

# Toras Aish

## Thoughts From Across the Torah Spectrum

**RABBI LORD JONATHAN SACKS**

### Covenant & Conversation

**O**ur parsha talks about monarchy: “When you enter the land that the Lord your God is giving you, and have taken possession of it and settled in it, and you say, “I will set a king over me, like all the surrounding nations,” set over you a king whom the Lord your God chooses.” (Deut. 17:14-15). So it should be relatively easy to answer the question: From a Jewish perspective, is having a king a good thing or a bad thing? It turns out, however, to be almost unanswerable.

On the one hand, the parsha does say, “set over you a king.” This is a positive command. Maimonides counts it among the 613. On the other hand, of no other command anywhere does it say that that it is to be acted on when the people say that they want to be “like all the surrounding nations.” The Torah doesn’t tell us to be like everyone else. The word *kadosh*, “holy”, means, roughly, to be set apart, singular, distinctive, unique. Jews are supposed to have the courage to be different, to be in but not entirely of the surrounding world.

Matters are made no clearer when we turn to the famous episode in which the Israelites did actually ask for a king, in the days of Samuel (1 Samuel 8). Samuel is upset. He thinks the people are rejecting him. Not so, says God, the people are rejecting Me (1 Sam. 8:7). Yet God does not command Samuel to resist the request. To the contrary, He says, in effect, tell them what monarchy will cost, what the people stand to lose. Then, if they still want a king, give them a king.

So the ambivalence remains. If having a king is a good thing, why does God say that it means that the people are rejecting Him? If it is a bad thing, why does God tell Samuel to give the people what they want even if it is not what God would wish them to want?

Nor does the historical record resolve the issue. There were many bad kings in Jewish history. Of many, perhaps most, Tanakh says “He did evil in the eyes of God.” But then there were also good kings: David who united the nation, Solomon who built the Temple, Hezekiah and Josiah who led religious revivals. It would be easy to say that, on the whole, monarchy was a bad thing because there were more bad kings than good ones. But one could equally argue that without David

and Solomon, Jewish history would never have risen to the heights.

Even within individual lives, the picture is fraught with ambivalence. David was a military hero, a political genius and a religious poet without equal in history. But this is also the man who committed a grievous sin with another man’s wife. With Solomon the record is even more chequered. He was the man whose name was synonymous with wisdom, author of Song of Songs, Proverbs and Kohelet. At the same time he was the king who broke all three of the Torah’s caveats about monarchy, mentioned in this week’s parsha, namely he should not have too many wives, or too many horses, or too much money (Deut. 17:16-17). Solomon – as the Talmud says<sup>1</sup> – thought he could break all the rules and stay uncorrupted. Despite all his wisdom, he was wrong.

Even stepping back and seeing matters on the basis of abstract principle, we have as close as Judaism comes to a contradiction. On the one hand, “We have no king but You,” as we say in *Avinu Malkeinu*.<sup>2</sup> On the other hand, the closing sentence of the book of Judges (21:25) reads: “In those days, there was no king in Israel. Everyone did what was right in his own eyes.” In short: without monarchy, anarchy.

So, in answer to the question: Is having a king a good thing or a bad one, the answer is an unequivocal yes-and-no. And as we would expect, the great commentators run the entire spectrum of interpretation. For Maimonides, having a king was a good thing and a positive command. For Ibn Ezra it was a permission, not an obligation. For Abarbanel it was a concession to human weakness. For Rabbenu Bachya, it was its own punishment. Why then is the Torah so ambivalent about this central element of its political programme?

The simplest answer was given by the outsider who saw most clearly that the Hebrew Bible was the world’s first tutorial in freedom: Lord Acton. He is the man who wrote: “Thus the example of the Hebrew nation laid down the parallel lines on which all freedom has been won ... the principle that all political authorities must be tested and reformed according to a code which was not made by man.”<sup>3</sup> But he is also the

<sup>1</sup> Sanhedrin 21b.

<sup>2</sup> The source is Rabbi Akiva in Taanit 25b.

<sup>3</sup> Lord Acton, *Essays on the History of Liberty*, Indianapolis, LibertyClassics 1985, 8.

**TORAS AISH IS A WEEKLY PARSHA  
NEWSLETTER DISTRIBUTED VIA EMAIL  
AND THE WEB AT WWW.AISHDAS.ORG/TA.  
FOR MORE INFO EMAIL YITZW1@GMAIL.COM**

The material presented in this publication was collected from email subscriptions, computer archives and various websites. It is being presented with the permission of the respective authors. Toras Aish is an independent publication, and does not necessarily reflect the views of any synagogue or organization.

**TO DEDICATE THIS NEWSLETTER PLEASE CALL  
(973) 277-9062 OR EMAIL YITZW1@GMAIL.COM**

originator of the classic statement: "All power tends to corrupt, and absolute power corrupts absolutely."

Almost without exception, history has been about what Hobbes described as "a general inclination of all mankind: a perpetual and restless desire of power after power, that ceaseth only in death"<sup>4</sup>. Power is dangerous. It corrupts. It also diminishes. If I have power over you, then I stand as a limit to your freedom. I can force you to do what you don't want to do. Or as the Athenians said to the Melians: The strong do what they want, and the weak suffer what they must.

The Torah is a sustained exploration of the question: to what extent can a society be organised not on the basis of power? Individuals are different. Michelangelo, Shakespeare and Rembrandt needed no power to achieve creative genius. But can a society? We all have desires. Those desires conflict. Conflict eventually leads to violence. The result is the world before the flood, when God regretted that He had made man on earth. Hence there is a need for a central power to ensure the rule of law and the defence of the realm.

Judaism is not an argument for powerlessness. The briefest glance at two thousand years of Jewish history in the Diaspora tells us that there is nothing dignified in powerlessness, and after the Holocaust it is unthinkable. Daily we should thank God, and all His helpers down here on earth, for the existence of the State of Israel and the restoration to the Jewish people of the power of self-defence, itself a necessary condition of the collective right to life.

Instead, Judaism is an argument for the limitation, secularisation and transformation of power.

Limitation: Israel's kings were the only rulers in the ancient world without the power to legislate<sup>5</sup>. For us, the laws that matter come from God, not from human beings. To be sure, in Jewish law, kings may issue temporary regulations for the better ordering of society, but so may rabbis, courts, or local councils (the shiva tuvei ha-ir).

Secularisation: in Judaism, kings were not high

priests and high priests were not kings. Jews were the first people to create a "separation of powers," a doctrine normally attributed to Montesquieu in the eighteenth century. When some of the Hasmonean rulers sought to combine the two offices, the Talmud records the objection of the sages: "Let the royal crown be sufficient for you; leave the priestly crown to the descendants of Aaron."<sup>6</sup>

Transformation: fundamental to Judaism is the idea of servant leadership. There is a wonderful statement of it in our parsha. The king must have his own sefer Torah, "and he shall read from it all the days of his life ... not considering himself superior to his kinsfolk, or straying from the commandments to the right or to the left" (Deut. 17:19-20). Humility is the essence of royalty, because to lead is to serve.

Failure to remember this caused what, in retrospect, can be seen as the single most disastrous political decision in Jewish history. After the death of Solomon, the people came to Rehoboam, his son, asking him to lighten the load that Solomon's projects had imposed on the people. The king asked his father's advisers what he should do. They told him to accede to their request: "If today you will be a servant to these people and serve them and give them a favourable answer, they will always be your servants" (1 Kings 12:7). Note the threefold appearance of the word 'serve' in this verse. Rehoboam ignored their advice. The kingdom split and the nation never fully recovered.

The radical nature of this transformation can be seen by recalling the two great architectural symbols of the world's first empires: the Mesopotamians built ziggurats, the Egyptians built pyramids. Both are monumental statements in stone of a hierarchical society, broad at the base, narrow at the top. The people are there to support the leader. The great Jewish symbol, the menorah, inverts the triangle. It is broad at the top, narrow at the base. The leader is there to support the people.

In contemporary terms, Jim Collins in his book *From Good to Great*<sup>7</sup> tells us on the basis of extensive research that the great organisations are those with what he calls 'Level 5 leaders,' people who are personally modest but fiercely ambitious for the team. They seek, not their own success, but the success of those they lead.

This is counterintuitive. We think of leaders as people hungry for power. Many are. But power corrupts. That is why most political careers end in failure. Even Solomon's wisdom could not save him from temptation.

Hence the life-changing idea: To lead is to serve. The greater your success, the harder you have to work to remember that you are there to serve others; they are not there to serve you. *Covenant and*

<sup>4</sup> Hobbes, *The Leviathan*, Book 1, Ch. 11.

<sup>5</sup> See, e.g., Michael Walzer, *In God's Shadow: Politics in the Hebrew Bible*, Yale University Press, 2012.

<sup>6</sup> Kiddushin 66a.

<sup>7</sup> James Collins, *From Good to Great*, Harper Business, 2001.

*Conversation 5778 is kindly supported by the Maurice Wohl Charitable Foundation in memory of Maurice and Vivienne Wohl z"l ©2018 Rabbi Lord J. Sacks and rabbisacks.org*

**RABBI SHLOMO RISKIN**

## Shabbat Shalom

**J**udges and Executors of Justice shall you establish for yourselves in all of your gates.... Justice, justice shall you pursue in order that you may live and inherit the land which the Lord your God is giving to you. (Deuteronomy 16:18–20)

In this opening passage of our weekly portion, the Bible conditions our ability to remain as inhabitants of the Land of Israel upon the appointment of righteous judges, who will not prevent justice, or show favoritism before the law or take bribes of any kind (Deut. 16:19). The Bible also reiterates, "Justice, justice shall you pursue," a commandment with a number of important interpretations. First of all, seek or appoint another judicial court if the local court is not deemed adequate for the needs of the litigants (Rashi, ad loc.). Secondly, in the words of Rabbi Menahem Mendel of Kotzk, make certain that you pursue justice by means of justice, that your goals as well as your means are just. I would add to this the stipulation that the "administration" aspect of court-room management be just: begin on time without keeping the litigants waiting, conclude each case with as much dispatch as possible, and listen sympathetically to the claims of each party, so that everyone feels that he/she has received a fair hearing.

Further on in our portion, the Bible adds another critical criterion for true justice: "When there will arise a matter for judgment, which is hidden from you [a case which is not cut-and-dry, which involves changing conditions and therefore requires extra consideration on the part of the judges]...you shall come to...the judge who shall be in those days" (Deut. 17:8–9). Rashi makes it clear, basing himself on the words of our talmudic sages, that we must rely on the Sages of the particular era of the problem for the judgment at hand, that "Yiftah in his generation is as good as Samuel in his generation." This notion is further elucidated by Rabbi Levi Yitzhak of Berditchev in his masterful *Kedushat Levi*, under the rubric "teiku," t-y-k-u – Tishbi Yetaretz Kushyot Veba'abayot, or "Elijah the Prophet will answer questions and ponderings" in the Messianic Age. "Why Elijah?" asks Rabbi Levi Yitzhak. After all, there will be a resurrection of the dead in the Messianic Age, wherein Moses will be resurrected; since Moses was a greater halakhic authority than Elijah, since Moses studied directly with God Himself, why not have him answer the questions rather than Elijah?

Rabbi Levi Yitzhak answers his seemingly naïve question with a most sophisticated response. Moses died close to four thousand years ago; Elijah, according to the biblical account, was "translated" live

into heaven, and says the midrash regularly returns to earth, appearing at important moments to help certain individuals as well as at every circumcision and at every Passover Seder. And since Elijah will be involved with people and will therefore understand the travail and the angst, the hopes and the complexities, of the generation of the redemption, only he can answer the questions for that generation; a judge must be sensitive to the specific needs and cries of his particular generation!

Then what are the most important criteria for a righteous judge? We have seen that he must clearly be a scholar in Jewish legal literature and must be an aware, intelligent, and sensitive observer of the times and places in which he lives, a judge of and for the period and place of adjudication.

But there is more. In the book of Exodus, when Yitro, the Midianite priest, first suggests to his son-in-law Moses that he set up a judicial court system of district judges, we find more qualifications for our judges: "You shall choose from the entire nation men of valor (hayil), God fearers, men of probity who hate dishonest profit" (Ex. 18:21).

Our great twelfth-century legalist-theologian, Maimonides, defines men of valor (hayil), a Hebrew word which connotes the courage of a soldier in battle as follows: "Men of valor" refers to those who are valiantly mighty with regard to the commandments, punctilious in their own observance.... And under the rubric of "men and valor" is the stipulation that they have a courageous heart to rescue the oppressed from the hands of the oppressor, as in the matter of which it is scripturally written, "And Moses rose up, and saved [the shepherdesses] from the hands of the more powerful shepherds".... And just as Moses was humble, so must every judge be humble. (Mishneh Torah, Laws of Sanhedrin 2:7)

Rabbi Shlomo Daichovsky, one of the most learned and incisive judges who ever occupied a seat on the Religious High Court in Jerusalem queries (in an "Epistle to my Fellow Judges," dated 25 Shevat 5768, and published in *Tehumin*, Winter 5768) as to how it is possible for a judge to be a valiant fighter on behalf of the oppressed, which requires the recognition of one's power to exercise one's strength against the guilty party, and at the same time for him to be humble, which requires self-abnegation and nullification before every person? These seem to be two conflicting and contrasting characteristics!

Rabbi Daichovsky concludes that humility is an important characteristic only when the judge is not sitting in judgment; when the judge is seated on the throne of judgment, he must be a valiant and self-conscious fighter, fearlessly struggling against injustice as though "a sword is resting against his neck and hell is opened up under his feet" (Sanhedrin 7). "The Judge must be ready to enter Gehenna and to face a

murderous sword in defense of his legal decision.... He must take responsibility and take risks, just like a soldier at war, who dare not worry about saving his own skin" (Maimonides, Mishneh Torah, Laws of Sanhedrin 23:8). The chief concern of a judge must be for the justice and well-being of the litigants before him and not for his own security and reputation in walking on the "safe" (and more stringent) halakhic ground. ©2018 *Ohr Torah Institutions & Rabbi S. Riskin*

#### **RABBI BEREL WEIN**

### **Wein Online**

**T**he Torah deals with human realities and not with imaginary paradises and utopian societies. As such, the Torah pre-supposes that there will be disagreements and altercations between human beings even in the Jewish society that allegedly should be protected from these untoward events by simply observing the values and ordinances of the Torah.

Human beings are contentious creatures and their disagreements are recorded for us vividly and accurately in the Torah. As such, it should be self-evident and understood that human society requires systems of law and order, judges, police and arbiters. So many times in life we are disappointed because we expect a perfect society or perfect behavior from those who aspire to religious spirituality or social equality. Since this expectation is by its very nature unrealistic, we are doomed to disappointment and even frustration at the true state of affairs regarding human beings and human society.

The Torah does not guarantee a perfect system of law, order and justice. For once again, judges, police and other persons of authority are human and none is above error or mistake. The Talmud devotes an entire highly intricate tractate to questions of law and order, of judges and police and as to how these ideals should be carried out in a practical and often times contentious world.

We are to strive for ultimate justice and to be as fair and wise in rendering decisions as is humanly possible. Nevertheless, we are to realize that ultimate justice is most times beyond our abilities. We can only do the best that we can.

In our current generation there is a great deal of negative comment and frustration regarding our civil and religious judicial systems, our judges and courts. Though there is always room for constructive and accurate criticism, it is apparent to me that most of the criticism that is actually leveled against our judicial systems is based on the frustration that we feel that somehow they are not perfect and that their decisions many times may be erroneous and unfair.

Part of this situation stems from the fact that the judicial systems have themselves cloaked their very being with hubris, of assumed superiority, of status and wisdom. It is as though they see perfection in

themselves and their decisions, and all criticism is deemed invalid and politically motivated.

The Talmud phrased it well, as it always does, when it says that a judge can only judge by what his eyes allow him to see. He is not perfect nor does he have prophetic powers. He is a human being performing a very difficult task and attempting to come to a correct solution to problems that contain many conflicting values and uncertain evidence. The pursuit of correct and righteous judgment is never-ending. Even though the goal of perfection may be beyond us, the pursuit of that goal is always incumbent upon our society and on each of us. ©2018 *Rabbi Berel Wein - Jewish historian, author and international lecturer offers a complete selection of CDs, audio tapes, video tapes, DVDs, and books on Jewish history at [www.rabbiwein.com](http://www.rabbiwein.com). For more information on these and other products visit [www.rabbiwein.com](http://www.rabbiwein.com)*

#### **RABBI AVI WEISS**

### **Shabbat Forshpeis**

**W**hether appointing a king is legally obligatory or not is a subject of great controversy. But whether it is or is not, the Torah recognizes that it is human nature that people will ask for leadership in the form of a king. (Deuteronomy 17:14) When they do, the Torah builds limitations into the kingship so that the king will never abuse his power.

Of paramount importance is that both the king and his people realize that while he is the leader, he is still a subject of God. In the end it is the Lord who is the King of kings.

This may explain the seemingly odd rule that that the king cannot return the people to Egypt. (Deuteronomy 17:16) Egypt represents that place where the Pharaohs insist that they themselves are God. All revolved around them. Upon leaving Egypt the Jewish people no longer remained subservient to Pharaoh, but to God alone. God here is declaring that the people are my subjects -- not subjects of subjects.

The tension of allowing for a monarch while at the same time advancing the idea of the sole kingship of God was constantly felt throughout our history. When the Jews asked Samuel for a king: "To judge us like all the nations," Samuel is upset. (Samuel I, Chap. 8) Wanting to be like all the nations is a distortion of the unique Torah definition of kingship where the king remains beholden to God.

The unique nature of the king of the Jewish people is further understood at the conclusion of the Book of Samuel. David improperly takes a census of the Jewish people. (Samuel II, Chap. 24) It is improper because he counts for the sole goal of understanding the magnitude of his power. If the goal of his counting was to further serve God, he would have counted by asking each individual to contribute a half shekel to the Temple. David makes the same mistake as the nation -

- believing that the king of Israel is in the center rather than God.

The concern that the king not overstep his authority is similar to the contemporary concept of abuse of power. Even in democracies it is not uncommon for presidents and prime ministers to grab more power than they have been given.

Still, with all its inherent problems, the office of kingship has positive features. In the time of the Judges, Israel was led by individuals who, by and large, represented their individual tribes. As a result, there was little sense of cohesion of the people.

With the advent of kingship, Israel is led by one authority whose major task is to unite the entire Am (nation) to speak for all and act on their behalf. No wonder the first king, King Saul comes from the tribe of Benjamin, a tribe that had been ostracized in the Concubine of Givah story. If Saul, who came from Benjamin, could become king and be accepted by all, any king had a chance to accomplish his goal.

Tragically, the unity did not take place. Saul was stripped of his kingship; the kingdom of David is split in two. And today, we continue to anticipate the time when a descendant of David will arise and usher in redemption for all our people who will together in unison, in Jerusalem, proclaim the ultimate kingship of God. ©2018 Hebrew Institute of Riverdale & CJC-AMCHA. Rabbi Avi Weiss is Founder and Dean of Yeshivat Chovevei Torah, the Open Orthodox Rabbinical School, and Senior Rabbi of the Hebrew Institute of Riverdale

#### **RABBI MORDECHAI KAMENETZKY**

## **Roadsigns to Eternity**

**T**he Torah not only tells us how to live our lives and where to go, this week it tells us how to get there as well! First the Torah tells us about a man who was negligent and accidentally killed someone. We are to establish cities of refuge where he can flee and live until he can return home. "You shall separate three cities for yourselves in the midst of your Land, which Hashem, your G-d, gives you to possess it" (Deuteronomy 19:2). But the Torah does more than tell us to build cities of refuge. In an unprecedented command, it establishes a highway commission, telling us, "Prepare the way for yourself,... and it shall be for any murderer to flee there (ibid v.3)

Rashi quotes the Talmud in Makos that there were signs posted at each crossroad pointing and declaring, "Refuge! Refuge!" each pointing the way to the nearest refuge city.

But, why? If road signs should be erected, shouldn't they be for Jerusalem, guiding the thousands of tri-annual travelers from the north and south who journeyed there for the shalosh regalim? Why should cities that house manslaughter offenders, get guideposts while the holiest city of Israel doesn't?

Rav Meir Shapiro, established one of Europe's

most prestigious Yeshivos of its era. The Yeshiva Chachmei Lublin, not only housed a magnificent Bais Medrash, it had a spacious dormitory and dining hall. Its fine accommodations would spare Yeshiva boys the embarrassment of having to eat teg, virtually begging for meals in the homes of wealthier business people.

But in order for the students not to plead, Rabbi Shapiro did. And so he traveled around the globe, crossing the ocean to the US and Canada, to raise funds for the beautiful Yeshiva. In fact, he even served as a cantor in a prestigious North American congregation in lieu of a one thousand dollar gift to the Yeshiva.

On a visit to the office of a prominent businessman, one who had strayed from the path paved in Europe by his parents and grandparents, Rabbi Shapiro was asked an unusual question.

"Rabbi," the industrialist proposed, "why is it that you have to see so many Jews to accomplish your goal? If Hashem wanted your Yeshiva to flourish, why didn't He arrange that you meet just one philanthropist who will undertake the entire project, by adding a few zeros to the amount of his check? After all," continued the magnate. There are plenty of modern institutions in the US that have been established by one benefactor!"

Rabbi Shapiro smiled. "Let me explain: Hashem not only wants that the Yeshivas Chachmei Lublin should thrive, he wants as many people in America as possible to know what is happening there as well! Had one man given me a check, and I would have taken the next boat back, I never would be talking to you about Yiddishkeit, about your heritage, your past, and your future! Now however, I meet hundreds of Jews who have heard about the tremendous love for Torah that our students have. They have heard the beauty of their mission and their devotion to the cause of learning Torah. They know what Tractate we are studying and how we apply Torah to everyday life.

Some ask about the size of the building and all about the Sifrei Torah that will be placed in the Aron Kodesh.

When someone with a single check endows a music hall, nobody else gets involved in its development and its intricate details become the obsession of individuals, not the shared responsibility of a community! So there is no excitement, no involvement, no buzz! You can't build enthusiasm in that manner.

Imagine the scene: A man kills accidentally; he has to flee to the city of refuge. He does not know where the city is. He knocks on a door. "Hello," he exclaims to the startled homeowner, "I just killed someone, um... accidentally. Do you know where the Ir Miklat (city of refuge) is?"

Anxiety, depression and even despair is fostered. The buzz is bad. There are murderers loose. And when they inform the public, often enough of their

misdeeds, it sets an apathetic tone, where reckless manslaughter becomes the norm. The shock of death is dulled, and it becomes part of the repertoire of the urban experience. And wanton disregard becomes contagious. And the virus of sin spreads rapidly. And so the signs are set and the directions are clear and the murderers flee taking refuge in clearly marked cities, no questions asked, at least until the situation is adjudicated.

On the other hand, take the trip to Jerusalem: The city with no directional advisories. Imagine: There is a crossroad. There is no sign. One must knock on a door. "Excuse me, do you know how to get to Jerusalem?"

"Oh! You are going to Yerushalayim?" the person declares and asks in unison. "Maybe you can wait, I'll come along!" "Perhaps you can shlep this small package for my son in Yeshiva there!" (Some things never change!) Oh! You are going to Jerusalem! When is Yom Tov? It is time for me to make my preparations as well! When people have to share the good queries there is excitement, tumult, even spirituality in the air! And it becomes contagious for the good! ©2018 Rabbi M. Kamenetzky & torah.org

**RABBI DAVID S. LEVIN**

## Whose Justice is Just?

**T**he giving of testimony by witnesses is discussed in Parashat Shoftim. The Torah informs us, "The testimony of one witness will not stand against a man for any crime or any lapse in any sin that he may have committed, on the testimony of two witnesses or on the testimony of three witnesses will the thing become established. If a false witness stands against a man to testify a fabrication against him. Then these two men who have the dispute will stand before Hashem, before the Kohanim and the judges who will be in those days. The judges shall inquire well, and behold, the witness is a false witness, he testified falsely against his brother. You shall do to him as he conspired to do to his brother, and you shall destroy the evil from your midst."

The Torah insists on the testimony of two witnesses in the case of an intentional sin (avon) or an inadvertent sin (chatat). This type of testimony would require the guilty person to pay money or to receive corporal or capital punishment. HaRav Shimshon Raphael Hirsch explains that this section follows the laws of arei miklat, the cities of refuge, where an inadvertent murderer was shielded from the revenge of the victim's family, and masig g'vul, the laws of encroachment on someone else's property whether by moving a physical boarder or by endangering his livelihood with unfair competition. The Torah views life and property as "the two chief valuables of earthly existence the inviolability of which are placed under the guarantee of the state legal authorities, and which can

only be assailed by a verdict of these authorities." In order to remove life or property from an individual, a court must determine the guilt of that defendant for a particular crime. The testimony that is given at any trial is the only means by which our judges can determine the guilt or the innocence of the accused.

Our Rabbis explain the need for two witnesses rather than one. One witness is insufficient for corporal or capital punishment and for monetary punishment, but a single witness can obligate the accused to take an oath of innocence. When two witnesses give testimony about the same case, they are examined carefully and fully by the judges and their testimony is sufficient to obligate the accused to receive the full punishment. Still, the Chachamim present a problem with obligating a person even when facing the testimony of two witnesses. Hirsch explains: Let us say that two witnesses testify that a man ate dairy together with meat. The accused can counter this argument: "I did not eat the milk product in a way that would entail a korban chatat, a sin offering. I knew quite well what I was eating and I did not eat unintentionally but intentionally." The accused disputes the actual facts of their testimony. They saw him eat meat and milk but maybe this was done with permission of the Rabbis because of a medical condition. The Chachamim were also reluctant to obligate a person to a korban even on the testimony of a hundred witnesses because a person should be believed in testimony about himself even more than one hundred witnesses.

The Torah continues with the case of two witnesses who give false testimony. These witnesses are called eidim zom'min, conspiring witnesses. These men present themselves to have witnessed a crime or an obligation for which a punishment or a fulfillment of that obligation is required. The false witnesses will be punished with the same punishment that they tried to inflict on the accused. The normally occurs if two other witnesses come and declare that these first witnesses could not have given testimony about that particular event because they were not present at that time. The second set of witnesses does not contradict the testimony of the first, but insists that the testimony cannot be true because the witnesses could not have been there. Had witnesses come and disputed the details of the first witnesses, all that would prove would be that the facts were in doubt. It would not claim that the witnesses were fabricating a story. The Gemara also insists that the group of witnesses had to lie as a group. If only one lied they are not called eidim zom'min. HaRav Zalman Sorotzkin explains that throughout the discussion of the eidim zom'min the Torah speaks in the singular though we know the witnesses must appear in groups of two or three. The singular is used to indicate that the group must be acting as a whole or there is no conspiracy. Eidim zom'min must be a conspiracy or they are not

considered to be the same category of liars and they do not receive the same punishment that they wished to place on the accused.

It is difficult to understand the thought-process of these eidim zom'min. Let us propose a scenario using an example of a loan. A man lends money to another man which must be repaid by a certain day. Two witnesses signed the deal but then both witnesses disappeared. The lender also somehow misplaced the document so that there is no proof of the loan. The borrower forgot about the loan and claims that no loan was made so he is under no obligation. These eidim come now to testify that on the day that the loan was made, they saw the whole transaction. Their desire is not a bad one as they are trying to help a friend collect a real loan. These eidim zom'min presume that Hashem somehow needs our help to act justly. But Divine justice can deprive one of money when a loss is necessary. Maybe the lender did not give his appropriate donation to tzedakah and Hashem might readjust the thinking of the lender to be more careful in this mitzvah by having him lose the loan in this case. Perhaps the borrower was deserving of assistance and Hashem arranged that the original loan would not need to be repaid as it came from someone who was obligated to assist others with his wealth but did not do so. Our witnesses are unwilling to let Hashem's perfect judicial system work.

Man is often uneasy with Divine Justice. One must maintain a fundamental belief that the perfect system of reward and punishment is not possible here on Earth. We see the inequities of our lives and cringe when we see a person who is righteous and is suffering. Our system of justice is a test in itself. Our emotions and our faith are tested regularly. We are comforted by knowing that Hashem is with us in our courts and He will bring Divine Justice in its right time. Our most difficult task is to trust in that Justice and in Hashem's compassion. ©2018 Rabbi D.S. Levin

#### ENCYCLOPEDIA TALMUDIT

## Home Inauguration

*Translated for the Encyclopedia Talmudit by Rabbi Mordechai Weiss*

Inauguration of one's home in Israel is a Mitzvah, as we learn from this week's portion in which the Torah states when discerning who will go to war, "whichever man who has built a house but has not inaugurated it, should return to his home". Our Sages derive that this refers to a home in Israel.

The definition of the term "Inauguration" according to "Targum Yonatan", is that he has not affixed a Mezuzah on the doorpost, while the Radak States that the term is referring to someone who has not eaten a festive meal in it yet.

Some believe that to make it a "Seudat Mitzvah" (a meal that is a Mitzvah), one has to recite

words of Torah ("Divrei Torah"), while others state that because it is in Israel, that in itself is a Mitzvah, therefore precluding the necessity of Divrei Torah, however in the Diaspora it would be necessary to recite "Divrei Torah".

Generally when one would purchase something new, as in a new garment, one would recite the blessing of "Shehechyanu". However since in the case just cited it is the individual who is making the blessing for himself, as opposed to when acquiring a home in which generally there are more participants in the acquisition, such as his wife and family, the blessing of "Shehechyanu" is not recited. ©2016 Rabbi M. Weiss and *Encyclopedia Talmudit*

#### RABBI YAAKOV NEUBURGER

## TorahWeb

Whereas for others it is a potter's field story, for our people it becomes a public call for introspection and prayer. That is the remarkable ritual of eglarufah, through which the lone Jewish murder victim found in an unpopulated area becomes the catalyst for national hand wringing and stocktaking. The ritual itself of killing an unharnessed calf dramatically assigns value to every single soul and demands of local leadership to accept responsibility for their safekeeping. It may very well be that this parsha has been unusually impactful and has singularly seared into Jewish consciousness the absolute preciousness of every life. This truth is tested time again on the battlefield, in the war rooms in Israel, and in the philanthropy-seeking pitches of countless organizations.

That is why the culminating prayer (21:5) offered by leadership, "forgive the nation that you have redeemed", with its seemingly unnecessary reference to our redemption of old, needs greater study. Why is a parsha focused on the value of life and on the systemic flaws that failed that creed connecting us to our redemptions and particularly to our redemption from Egypt?

Even more surprising is that Chazal (Sifri, Horiyos 6a, Kerisus 26a), in answer to this question, interpret that this prayer asks for atonement for the generation of Jews who experienced that exodus. That is to say that the present-day leadership while admirably taking responsibility for a murder on their watch are instructed to deflect it as well. Truth be told it sounds frighteningly similar to contemporary spinning or some legal defense!

Rav Meir Simcha of Dvinsk (in his sefer Meshech Chochma), with his trademark creativity, suggests that we are asking to be pardoned for this crime as if it had taken place prior to our entry into Israel. Those generations were not yet charged with the mitzvah of arvus; that is, they were not held responsible for the flaws of their contemporaries. Thus, for some

unrecorded reason we are asking to be judged by their standard. Yet I think that this is one of those solutions that speaks to the textual difficulty at hand. After all, the simple reading suggests that when we fail the safety of another Jew we assuage our shame and hold our ancestors, who experienced the miraculous, responsible.

I believe there is a lesson here that should resonate with us, as our generations are also witness to the miraculous. Let me explain.

The hard truth that Chazal are expressing is pointed out by Rav Moshe Shternbuch, head of the Eidah Chareidis of Yerushalayim in his sefer Ta'am Voda'as. Incredible as it is, the Torah wants us to appreciate that the failure to value the safekeeping of every Jew stems from the failure to successfully transmit the miraculous narrative of our people. I do not know whether it was the safety provided to the Jews during certain plagues, or the protection that every family received in the intimacy of their homes (the miracle of shivtei ko), or simply the invitation to every Jew to be a part of the story through participation in the korban Pesach, or merely the miracles performed for the delivery of every worthy Jew. Whatever it was, Chazal understood that we would never fail the concerns for the safety of a Jew had we successfully imbibed the mesora of the miracles that occurred. Apparently, a people richly endowed with transmitted testimony of the appreciation that Hashem has for all our people would inescapably design a society that offers utmost protection to every soul.

In addition to the good textual fit of Rav Shternbach's comment, I find that the responsibility that it places on generations that witness miracles to be powerfully instructive. We are such a generation.

We are witness to the miracle of the rebirth of our people growing year after year. We should be keenly aware of the protection that we have received from on High from tunnels, fire laden kites and knife wielding terrorist, even as we have suffered terribly from them. With any trip to Israel we cannot miss seeing the beginning of the prophesized incoming of far flung Jews. During visits to Israel and to the local grocer we are witness to the fulfillment of the words of Yechezkel hanavi (36:8), "...you, the mountains of Israel, give out your branches and carry your fruit for my people Israel for their coming is drawing close." Our embrace of this mandate that we thankfully shoulder will help us strengthen our faith and that of our children and merit the life lessons and blessings that come with it. © 2018 Rabbi D. Stein & TorahWeb.org

**RABBI YAAKOV MENKEN**

## Lifeline

**W**e're told in this week's Torah portion that when a murder victim is discovered, the elders of the city closest to the site where the body was found

gather and say "Our hands did not spill this blood, and we were not witness to it (Deut 21:7)." They then pray for atonement and ask G-d to prevent such tragedy from happening among them.

Are the elders somehow under suspicion for murder, that they need to publicly testify to their innocence? Rashi explains that the elders must make this statement because a city is required to do much more for a visitor than simply permit him to live. They testify that they did not allow the victim to leave their city without food for the trip, and someone to accompany them while leaving city limits. There's no accusation of murder, but it is possible the community is guilty of allowing the victim to leave without a warm departure.

The actual murderer must face the full consequences of his actions. If there's evidence he may go to trial, or G-d will arrange for his punishment through Divine means. The culpability, however, does not end there. An environment that allowed for this murder to take place must be rectified. The people must ask themselves, "How could this have even happened here?" Only once the leaders of the community can testify they had done the maximum to nurture a positive atmosphere, sensitive to the needs of their neighbors and visitors, can they absolve themselves of responsibility for the murder. And that obligation to better the "atmosphere" extends far beyond the city limits.

Rabbi Yisroel Salanter (1809-1883) once commented, "The study and character refinement performed in the Yeshiva academy of Kovno, Lithuania, prevents the Berlin Professor from leaving Judaism." The interaction and behavior of students, the favors done next door or in the next cubicle, and the words of understanding and patience between a husband and wife, create an environment of warmth and acceptance where physical, emotional, or spiritual murder cannot occur -- in that community nor beyond. (Based on Sefer Darchei Mussar)

In the age of Whatsapp and Tweets, there's no need to elaborate on the far-reaching effects of local kindness, and certainly hostility. Yet,

amid the daily bombardment of media shared by friends and others, it is challenging to even absorb the meaning of all the stories we hear. Nonetheless, if there's a story that touched us in a more personal way, the Torah demands of us to take note and ask, "how did I allow this to happen?"

© 2018 Rabbi Y. Menken & torah.org

