the couple counseled.

Rav Nissan Alpert ztl. pointed out that this is the secret to the double repetition of Tezdek Tzedek. A good arbiter must begin by recognizing that human nature that a man feels he is right. However, true Tzidkus is fully achieved when the arbiter sees the righteousness of all the parties involved.

Sometimes, arbiters feel not only are they right but that they are entitled to certain rights over others who might share their position. This week's Chaburah examines one such situation. It is entitled:

Whose wedding is it anyway??: LeeSader Mesader Kiddushin

The Talmud (Kiddushin 6a) notes that one who is not a Baki (expert) in the laws of Gittin and Kiddushin should not have anything to do with them. Rashi explains that the reason for this Halacha is to prevent someone who does not know the laws from accidentally allowing something that should not be allowed. (see also Tur & shulchan Aruch Even Haezer, 49).

The Taz (ibid) explains that the idea of "not having anything to do with" kiddushin refers to ruling on their validity. Based upon the current form of wedding ceremony, there is no problem with allowing one who is not an expert to perform the ceremony according to the Taz. Rather, the Beth Din that might have to rule on the sanctity of the marriage should not have any judges unfamiliar with the intricacies of wedding Halacha. The Maharsha (Kiddushin 13a) too, notes that today, it has become commonplace to appoint Mesaderei Kiddushin who might not be as familiar with wedding Halacha while the laws of divorce have remain solely an institution for the experts in divorce law. The Shut Shevus Yaakov (III:121) argues and maintains that the Mesader Kiddushin must be versed in the intricacies (at least L'chatchila) of wedding law.

Once one knows that there are a number of potential acceptable candidates for the position of Mesader Kiddushin, is there any rule of selection?

The Knesses Yechezkel (72) maintained that one was forbidden to be Mesader Kiddushin without the permission of the local town's official Rabbi. However, the Rema (Yoreh Deah 245:22) noted that one could allow a different Rabbi to replace the town Rabbi as long as the replaced rabbi is paid for the job he would have performed.

What does one do today where there are few identifiable official town rabbis? Who performs the wedding ceremony? Rav Breisch (Shut Chelkas Yaakov II:115) and others (Shut B'Tzel Hachochma II:72) felt that the Mesader Kiddushin performs the Beracha on Kos Eirusin for the Chosson and thus the call of who should perform the Mitzva should be the Chosson's. However, there are opinions that the Mesader Kiddushin recites the Beracha for both Chosson and Kalla. Accordingly, the right of selection is to be decided by them.

HaGaon Harav Hershel Schachter Shlita (B'ikvei Hatzoan: 39) noted that perhaps the Mesader Kiddushin recites the Beracha for all those

assembled (based upon Tosafos Pesachim 7a). Based upon this logic, the Mesader Kiddushin should be the one acceptable to most of the people present. Either way, clearly it is not the right of any rabbi to "demand" rights to Siddur Kiddushin.

Battala News

Mazal Tov to Mr. and Mrs. Chaim Haas upon their recent marriage.

Mazal Tov to Rabbi Zvi Engel upon his Aufruf and forthcoming marriage to Laurie Stender

Mazal Tov to the Schwartz/Cohen family upon the Aufruf and forthcoming marriage of their children. A Special Mazal Tov to Noam Eisenberg who made the Shidduch.

From: RABBI ELIEZER CHRYSLER rachrysl@netvision.net.il To: Midei Parsha Subject: Midei Shabbos by Rabbi Eliezer Chrysler

This issue is sponsored l'iluy Nishmas Avraham Chayim ben Ya'akov Yehudah z.l.

Parshas Shoftim 'LO SOSUR'

(based on the Torah Temimah and the Meshech Chochmah)

Although the Mitzvah of 'Lo sosur ...' is really referring to the obligation to obey the rulings of the Sanhedrin, who sat in the Lishkas ha'Gozis in the Beis Hamikdash, Chazal use this Pasuk as a support for all Rabbinical injunctions (B'rachos 19b). They also base the text of birchos ha'Mitzvos 'Blessed are You Hashem, who sanctified us with His Mitzvos ...', on this Pasuk because it is true to say that every Mitzvah de'Rabbanan is a Mitzvah d'Oraysa too (Shabbos 23a).

And they have said that so great is human dignity, that it overrides a Lo Sa'aseh min ha'Torah, namely, that of 'Lo Sosur' (B'rachos ibid.). Kavod ha'b'riyos takes precedence over no other Lo sa'aseh min ha'Torah (apart from La'avin connected with money matters, such as returning a lost article. Mitzvos Asei, which one contravenes negatively, are in any event overridden by human dignity, even Mitzvos such as Pesach and Milah, even though they are subject to Ka'res (excision).

The Meshech Chochmah cites the Ramban, who takes the Rambam to task for assuming that each time one transgresses a La'av de'Rabbanan, one automatically contravenes 'Lo Sosur'. Among the questions that he poses is, if that is the case, why are the Mitzvos de'Rabbanan not included in the Taryag Mitzvos?

And he answers the Ramban's queries by defining the Mitzvah as obeying the Chachamim, rather than the fulfillment of what they commanded. For instance, when the Chachamim instituted the kindling of Shabbos or Chanukah lights, the Torah did not second that command, turning the kindling into a Mitzvah min ha'Torah, but simply instructed us to obey the Chachamim. In that case, the command itself may well be considered a Mitzvah mi'de'Rabbanan, and it is obeying it that becomes a Torah law. In other words, Hashem wishes to enhance the honour of the Chachamim, without being concerned about the nature of the decree (with which He might conceivably not even agree, says the Meshech Chochmah).

And this emerges clearly from the Yerushalmi in Sucah, which rules that on the first day of Sukos, we recite '... al netilas Lulav', and on subsequent days, '... al Mitzvas Zekeinim'.

We can also now understand why Chazal rule more leniently with a Safek de'Rabbanan than they do with a Safek min ha'Torah. In the latter case, where the Torah forbade eating what is not Kosher for example, one dare not eat a Safek either (even though the Torah did not specifically forbid it) for fear that if the meat is not Kosher, one is eating something that the Torah forbade. By a Mitzvah de'Rabbanan, on the other hand, a Safek is permitted, because as we just explained, it is not the object that is forbidden, but the command of the Chachamim, and if their command did not incorporate a Safek, then the Torah did not forbid it either. And at the same time, one is not contravening their command

either, since they did not issue it in the case of a Safek.

And in similar vein, the Meshech Chochmah explains how it is possible for a later (and greater) Beis-Din to rescind the decrees of an earlier one (because here again, the Torah ordered us to obey whatever the Chachamim command; the command itself depends entirely on the conditions that they set).

The Ramban himself maintains that 'Lo Sosur' is not really a La'av at all, but an Asmachta (a Rabbinical injunction that is supported by a Pasuk), and this interpretation is implied by the Gemara in B'rochos that we quoted earlier.

See also the Torah Temimah (paragraph 7), who not only brings a proof that 'Lo Sosur' is no more than an Asmachta, but he also queries whether the Rambam said otherwise. The Rambam, he argues is not referring to all Rabbinical commands, as the commentaries assume, but to the status of the Sanhedrin in the Lishkas ha'Gazis, where their authority is questioned).

On the other hand, the Meshech Chochmah proves his point from the Rambam in Hilchos B'rochos (11:3), which seems to bear out His interpretation.

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Hemdat Yamim Parashat Eikev - Shoftim
... Moresheet Shaul

(from the works of Hagaon Harav Shaul Yisraeli zt"l)
Handing Over Land in Eretz Yisrael to Save Lives
(based on Chavot Binyamin siman 13)

[Ed. Note - As we begin the 7 weeks of consolation and contemplate the geula shleima, we are in the midst of a violent struggle with our adversaries over our right to hold on to Eretz Yisrael. During the first intifada (5749), Harav Ovadia Yosef, shlita, publicized a halachic decision that, under certain circumstances (which, he pointed out, did not exist at the time), Israel should give up land to save Jewish lives. Harav Yisraeli z.t.l. responded with a respectful but sharp halachic critique of his esteemed colleague's analysis. Over the next few weeks, we will summarize various elements of their crucial machloket.]

Rav Yosef (Techumin X, p.43) states that we have no mitzva to go to war or endanger lives to hold on to land which we captured against the will of the nations of the world. This is because of the "3 oaths" which bind Bnei Yisrael, which include not rebelling against the nations and not going up to Eretz Yisrael by force (Ketuvot 111a).

Rav Yisraeli countered this claim on several fronts. First of all, if our possession of land is in violation of the oaths, then not only should we be willing to bargain it away for peace, but we should unilaterally and immediately evacuate it! We should, additionally, have to give up our control of all of Jerusalem (which should be internationally controlled according to the UN Partition Plan of 5708) and several other "Green Line" areas!

In fact, in the first part of the 20th century, the nations of the world agreed to our return to Eretz Yisrael as our homeland. Rav Meir Simcha of Dvinsk, the "Ohr Sameach", declared at the time, that the oath not to go up to Eretz Yisrael forcefully no longer applied. The other oath of not rebelling against the nations applies to us only as subjects rebelling against the sovereign power in a given place. By settling sizable parts of the land in response to the permission given, we made a kinyan chazakah (act of acquisition based on settlement) on the land. The halacha is that if an agreement is made on the transfer of various tracts of land from Reuven to Shimon and Shimon does a kinyan chazakah on one field, then all of the fields become his. Thus, our settlement activity at the time, finalized our internationally approved rights over the entire Mandate of Palestine. Subsequent steps taken by the nations to shrink our Jewish Homeland were halachically invalid.

Most importantly, the UN, representing the nations of the world, granted us the right to an independent state. Since we acted on that right and, thus, made a kinyan, they can no longer withhold our right to a state or our right to act as normal nations do. A state whose security is threatened has the right to defend itself and conquer enemy land in the process (as we did in the Six Day War). The oaths do not require us to ask permission whenever we act on natural rights we were already granted.

Handing Over Land to Save Lives - part II - The Validity of Our Control Over Yesha (from Chavot Binyamin, siman 13)

We continue the machloket between Rav O. Yosef, shlita and Rav Yisraeli,

zt"l on the issue of "land for peace" in Eretz Yisrael.

R. Yosef wrote (Techumin vol. X) that a reason not to risk lives to protect land captured in the Six Day War is that there are flaws with the halachic status of the war. A Jewish war has a halachic status only if there was consultation with the Sanhedrin and urim v'tumim and only if the king sent the troops. The State of Israel has none of these, and, thus, the land its army captured lacks the status which would require one to risk his life to protect it. Secondly, claimed Rav Yosef, we anyway lack full control over the land, as large numbers of our adversaries live in the area and limit the free travel of Jewish inhabitants. The Ramban requires that our control be total (as a man lives in his own home). To preserve a lesser level of dominion is not a mitzva for which one should risk his life. Rav Yisraeli refuted both claims. If a milchemet mitzva (an obligatory war) and a milchemet r'shut (an optional war) require a king, Sanhedrin, and urim v'tumim, then how did the Hasmoneans (who had no urim v'tumim) wage war? How could halacha clearly rule that we must go out to battle to protect attacked Jewish communities in all generations? The Rambam does not make war contingent on a king, etc. Rather, those requirements of war are the proper procedure which the leadership is obligated to take - when they are possible. During the Second Temple period and nowadays they are not possible, and thus, not required. Their absence cannot delegitimize an obligatory defensive war, such as the Six Day War. It is hard to understand the claim regarding our lack of control over the liberated areas. The Ramban, who championed the concept of kibush (controlling the land) in all generations, did not only refer to a conquest by war which gives Bnei Yisrael absolute power over the entire land. Personal acquisition of the land, including peaceful settlement and purchasing land is also kibush. It is a personal obligation on every Jew (see language of the Ramban, analyzed in Eretz Hemdah 1:1) and cannot possibly require the individual to assume absolute control over an area and remove all adversarial neighbors. During most of the Second Temple period, Jews of Israel were ruled by the Persians and Greeks, yet they are described as being koveish the land. The presence of "foreigners" in the land does not negate our control. Have we an interest in removing them from the land?! Would one say that the most powerful nations in the world do not have sovereignty over their lands, because they abide by the practice of allowing minorities to remain in the land and ensuring their civil rights?! If Rav Yosef's requirements for a status of kibush were correct, the same problems would apply to much land within the Green Line. Yet Rav Yosef writes that we must vigorously defend those lands. In summary, the defensive war forced upon us in 5727, in the course of which, we gained control over sections of Eretz Yisrael, was waged halachically despite the absence of a king, Sanhedrin, and urim v'tumim. In any case, we neither need to wage war nor remove our Arab neighbors in order to control Eretz Yisrael. We are as obligated to maintain our control over Yehuda, Shomron, and Aza as we are to maintain it over Tel Aviv and Haifa. Next week - the factor of pikuach nefesh in our situation.

Handing Over Land to Save Lives - part III What Saves Life? (from Chavot Binyamin, siman 13)

[We continue our summary of the machloket between Harav Ovadia Yosef, shlita and Harav Yisraeli, z.t.l. on the question of a potential peace treaty with the Arabs based on the concept of land for peace. It is interesting how the events since their machloket have shed light on the issue.]

Assuming that pikuach nefesh (saving lives) outweighs concerns about our hold on Eretz Yisrael [an argument we discussed in the previous weeks], Rav Yosef related to the following possibility. The Arabs want a peace treaty and demand Yehuda, Shomron and Aza in return. Military/political experts say there is no danger in returning the territory, whereas there is a fear of immediate war if we refuse. In this scenario, halacha dictates, according to Rav Yosef, that we accept the treaty. He claims that it is dissimilar from the case of a Jewish border city under siege, where halacha mandates endangering lives. Let us examine the gemara in question to see if it applies to our case. The gemara (Eruvin 45a) says that when a Jewish community is attacked in order to kill, then other Jews are obligated to defend them and, if needed, even desecrate Shabbat. If the marauders only seek money, then they need not go out and must not desecrate Shabbat. However, if a border community is being attacked, then even if the attackers' demands are only monetary, there still is an obligation to save them. Rashi explains that a border town is unique because it can serve as a launching pad for future attackers. This fear applies to our conflict with the Arabs. While they claim to only want land, we cannot be assured that the Arabs won't use the land to launch future attacks. Rav Yosef preferred the Ra'avan's explanation of the gemara, that in border areas, the attackers will feel more confident because of their proximity to non-Jewish areas, and their quest for money can turn into a killing spree. Rav Yosef assumed that those concerns do not apply to our present situation, because the Arabs cannot dare attack and hide, especially in light of our air power. Rav Yisraeli pointed out that the Shulchan Aruch's (O.C. 329:6) plain presentation of the halacha implies

that he accepts Rashi's approach across the board. The Rama adds on a Ra'avan-like fear that nowadays, even in non-border areas, armed robbery can turn into murder. This highlights the possibility that the Ra'avan agrees with Rashi's approach (of a launching pad) and adds on an additional concern. In truth, even the Ra'avan's concern about a safe haven for attacks applies. To say that the Arabs will be too afraid of our warplanes to attack ignores their willingness to attack us even now when it is easier for us to counter-attack. Finally, Rav Yosef is willing to rely on the opinion of "experts" that no danger exists. But how can we ignore Chazal's appraisal, accepted as halacha by all generations, that this type of situation does constitute a danger? How can we ignore the Arab pronouncements that their demands extend beyond the West Bank and Gaza?

Moreshet Shaul (from the works of Hagaon Harav Shaul Yisraeli z.t.l.)

Handing Over Land to Save Lives- part IV- Pikuach Nefesh of Settlers (based on Chavot Binyamin siman 13)

Harav O. Yosef, shlita, claims that in regard to pikuach nefesh (saving lives), halacha puts the stress on short and mid-term considerations. Thus, if a peace treaty will give us security for the more immediate, foreseeable future, whereas the danger of more bloodshed because of our concessions is in the more distant future, halacha follows the more immediate concerns. This is based on the responsa of the Noda B'yehuda (Ed. II; YD 210), in opposition of autopsies without unique justification. The Chazon Ish explained that one does not factor in "future pikuach nefesh, which, in the present has no sign B and in truth we are not experts about the future so we don't determine halacha based on the distant future." Harav Yisraeli, z.t.l., countered that those poskim do, indeed, curtail the application of pikuach nefesh in the future, but they do not eliminate it. It is true that in regard to immediate danger, we consider even small risks, whereas we do not do so for more distant future. However, when there is a likely danger, even in the distant future, we must consider that pikuach nefesh as well. Since the gemara (Eruvin 45a, see last week's Moreshet Shaul) says that ceding land under military pressure creates a likely danger, we must factor in that danger when determining which steps should be taken to save lives. In addition to all of the concerns we have mentioned regarding the general population of Israel, there is a crucial pikuach nefesh issue which Rav Yosef does not address. What will be the fate of the 100,000 [now closer to 200,000] settlers of the land over "the Green Line?" It is hard to imagine an agreed upon resettlement, and any attempt to remove them by force runs the risk of a horrible civil war. If, as one would expect, they would remain in what will become enemy-occupied territory, who will guarantee their security? The gemara in Eruvin which we have discussed requires chillul Shabbat to avoid the possibility of future enemy control over an area. Most certainly we cannot actively put significant portions of our nation under such control. How could we leave them emptyhanded, at the mercy of those who would feel like victors?! Therefore, we must conclude that there is an absolute prohibition to hand over territory conquered, by Hashem's grace, in a defensive war. Such an action would increase danger to Jewish lives, not lessen it. We must strengthen ourselves with belief in the Protector of Israel, that He will guide us to the straight path, save our lives in difficult times, and bring us redemption, salvation and the ingathering and flourishing of the Exiles to and in our land. [With this, we complete our summary of the machloket between Rav Yisraeli and Rav Yosef on territorial compromise. While the matter was discussed a decade ago, one can only imagine that Rav Yisraeli's view would only have been bolstered by recent events.]

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From: RABBI SHLOMO RISKIN's Parshat Hashavua Column
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Shabbat Shalom: Parshat Shoftim (Deuteronomy: 16:18-21:9) By
Shlomo Riskin

Efrat, Israel - The "situation" in Israel, which is nothing less than a heartlessly cruel war in which our terrorist enemy chooses innocent women and children as their prime targets, seems to be centering more and more around our "right to be" in Israel in general and in Jerusalem in particular. The Torah readings in the Book of Devarim, and especially the section in this week's portion of Shoftim which deals with the benefits and responsibilities of the King of Israel, shed much light on the

separate sanctities of Israel and Jerusalem as well as on the land which unites them.

The eighth chapter of the Book of Deuteronomy features a lyric song of praise to the land of Israel: "Since the Lord your G-d is bringing you to a good land, a land of rivers of waters, wells and cisterns which emerge from valley and mountain; a land of wheat, barley, grape, fig, and pomegranate, a land of olive oil and date honey B a land flowing with milk and honey B a land which the Lord your G-d always seeks (for you), (a land) which are the eyes of the Lord from the beginning of the year until the end of the year" (Deuteronomy 8:7,8; Deuteronomy 11:9, 12). The land of Israel is here pictured as a magnificently fruitful source of sustenance for the people of Israel; it will provide them with food and drink, with natural beauty and natural resources.

>From this perspective, we will understand why our Grace after Meals features a blessing "on the land and on the food." (Deuteronomy 8:10). During our lengthy exile experience, it all too often occurred that the Gentile "host" country refused to allow us to benefit from the fruits of the our "host" country. And even more to the point, the Land of Israel much as an eternally faithful wife only displays its beauty and provides its sustenance to the children of Israel, during the close to 2000 years old that other nations occupied our land, its valley and mountains remained barren and arid. It was only when the nation Israel returned to its homeland that luscious fruits and blazing flowers returned to the landscape and a "green line" of separation could be easily demarcated.

Hence there are two blessings relating to the land of Israel in our daily amidah: the blessing for prosperity ("And provide blessing on the face of the land and satisfy us with its goodness) and the blessing of the ingathering of exiles. After all, material sustenance must include a homeland which can provide safe borders and which will always take you in despite world condemnation and persecution. The sanctity of the Land of Israel is bound up inextricably with the people of Israel; it emanates from its ability to provide food and shelter a home for the nation Israel. And on this basis we can well understand Maimonides position that in the main, when the Jews are no longer living on the land, the land is no longer sacred! (Laws of the Chosen House, Chapter 6, Law 15).

Jerusalem has a deeper sanctity one which Maimonides insists is an eternal sanctity: "the sanctity of Jerusalem is the sanctity of the Divine Presence, and the Divine Presence can never be nullified" (ibid). In order to attempt to understand what this really means, we must turn again to the daily Amidah. Here there are two blessings relating to Jerusalem paralleling the two blessings relating to the land. In the first, we ask the Almighty G-d "to return with great compassion to Your city B to restore the Davidic dynasty and to build it as an everlasting building." In the second, we entreat the Almighty to speedily cause the sprouting of the Messiah since we anxiously await salvation!

Although one might superficially suggest that while Israel the land provides the materialistic and geographical infrastructure for the Jewish nation-state, Jerusalem the City constitutes the political and regal slat of the Davidic dynasty. But that is not really what the blessing is saying. After all, the real subject of the first blessing of Jerusalem is not the king or the political leader but is rather the Almighty Himself "And to Jerusalem Your City may You return in compassion"

I believe we will be able to understand the true meaning of the blessing of the Amidah as well as of the Sanctity of Jerusalem if we investigate the Biblical concept of the function of the King of Israel, as it appears in this week's Torah reading. The Torah records that "when you come to the land B and you say Place upon me a King like all the nations roundabout you shall place upon yourself a King whom the Lord your G-d shall choose (Deuteronomy 17:14-18). The text goes on to command that "the king dare not acquire a multitude of horses B or a multitude of wives; nor may he amass a great deal of gold and silver B But he shall write a copy of this Torah Scroll which shall remain with him B to

observe all the words of this Torah."

The King of Israel was never slated to be the usual autocratic potentate who reveled in the materialistic trappings of monarchy; he was rather supposed to be the representative of the Almighty G-d, of the King of all Kings, whose laws he had to inspire all of Israel and eventually all of the world to respect and maintain. After all, did not Gideon tell those who asked him to rule over them, "I shall not rule over you, my sons shall not rule over you; G-d shall rule over you" (Judges 8:23). The King is G-d's representative, who read the Torah to the assemblage every seven years during the celebration of Hakhel in order to re-enact the Revelation at Sinai (Maimonides, Laws of Hagiga, Chapter 3). And Jerusalem, the City of G-d, is the place from where the world of G-d is to emanate in order to communicate ethical monotheism to the world, that "nation dare not lift up sword against nation, humanity dare not learn war any more" (Isaiah 2).

The sanctity of Israel is the sanctity which derives from the sanctity of the nation of Israel: the sanctity of Jerusalem is the sanctity which derives from G-d's teaching of ethical monotheism and universal peace. The name Jerusalem means City of Peace, and one of G-d's names is Peace. Our Temple of G-d is to be a "House of Prayer for all nations". The people of Israel is invested with the Divine mission of communicating G-d's will to the world through Jerusalem whose sanctity is as inviolate and as eternal as is the sanctity of the Divine Presence itself. The rightful guardians of Jerusalem can never be those who insist upon exclusivity and attempt to prove their mastery by destroying innocent women and children.

Shabbat Shalom.

From: RABBI BEREL WEIN <rbwein@torah.org> To: rabbiwein@torah.org Subject: Rabbi Wein - Parshas Shoftim

Competition is an accepted condition in our society. In commerce, sports, government, the arts and sciences, competition is the fuel for the engine that drives our society forward. Without competition we would be at the mercy of monopolists, cartels and a controlled society that would stifle all progress, efficiency or incentive for personal reward. The Talmud itself speaks highly of competition, at least in educational and scholarly matters, when it states that "competition amongst scholars increases wisdom and knowledge." Nevertheless, like all seemingly positive attributes, competition should have its limits. Unrestrained, cutthroat, vicious competition is immoral, wrong, and eventually counter-productive to the society itself. This week's Torah reading introduces the prohibition against the concept of "hasagat gvul" - unfair and immoral competition. The Hebrew words hasagat gvul literally mean overstepping or illegally encroaching on one's neighbor's border. Just as it is obviously wrong to move one's border fence to gobble up a piece of ground of the neighboring lot, so too is it wrong to engage in unfair competitive practices in order to injure someone's business in order to benefit one's own business enterprise. As naive and altruistic as this may appear at first glance, there is sound social and economic sense behind this Torah policy.

The Torah is interested in creating a fair, just, harmonious and compassionate society. Unfair competitive practices, when practiced regularly, openly and without shame, prevent the achievement of such a society. In the words of Rabbi Abraham ibn Ezra, the great philosopher, poet and biblical commentator of the twelfth century, "for such unfair competition [such as border encroachment] automatically leads to quarrels, violence and even murder." Rapacious economic practices in the eighteenth and nineteenth centuries led to the reactions of socialism, communism and other state-controlled economies in the twentieth century. The prophecy of ibn Ezra of "quarrels, violence and even murder" was thus fulfilled in front of our horrified eyes. Excess begets excess and greedy, exploitative, unfair competition begets unfair

state-controlled, repressive monopoly and tyranny. Thus the Torah frowns on negative remarks regarding competitors' products and personalities. Negative advertising, whether in politics, commercial services or manufactured products, is not allowed and is definitely a form of lashon harah - evil speech. One may describe accurately and even boast about the wonderful and unique qualities of one's own products or services, but it is unfair competition to knock the other person's product or services. I know that this sounds strange to twentieth century American consumers, who are bombarded by telemarketing, incessant advertising and a terrible amount of negative competition atmosphere. But Jews and their Torah understanding of life always were bidden to swim upstream against the current.

I think that the prohibition about "encroaching on the border" affects many areas of life. Following this precept guarantees the sanctity of privacy, the holiness of confidentiality and the civility necessary for a fair, civil and trustworthy marketplace. There is unfair competition in families and institutions for time and attention, for wealth and opportunity, even for love and caring. In fact, it is probably within the family circle, at the very beginnings of life itself that the seeds of destructive competition are planted. A wise parent is aware of the dangers of pitting sibling against sibling, of unfair comparisons of abilities and attainments. It is the individual, unique human being that counts, and though competition in human life is unavoidable, the destructive aspects of competition can and should be controlled and minimized.

Shabbat Shalom.

Rabbi Berel Wein

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From: Jeffrey Gross jgross@torah.org neustadt@torah.org To: weekly-halacha@torah.org Subject: Weekly Halacha - Parshas Shoftim - IS IT EVER PERMITTED TO LIE?

By RABBI DONIEL NEUSTADT Rav of Young Israel of Cleveland Heights
A discussion of Halachic topics. For final rulings, consult your Rav.
IS IT EVER PERMITTED TO LIE?

Yaakov Avinu was the amud ha-emes, the Pillar of Truth. Indeed, according to the Talmud(1), the greatest fear that Yaakov Avinu had was that he might encounter life situations where he would be forced to lie. When Rivkah commanded Yaakov to falsely present himself to his blind father as Eisav, he protested, for our Sages(2) compare lying to idol worship. It was only when Rivkah told him that it was the will of Heaven that he be the one to receive the blessings from his father Yitzchak, that Yaakov relented and allowed his mother to disguise him to appear as Eisav.

What is the definition of lying? Rabbeinu Yonah(3) lists nine different categories of lies. In order of severity, they are:

People who cheat in business, causing others financial loss; People who exploit others after gaining their trust through deception; People whose lies cause others to lose out on some gain or benefit that was coming to them; People who fabricate stories merely for the sake of lying; People who hold out the promise of giving another person material goods while never intending to follow up on their promise; People who intend to keep a promise but do not honor their commitment; People who claim that they did a favor or a good deed for another when in fact they have not; People who praise themselves for virtues that they do not possess; People who change minor details when retelling an episode.

A careful analysis of these nine categories shows that all of the lies are told either for the purpose of cheating another person, or for self-glorification, etc. R' Yonah, however, does not list those who lie for a "good" purpose or for a "good" reason. Thus, we may ask, is it ever permitted to lie?

Throughout Talmudic literature, we find stories about our Sages veering from the truth for "good" reasons(4). Obviously, however, only the poskim can draw practical conclusions from such cases, since these very episodes can be understood on various levels. Moreover, not everything quoted in the Talmud is applied in practical Halachah, as we often rule differently from an opinion stated in the

Talmud. The following, however, are some real-life situations with which the poskim deal: If one is asked information about a matter that is supposed to remain secret, he may answer, "I don't know"(5). Similarly, although one is not allowed to lie in order to avoid telling bad news(6), it is permitted to say, "I don't know"(7). During an appeal for funds, one is not allowed to announce a donation in an amount greater than he is planning to give, even if the aim is to spur others to commit themselves to larger donations(8). A wealthy man is permitted to lie about his wealth if he fears "the evil eye" (ayin ha-ra) or if he does not want to arouse jealousy(9). When collecting funds for a poor Torah scholar, one may say that he is collecting for hachnasas kallah, marrying off a bride, if he thinks that people will be more receptive to that cause(10). It is also permitted to raise funds for hachnasas kallah even when the collection is primarily for the benefit of the groom(11). It is prohibited to lie for the sake of financial gain, even when no stealing is involved(12). If one fears that a package will be mishandled, it is permitted to write "glass" on it, even though it does not contain any glass(13). If one sees that his wife will be late for Shabbos, he is permitted to tell her that the hour is later than it really is. This is permitted only when it is clear that she is procrastinating. If, however, she is rushing and harried and telling her that the hour is later than it really is will only pressure her further, it is forbidden to do so(14). If, by refusing to receive a visitor, the visitor's feelings will be hurt, one is permitted to leave instructions saying that he is not home(15). One should not, however, instruct a minor to lie about his parents' whereabouts, since that teaches the child to lie.

FOOTNOTES: 1 Makkos 24a. 2 Sanhedrin 92a. 3 Sha'arei Teshuvah 3:178-186. 4 See, for example, Berachos (43b) - episode with R' Papa; Pesachim (112a) -attributing a statement to a fabricated source so that it will be readily accepted; Sukkah (34b) - quoting Shemuel's threat to the haddasim merchants; Yevamos (65b) - lying for the sake of peace; Bava Metzia (23b) - departing from the truth for the sake of humility, modesty or discretion; Bava Metzia (30a) -episode with R' Yishmael. There are many other such examples. 5Harav S.Z. Auerbach and Harav S.Y. Elyashiv quoted in Titen Emes l'Yaakov, pg. 76. 6 Y.D. 402:12. 7Harav S.Z. Auerbach, Harav S.Y. Elyashiv and Harav Y.Y. Fisher quoted in Titen Emes l'Yaakov pg. 89. See also Metzudos David, II Shemuel 18:29. 8 Minchas Yitzchak 3:97, ba sed on Maharsha, Sukkah 29a. 9 Harav S.Y. Elyashiv quoted in Titen Emes l'Yaakov, pg. 78. 10 Teshuvos Mishneh Sachir (end of vol. 1) quoting a story with the Chasam Sofer. Part of the ruling is based on the Midrash Rabbah (Ki-Sisa) that compares a talmid chacham to a kallah. In that story the Chasam Sofer allowed a tzedakah fund intended for hachnasas kallah to support a well-known talmid chacham. 11 Harav S.Z. Auerbach quoted in Titen Emes l'Yaakov, pg. 55. 12 R' Yonah (Sha'arei Teshuvah 180,186); Rasha's'h (Shabbos 140b) and Sdei Chemed (vol. 4, pg. 87) opposing the Maharsha (Shabbos 140) who implies that it is permissible; Chafetz Chayim (Sefas Tamim 2). 13 Harav S.Y. Elyashiv, Harav Y.Y. Fisher and Harav C. Kanievsky, quoted in Titen Emes l'Yaakov, pg. 66. 14 Harav S.Y. Elyashiv quoted in Titen Emes l'Yaakov, pg. 86. 15 Harav S.Z. Auerbach and Harav S.Y. Elyashiv quoted in Titen Emes l'Yaakov, pg. 76. See also Machatzis ha-Shekel O.C. 156 which states that if one has no time to answer a question about a particular subject, he may say that he is not learning that subject now and cannot answer the question.

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From: RABBI YITZ ETSHALOM rebyitz@torah.org To: P'shuto Shel Mikra
Subject: Mikra - Parashat Shof'tim: The Eglah Arufah

Parashat Shof'tim
The Judges and the 'Eglah Arufah
by Yitzchak Etshalom
I THE CEREMONY

At the end of this week's Parashah, we are instructed regarding a rather odd ceremony:

If, in the land that Hashem your God is giving you to possess, a body is found lying in open country, and it is not known who struck the person down, then your elders and your judges shall come out to measure the distances to the towns that are near the body. The elders of the town nearest the body shall take a heifer that has never been worked, one that has not pulled in the yoke; the elders of that town shall bring the heifer down to a wadi with running water, which is neither plowed nor sown, and shall break the heifer's neck there in the wadi. Then the priests, the sons of Levi, shall come forward, for Hashem your God has chosen them to minister to him and to pronounce blessings in the name of Hashem, and by their decision all cases of dispute and assault shall be settled. All the elders of that town nearest the body shall wash their hands over the heifer whose neck was broken in the wadi,

and they shall declare: "Our hands did not shed this blood, nor were we witnesses to it. Absolve your people Israel, whom you redeemed, Hashem; do not let the guilt of innocent blood remain in the midst of your people Israel." Then they will be absolved of bloodguilt. So you shall purge the guilt of innocent blood from your midst, because you must do what is right in the sight of Hashem. (D'varim 21:1-9)

In the case of a "found victim" of a homicide, the elders (=judges) of the nearest town are charged with the responsibility of declaring their own innocence - what a strange demand! Would we have thought that these sage and saintly leaders are common murderers? What is the gist of their declaration?

I would like to share two unrelated insights regarding the Eglah Arufah and then combine them to (hopefully) deepen our understanding of this declaration.

II THE GEMARA'S EXPLANATION

The Gemara (Sotah 38b) explains:

R. Yehoshua' ben Levi says: the 'Eglah 'Arufah only comes on account of inhospitality, as it says: "they shall declare: 'Our hands did not shed this blood...' - would we have thought that the elders of the court are murderers [that they need to declare their innocence]? Rather, [what they are saying is]: "He did not come to us that we left him without food, he did not come to us for us to leave him without escort." (See the Sifri, where only "escorting" is mentioned).

In other words, the elders of the court are declaring that they did whatever they could to treat this poor victim correctly while passing through their town (or that they really weren't aware of his presence - both the Gemara and the Sifri could be read both ways).

RABBI YOEL SPERKA (who taught and inspired many of us here in Los Angeles during our high school years) asked an insightful question about this explanation:

What does hospitality have to do with homicide? Why would a declaration stating that "We did not kill this man" imply anything about the way the elders (or townspeople) treated him?

III A PSYCHOLOGICAL INSIGHT

Rabbi Sperka gave an insightful psychologically-driven explanation, as follows:

An individual who passes through a town is an outsider, a stranger. He is out of his element and, as such, is subject to a great deal of isolation - social isolation which can easily lead to existential isolation.

If someone comes through town and is virtually ignored by the townspeople - he comes to "Mincha/Ma'ariv" at shul and no one greets him, asks him home for a meal etc. - his sense of isolation is increased. Along with this, his sense of self-worth and self-esteem are threatened; he simply doesn't "make a difference" here.

If, at the end of this disappointing visit, he isn't even "escorted" out of town (this "escort" could come in the form of a ride to the edge of town, a request that he grace the presence of his hosts one more day, etc.) he leaves with a lowered sense of self and of his own significance.

Someone in this state of mind who is set upon by a highway robber has much less "fight" in him with which to defend himself. He is easily overpowered by the thug who jumps him outside of city limits.

Take, on the other hand, someone who has the opposite experience. He comes to town and is immediately the subject of a fight between families who are vying for the opportunity to host him, to wine and dine him. When he must take his leave, his hosts beg him to stay one more day and, when he finally does leave, they escort him to the edge of the town and a few steps further, just to delay their parting.

Someone who has had this type of experience sets out on his inter-village journey with a stout heart and an increased (and, we hope, realistic) sense of his own worth and importance. Someone like this who is "jumped" outside of town has a real "fighting chance" (pun intended) to defend himself.

If we found such a person to be the victim of this type of crime, we can be assured that the attacker was, indeed, too strong for him - nothing that was in our power to do, short of staying with him the whole time, could have prevented this crime.

This is what the elders are declaring: If we saw this man, we did everything possible to enhance and maintain his sense of self-worth, such that any chance he had of defending himself was enhanced by his visit through our town.

(If, as the second half of the declaration implies, they did not see him, then they certainly did as much as they could...)

Thus far, Rabbi Sperka's explanation.

I would like to ask a question about this wonderful insight - in that something seems to be missing here.

Hospitality is generally understood to be a subset of the command: Love your fellow as yourself (see MT Evel 14:1). This is a Mitzvah which is incumbent on everyone, not just the court. Why is the court making this declaration - shouldn't

every resident of the town state: "Our hands did not shed this blood..."?

(One could argue that the court is acting on behalf of the town; but if that were the case, the declaration should be "The hands..." not "our hands".)

Before addressing this question, here is a second observation about the "Eglah Arufah".

IV YOSEF, YA'AKOV AND THE "AGALOT"

Subsequent to the dramatic and tense moment when Yoseph revealed his identity to his brothers, he sent them back to K'na'an to bring father Ya'akov down to Egypt. The Torah relates Ya'akov's reaction to the news of Yoseph's survival and position as follows:

So [Yoseph] sent his brothers away, and they departed; and he said to them, "See that you fall not out by the way." And they went up from Egypt, and came to the land of K'na'an to Ya'akov their father. And told him, saying, "Yoseph is yet alive, and he is governor over all the land of Egypt." And Ya'akov's heart fainted, for he believed them not. And they told him all the words of Yoseph, which he had said to them; and when he saw the wagons (*Agalot*) which Yoseph had sent to carry him, the spirit of Ya'akov their father revived; And Yisra'el said, "It is enough; Yoseph my son is yet alive; I will go and see him before I die." (B'resheet 45:24-28)

Hazal were bothered by a seeming incongruity of the report here. When the brothers told Ya'akov that Yoseph was still alive - indeed, very much alive - he did not believe them. Yet, when he saw the *Agalot* which accompanied the brothers, his spirit was revived and he affirmed that Yoseph was alive. If he didn't believe the brothers' announcement about Yoseph, what was there about the wagons that was more convincing? After all, if the brothers were trying to deceive him (yet again! - see B'resheet 37:31-33), couldn't they have also brought some wagons to bolster their story?

The Midrash (B'resheet Rabbah 94:3) explains as follows: R. Levi said in the name of R. Yohanan b. Sha'ul: [Yoseph] said to [his brothers]: If [Ya'akov] believes you, fine; if not, tell him as follows: "When I departed from you, were we not engaged in the parashah of *Egla Arufah*? - hence it says: "when he saw the wagons... the spirit of Ya'akov their father revived".

The play on words is obvious: Even though *Agalah* (wagon) and *Eglah* (calf) have the same root, they are unrelated words. Nevertheless, the close morphological association creates the possibility of a Midrashic connection. The wagons which Yoseph sent served as a secret communique; only Yoseph and Ya'akov knew what area of Halakhah they had last discussed, as they took leave from each other near Hevron, twenty-two years earlier.

This Midrash is accomplishing more than merely making a "stretched" word-play. If that were the entire purpose of this exegesis, R. Yohanan b. Sha'ul could have associated Ya'akov's revival with Korbanot (the bringing of an *Egel*, e.g. at the dedication of the Mishkan) or, better yet, with the wagons which the tribes dedicated to the Mishkan (Bamidbar 7). Why did the Midrash pick up on the *Eglah Arufah* ceremony as the clue which verified the brothers' report?

V THE ROLE OF THE JUDGES

In order to solve both of our questions, we need to take a look at the overall theme of the Parashah.

Parashat Shoftim is essentially about the various components of national leadership. It begins with the Mitzvah to appoint judges and officers and then details some of their duties. After that, we are introduced to the Melekh (king) and his restrictions/obligations. At the beginning of Chapter 18, the Torah teaches us a special Halakhah regarding the "tribe of leadership" (Levi) - and then we are (re)introduced to the office of "Navi" (prophet) and his tasks.

Within each privileged position, the Torah stakes out very clear limitations which are designed to maintain the leader's association and identification with the nation. The king is commanded to write a Sefer Torah and read it every day in order that "his heart should not become haughty relative to his fellows"; both the Kohanim and the Navi have similarly-geared Halakhot, unique to their offices.

In much the same way, the Torah simultaneously elevates the Shoftim (judges) to an almost divine-like position of power (note that we are obligated by Torah law to follow their dictates - see BT Shabbat 23 in re: the blessing over Hanukkah lights) while instituting this ritual which insures that they will maintain a close relationship with the people they are meant to lead.

When the judges declare that they have not spilled this blood (= guarantee that this victim was treated hospitably), they are owning up to more than the treatment of this poor victim. They can only make this declaration if they are fully doing their job - leading the people of their city beyond the legal dimension of Torah - to the fully enhanced ethic of lovingkindness and concern for a fellow's welfare. Their declaration admits of a great responsibility not only towards visitors - but, ultimately, towards their townsfolk. The level of hospitality and kindness which is the norm in their town rests on their shoulders - if they can make this declaration,

then they are indeed fulfilling their job. This means that the power invested in them by Torah law has not separated them from their "constituents" (as so often happens in any power position); rather, they have maintained a close relationship with the people and continue to keep their finger on the pulse of their community, which they are leading towards a full commitment to the ideals embodied in Torah.

With this approach in hand, we can now reevaluate the *Agalot*-Eglah Arufah* connection made by the Midrash. When the brothers told Ya'akov that Yoseph was now the governor of Egypt, he didn't believe them. What didn't he believe? That Yoseph was alive - or that Yoseph was indeed the leader of Egypt? Consider this: What motivation would the brothers have to lie about such a matter? If Yoseph really was dead, what did they stand to gain by generating a rumor about his being alive?

Perhaps what Ya'akov didn't believe was - that "Yoseph" ruled in Egypt. In other words, Ya'akov may have been willing to grant that his son had somehow survived whatever terrors the past twenty-two years held for him - and had, through his brilliance, insight and charm, risen to a position of power in Egypt. As hard as this may have been to accept, it paled in significance next to the incredulous report that this governor of Egypt was still "Yoseph". Who ever heard of the vizier of a major world-power maintaining his youthful idealism and tender righteousness?

When the brothers reported: "Yoseph is yet alive, and he is governor over all the land of Egypt", Ya'akov did not believe them. When he saw the wagons, those *Agalot* which were a reminder of their last Halakhic discussion, he realized that Yoseph had never relinquished the values taught by his father. Leadership carries with it the burden of responsibility for all members of the nation - their physical welfare as well as their moral growth and ethical conscience. This is the lesson of the *Eglah Arufah* - a lesson Yoseph had never forgotten.

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Yated USA

REFLECTIONS ON QUIET GREATNESS

By RABBI NOSSON SCHERMAN

About ten years ago a highly regarded family was sitting shivah. One of those sitting was an elderly Reform rabbi, who had been estranged from his siblings. Rav Pam ZT"L entered the room to be menachem aveil-and the Reform rabbi, who had probably never seen the Rosh Yeshivah, shuddered. "That is a holy man!" he said almost inaudibly.

How did he know, this man to whom Torah and mitzvos were not a constant presence? How did he recognize the "holiness" of a total stranger? Surely it was not his physical appearance. Rav Pam was as unpretentious as a human being can be. He never donned the garb of a rosh yeshivah; indeed, those of us who were his talmidim more than half a century ago know that he never changed his simple style of dress. In the Bais Medrosh of Torah Vodaath, he continued to sit in the middle of the room, not at the mizrach where he belonged.

Until only a several months ago, Rav Pam's powerful spirit still overcame illness and frailty to come to Torah Vodaath every day to deliver his shiur, and participate in the admibnistartion of the yeshivah, and be available to the many outsiders who came to him for counsel or a berachah. He always refused offers of rides to the yeshivah-when would ever impose on someone?-and instead walked the few blocks leaning on a shopping cart for support. One day, when he was ready to go home, it was raining. A talmid wanted to drive him home, but he gently refused. As he walked down the street, a talmid walked behind him holding an umbrella to protect him from the rain. The rosh yeshivah didn't notice his protector until they got to the corner, whereupon he said that a few drops of rain would not hurt him. The talmid responded, "But the Rebbe's hat will be ruined!"

Rav Pam smiled and said, "The hat is old. The Jew is old. Better go

back to the Bais Medrosh and learn."

For many years, people who knew him said he was "the Chofetz Chaim of America." There was universal agreement that the description was apt-universal except for one vehement dissenter. A dinner chairman once introduced him that way-and it was one of the very few times when he was visibly annoyed. Agitated, Rav Pam stood at the microphone and said, "I protest the affront to the honor of the Chofetz Chaim!"

The Chasam Sofer was once riding in a carriage with his rebbe, Rabbi Nosson Adler, when the horses reared in fright. They were on the verge of being attacked by a wild bear, and the driver could not control them. Rabbi Adler looked out the window and the bear saw him and ran back into the woods. The Chasam Sofer asked for an explanation, and Rabbi Adler replied, "Hashem made man in His image and, as our Sages tell us, at the beginning of Creation even wild animals were afraid of man's G-dly nature. It seems that I still have some of that tzelem Elokim, so the bear was afraid to harm us."

Those who knew Rav Pam are not surprised that someone estranged from Torah could look at him and see holiness. By the standards of this century, his tzelem Elokim shone through. It shone through in every way. He was a tzaddik in his love of learning, in his performance of mitzvos, in his unending striving for self-improvement, in his tefillah, in the simplicity of his home and his abhorrence of luxury, in his enduring gratitude for the most trivial favor. For over thirty-five years, he and the Rebbetzin baked shemurah matzah with the group of which this writer is a member. We would have been overjoyed to bake his matzos without troubling him to come, but as long as he was able he would come to the baking and insist on helping along.

One his younger colleagues asked him why he attended so many weddings, when it had become a physical ordeal for him to do so. "You have come to thousands of weddings; it is enough!" Rav Pam answered, "To me there are thousands of weddings, but for the chassan it's the only one."

That sort of sensitivity and regard for a talmid or for anyone else was typical-it was more than typical, it was part of his essence. He said of his mother that she never spoke lashon hara, not because she studied Shemiras Halashon or participated in machsom l'feh groups. "She never saw anything bad in anyone else, so there was never a temptation to speak lashon hara."

Was Rav Pam naive? Hardly. He could tell sham from sincerity and he was not timid about speaking out against wrong. But it was never a matter of personalities; only of issues. He was never involved in a machlokes as a disputant. That is why he had no enemies, ever. An institution was once riven by a dispute that threatened to tear it apart, concerning a disputed appointment to its administration. Other roshei yeshivah had their reasons not to become involved. It was agreed by the leaders of the institution that a delegation would visit Rav Pam and abide by his decision. They came. He listened. He said, "I cannot dictate to you how to run your yeshivah, but if a similar appointment had been suggested for Torah Vodaath, I would have opposed it."

A distinguished mechanech once sent ArtScroll a collection of reminiscences about growing up in East New York. One of the essays told about talmidei chachamim who used to come to his father's mom and pop grocery store to discuss Torah with his father. One of the regular visitors was "Reb Meir Pam, whose son is the Rosh Yeshivah of Torah Vodaath." I thought Rav Pam would enjoy the story and sent him a copy. A few weeks later I met him. He said, "How could the writer suggest that my father's yichus was that his son says a shiur in Torah Vodaath?" Rav Pam did not refer to himself as the "rosh yeshivah," only as someone who says a shiur. Then he told a simple anecdote to illustrate his father's love and knowledge of Shass.

He had a simple and keen sense of right and wrong. He would urge his talmidim and followers to avoid extravagant lifestyles and celebrations. Others stressed that such lavishness was wrong. Rav Pam

put it in different terms. What other things can you do with the money?, he would ask. Anyone who saw the humble furnishings of his home knew that he lived the way he spoke. Those who knew him well marveled at how he and the rebbetzin deprived themselves of pleasures others take for granted because the money was needed for tzedakah causes.

Torah Vodaath was his life, without question. He spent over seventy years there, sixty-one as a maggid shiur. He was completely devoted to the Yeshivah, and his devotion was reciprocated by his adoring talmidim-and they remained talmidim for a lifetime. He became Rosh Yeshivah not by choice, and certainly not by ambition, but because the yeshivah felt that he was the only one for the position, and he felt he had no right to decline.

Not only his shiurim, but also his regular shmuesen on the parashah were formative. It has long been an article of faith in Torah Vodaath that those who attended his shmuesen had fewer shalom bayis problems than others. In his shmuesen he emphasized the need to consider the feelings of others, and, since his talmidim were in or near the "shidduch" stage of their lives, he spoke of what to look for in a mate and how important it is to honor a mate. That was always the topic of his famous annual shmuesen on Chayei Sarah, at which he would often teach the Rabbeinu Bachya, which discusses the subject.

The last decade of his life was consumed by his truly superhuman efforts for Shuvu, the organization he founded to bring Torah education to Jewish children in Israel, who had immigrated from the Former Soviet Union. He said that we in the free world have a special obligation to the children of Communism. "We owe it to them, because they suffered a terrible galus for our sake." But there was more. With uncommon prescience, he said many years ago that the future of Eretz Yisrael is in the hands of the new Russian olim. How right he was! Their votes have been the margin of victory in the last three Israeli elections.

But his motives transcended politics. In his passionate love of Torah he was dedicated to bring Torah to those who had been deprived of it. How could we, be our inaction, deprive Hashem's children of the most precious gift He had ever given His people?

When he founded Shuvu at an Agudah Convention in 1990, most people thought it was an impossible dream. He never accepted that proposition. Always he insisted, "It is beyadeinu! It is in our hands to change the face of Eretz Yisrael." He was probably the only living human being who thought that in ten years Shuvu would enroll over 10,000 students, and that this would be only a beginning. It is truly beyadeinu!

The last two public appearances of his life, when he was in declining health, were for the benefit of Torah chinuch for children from the FSU. A few months ago he attended and addressed a parlor meeting for Nechomas Yisrael, the magnificent "impossible" organization that funds tuitions for several thousand such children in America.

His last appearance was for his beloved Shuvu. He came in a hospital bed, accompanied by his physician and a group of Hatzoloh volunteers. He came. He spoke. He conquered the physical in an awesome display of the power of Torah spirit over the limitations of the flesh.

Everyone who was present had to agree, "That is a holy man!"

That holy spirit still hovers over us, and will remain as long as we let it. Rav Pam's legacy is incredibly rich, incredibly challenging, incredibly inspiring. Can we live up to it? It is beyadeinu.

From: dafyomi@hadaf-hayomi.com Subject: Meoros Hadaf Hayomi
Lilui nishmas R. Reuven Gombo zl, son of Tzvi zl And his wife, Freidel Gitel, daughter of Shmuel zl.

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23b Someone who sics a dog is exempt from paying damages

Using a Dog to do Melachos on Shabbos

The poskim discuss whether it is permitted to order a trained dog to turn on lights or to perform other melachos on Shabbos. This question is actually quite involved, requiring an analysis of the background information first.

According to our sugya a person who sets someone else's dog on a third party is not liable for the damages incurred since he merely awakened the dogs attack instinct; the dog itself attacked. Such damage is defined as grama [caused damage] and the beis din does not require the mazik [the damager] to pay (Rashi, s.v. patur meshaseh) although according to Heavenly judgment he is held responsible (C.M. 395).

In terms of the laws of Shabbos, a man who orders a dog to do a melachah is not even considered to be the "cause" of the melachah, although in terms of damages his action is defined as grama. The following distinction must be drawn between Shabbos desecration and causing damage to others: a person is considered a mazik if he is responsible for the damage done, whereas a Shabbos profaner only transgresses when he actually does a melachah. Therefore using a dog to perform a melachah on Shabbos is not even considered grama. Yet the poskim discuss whether there are other reasons to prohibit the use of animals to carry out melachos on Shabbos. HaRav Tzvi Pesach Frank ztl (Responsa Har Tzvi, O.C. I 1 174), writes that the answer is clear regarding the dogs owner. Based on the injunction (Shemos 23:12), so that your ox and donkey rest, clearly the owner of the dog is forbidden to tell his dog to do any melachah. On the other hand, there is no commandment to allow someone else's animal to rest. Therefore the question remains whether one may use another person's dog to do a melachah.

HaRav Frank rules that it is forbidden to use any dog to do a melachah on Shabbos, which would constitute an act of mechamer, i.e. driving a loaded donkey, which includes performing any melachah using animals. Although the positive mitzvah of allowing one's animal to rest is only incumbent upon the owner, many Rishonim hold that the prohibition against working an animal on Shabbos is incumbent on every Jew (see Minchas Chinuch, end of Mitzvah 32).

The prohibition of mechamer does not apply when the animal benefits from its own actions. Encouraging a dog to hunt another animal, for instance, would not fall under the prohibition of mechamer because the dog enjoys hunting (Magen Avraham 316:4, Eglei Tal, meleches choresh 12:6). Some were of the opinion that a trained dog also enjoys carrying out the tasks has been taught to perform. HaRav Frank, however, rules that when a dog responds to the trainer's commands it is not doing melachos for the dog's own benefit but is fulfilling its master's bidding, and therefore ordering it to do a melachah is forbidden.

Tragedy on the Death March:

A Jew who had been tormented for years over an incident that took place during the Holocaust brought a horrible question to the Chelkas Yaakov (Responsa C.M. 1 33). Two brothers were on the infamous death march the Nazis ordered when they sensed defeat was imminent. During this lengthy and grueling ordeal the German soldiers shot any Jew who walked slowly or remained asleep after the short rest breaks they were allowed. During one of the breaks the older brother asked his younger brother to wake him up when they had to resume marching. The younger brother agreed, but he, too, fell asleep. When the S.S. soldiers shouted at the Jews to start marching again the startled younger brother started running to catch up with the rest of the group, and only after a few minutes he discovered to his dismay that his brother was not with him. By then it was already too late for him to return to his brother, who was presumably killed by the Germans. At the end of the war the younger brother asked if he needed to atone for what had happened.

In his reply the Chelkas Yaakov (Responsa C.M. 1 33) cited our sugya, which says that someone who forgets is defined as anus, and therefore he was not responsible for the tragedy, particularly in light of the fact that he was disorientated at the time.

Nevertheless the Chelkas Yaakov added that he should accept upon himself never to embarrass anyone since embarrassing is associated with killing. Furthermore he advised him to adopt an orphan and support Torah scholars, based on the verses (Mishlei 20:27), "A man's soul is the lamp of Hashem," and (Mishlei 6:23), "For a mitzvah is a lamp and the Torah is light."