

## PARSHAH SUMMARY &amp; COMMENTARY

## Shoftim

Deuteronomy 16:18-21:9

Torah Reading for Week of August 24-30, 2003

The Torah reading called "Judges" (*Shoftim*) opens with the command to appoint "judges and law enforcement officials for yourself in all your city-gates that the L-rd your G-d is giving you, for your tribes, and they shall judge the people with righteous judgment.

You shall not pervert justice; you shall not show favoritism, and you shall not take a bribe, for bribery blinds the eyes of the wise and per-

verts just words.

Justice, justice shall you pursue, that you may live and possess the land the L-rd your G-d is giving you.

This is followed by prohibitions against idolatrous trees and monuments, and offering a blemished animal to G-d. Idolatry is to be punished by death, but as with all crimes, a conviction is to be brought only upon the testimony of two witnesses.

The courts and judges are also invested with the authority to interpret and decide all matters of Torah law::

If a matter eludes you in judgment, between blood and blood, between judgment and judgment, or between affliction and affliction, words of dispute in your cities, then you shall rise and go up to the place the L-rd your G-d chooses.

And you shall come... to the judge who will be in

## Commentary

JUDGES AND OFFICERS YOU SHALL PLACE AT ALL YOUR CITY-GATES... (DEUTERONOMY 16:18)

The human body is a city with seven gates — seven portals to the outside world: the two eyes, two ears, two nostrils and the mouth. Here, too, it is incumbent upon us to place internal "judges" to discriminate and regulate what should be admitted and what should be kept out, and "officers" to enforce the judges' decisions...

(Sifsei Kohan)

JUDGES AND OFFICERS YOU SHALL PLACE AT ALL YOUR CITY-GATES... (16:18)

Do not judge alone, for no one can judge alone but the One.

(Ethics of the Fathers 4:8)

Monetary matters are decided by a court of three judges... capital crimes by a tribunal of twenty-three judges... From where is this derived? For it is written (Numbers 35:24-25): "And the community shall judge... and the community shall save" — we need a community of judges arguing to convict the accused, and a community of judges arguing to exonerate him. Thus we have twenty (a "community" indicating a minimum of 10, as per Numbers 14:27). A conviction requires a majority of two (as per Exodus 23:2), and a court of law cannot have an even number of judges; thus we need twenty-three judges (22 so that there should be a majority of 2 over the 10 "saving" judges, and another judge so that the court should not be even-numbered).

(Talmud, Sanhedrin 2a-b)

Under Torah law, capital crimes are tried by a tribunal of 23 judges called a "Minor Sanhedrin." After hearing the testimony of the witnesses, the judges themselves would split into two groups: those inclined to argue for the acquittal of the accused would serve as his "defense team" and seek to convince their colleagues of his innocence; those inclined to convict would make the case for his guilt. Then the judges would vote. A majority of one was sufficient to exonerate, while a majority of two was necessary to convict.

But what if all twenty-three judges form an initial opinion of guilt? What if the evidence is so compelling and the crime so heinous that not a single

member of the tribunal chooses to argue in favor of the accused? In such a case, says Torah law, the accused cannot be convicted and must be exonerated by the court.

The Lubavitcher Rebbe explains the rationale behind this law as follows: No man is so utterly evil that there is nothing to be said in his defense. There is always some explanation, some justification, some perspective from which the underlying goodness of his soul can be glimpsed. This does not mean that he is going to be found innocent, in the legal sense, by a court of law: at times the "mitigating circumstances" result in a verdict of acquittal; at times, they do not. But if not a single member of the court perceives the "innocent side" of the person standing accused before them, this a court that obviously has very little understanding of who he is and what he has done. Such a court has disqualified itself from passing judgment on him.

YOU SHALL NOT TAKE A BRIBE, FOR BRIBERY BLINDS THE EYES OF THE WISE AND PERVERTS THE WORDS OF THE JUST (16:19)

As soon as [the judge] accepts a bribe from [a litigant], it is impossible for him not to be favorably disposed towards him.

(Rashi)

A person once brought Rabbi Ishmael ben Elisha the "First Shearings" (one of the 24 gifts given to a Kohen). Said Rabbi Ishmael to him: "Where are you from?" Said he: "From this-and-this place." Said Rabbi Ishmael: "And from there till here there was no kohen to whom you could give it?" Said he: "I have a matter of litigation, and I said to myself: as I'm coming here, I'll give it to you."

Rabbi Ishmael refused to accept it from him, and said to him: "I am disqualified to serve as a judge in your case." Instead, he sat two Torah scholars to judge his case. While still going to and fro [and overhearing the litigation], Rabbi Ishmael said to himself: If he wanted, he could argue thus and thus [to better present his case].

Said he: "A curse upon the takers of bribes! I did not accept anything from him. And if I would have accepted it, it would have been something that is mine by rights. Nevertheless, I am inclined in his favor. How much more so one who accepts a bribe!

(Talmud, Ketubot 105b)

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those days, and you shall inquire, and they will tell you the words of judgment.

And you shall do according to the word they tell you, from the place the L-rd will choose, and you shall observe to do according to all they instruct you.

According to the law they instruct you and according to the judgment they say to you, you shall do; you shall not divert from the word they tell you, either right or left.

## Appointing a King

When you come to the land the L-rd, your G-d,

## Commentary

A case once came before Rabbi Abraham Joshua Heschel, the Rebbe of Apta (1755-1825), when he served as a rabbinical judge in the town of Kosbolov. While the case was underway, he suddenly felt inclined in favor of one of the litigants, though his initial leaning was against him. This sudden change roused his suspicion that something was amiss, and he ordered a halt to the proceedings. Upon investigation, he discovered that someone had slipped a packet of money into his coat.

Said the Rebbe of Apta: Although I was totally unaware of the attempt to bribe me, my judgment was affected. How true are the words of the Torah that "bribery blinds the eyes of the wise"!

*(Maayanah Shel Torah)*

An impoverished widow once came to the bet-din (court-house) of the great sage Rabbi Yehoshua Kutner. Weeping bitter tears, she begged him to summon to the court a man she accused of having wronged her.

Rabbi Yehoshua summoned the man to appear before the court, but referred the case to another rabbi, refusing to preside over it himself. "The Torah forbids the taking of bribes," he explained. "Do you think that a bribe is only a gift of money? Tears can also be a bribe that 'blinds the eyes of the wise' — especially the tears of a poor widow."

*(Maayanah Shel Torah)*

## JUSTICE, JUSTICE SHALL YOU PURSUE (16:20)

Why does the verse repeat itself? Is there a just justice and an unjust justice? Indeed there is. The Torah is telling us to be just also in pursuit of justice — both the end and the means by which it is obtained must be just.

*(Rabbi Bunim of Peshischa)*

## JUSTICE, JUSTICE SHALL YOU PURSUE (16:20)

is giving you, and you possess it and live therein, and you say, "I will set a king over myself, like all the nations around me."

You shall set a king over you, one whom the L-rd your G-d chooses; from among your brothers, you shall set a king over yourself...

Only, he may not acquire many horses for himself, so that he will not bring the people back to Egypt in order to acquire many horses, for G-d said to you: "You shall not return that way any more."

And he shall not take many wives for himself, lest his heart turn away; and he shall not acquire much silver and gold for himself.

The king should have two copies of the Torah scroll made for him, one of which should accompany him constantly "and he shall read it all the days of his life, so that he may learn to fear the L-rd his G-d, to keep all the words of this Torah and these statutes, to perform them. So that his heart will not be haughty over

By virtue of three things the world endures: law, truth and peace.

*(Ethics of the Fathers 1:18)*

The three are one and the same: if the law is upheld, there is truth and there is peace.

*(Jerusalem Talmud, Taanit 4:2)*

A judge who judges with absolute truth, becomes a partner with G-d in creation.

*(Talmud, Shabbat 10a)*

## YOU SHALL NOT PLANT FOR YOURSELF AN ASHERAH, ANY TREE, NEAR THE ALTAR OF G-D (16:21)

This verse includes two prohibitions: not to plant an aserah (idolatrous) tree anywhere, and not to plant any tree, or build any Tree on the Temple Mount.

*(Sifri; Rashi)*

To seek to beautify the Holy Temple by planting trees around it is an insult to the holiness of the place, whose beauty derives from itself and not from external "landscaping."

This also explains the Talmud's statement (Sanhedrin 7a), the the reason that the Torah places this law immediately following the law regarding the appointment of judges, is to teach us that "Whoever appoints an unqualified judge it is as if he planted an asheira near the altar." Often, we see people appointed to positions of authority because of their external appearance, charm and oratorical prowess, instead of their knowledge, integrity and fear of Heaven...

*(Even HaAzel)*

## BY THE MOUTH OF TWO WITNESSES, OR THREE WITNESSES (17:6)

The testimony of two witnesses constitutes absolute proof; in this, two witnesses are like a hundred.

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his brothers, and so that he will not turn away from the commandment, either to the right or to the left, in order that he may prolong his days in his kingdom, he and his sons, among Israel."

## More Mitzvot

Moses reiterates some of the Israelites' duties toward the Kohanim and the Levites, including the gifts set

aside from the farmer's produce, shearings and slaughtered cattle; the prohibitions against the various forms of sorcery and superstitions, the duty to obey the prophet, and the setting aside of "Cities of Refuge" for someone who kills unintentionally.

The stealing of land by surreptitiously moving back the boundary marker is strictly forbidden. False witnesses, if refuted through the process of *zomemim* (i.e., other witnesses testify that they were in another place and could not have witnessed the crime they claim to have witnessed), are subjected to the punishment they would have had inflicted on the accused.

## Laws of War

A Kohen (called the *mashuach milchamah*, "anointed for battle") is appointed to the task of preparing the people for war. "Hear, O Israel," he announces to the people, "today you are approaching the battle against

## Commentary

(Talmud)

IF A MATTER ELUDES YOU IN JUDGMENT... THEN YOU SHALL RISE AND GO... TO THE JUDGE WHO WILL BE IN THOSE DAYS... (17:8-9)

Can a person then go to a judge who is not in his days...? This is to teach us that although this judge may not be of the same stature as other judges who preceded him, you must listen to him, for you have only the judge who lives in your time... Samuel in his generation is like Yiftach in his generation (Samuel is regarded as the greatest of the prophets, equal to Moses and Aaron together; Yiftach, who served as Judge in 982-962 BCE, came from a lowly background and was guilty of many failings).

(Talmud, Rosh HaShanah 25b; Rashi)

ACCORDING TO THE LAW THEY INSTRUCT YOU AND ACCORDING TO THE JUDGMENT THEY SAY TO YOU, YOU SHALL DO; YOU SHALL NOT DIVERT FROM THE WORD THEY TELL YOU, EITHER RIGHT OR LEFT (17:11)

Even if this judge tells you that right is left, and that left is right. How much more so, if he tells you that right is right, and left is left!

(Sifri; Rashi)

Rabbi Yechezkel Landau, known as "The Nodah B'Yehudah" after his work by that name, served as the rabbi of Prague from 1754 to 1793. Once a group of scholars who wished to contest his rabbinic qualifications presented him with a series of questions in Torah law. These fictitious "cases" were artfully constructed to be as complex and as misleading as possible, so as to ensnare the rabbi in their logical traps and embarrass him with an incorrect ruling.

The Nodah B'Yehudah succeeded in resolving all the questions correctly — all, that is, but one. Immediately his detractors pounced on him, demonstrating how his verdict contradicts a certain principle of Torah law.

Said the Nodah B'Yehudah: "I am certain that this case is not actually relevant, and that you have invented it in order to embarrass me."

When questioned how he could know this with such certainty, he explained:

"You see, whenever a being of flesh and blood is called upon to decide a matter of Torah law, we are confronted with a basic dilemma: How can the human mind possibly determine what is G-d's will? The do's and don'ts of Torah are the guidelines by which the Almighty desires that we order our lives. How is it that the finite and error-prone intellect is authorized to decide such Divine absolutes?"

"But the Torah itself instructs that the 'Torah is not in heaven' but has been given to man to study and comprehend; and that whenever a question or issue is raised, it is a human being, employing his finite knowledge and judgment, who must render a ruling. In other words, when a person puts aside all considerations of self and totally surrenders his mind to serve the Torah, G-d guarantees that the result would be utterly consistent with His will.

"However," concluded the Nodah B'Yehudah, "this guarantee only applies to actual events, when a rabbi is called upon to determine what it is that G-d desires to be done under a given set of circumstances; but not if his personal honor is the only issue at hand. Had you presented me with a relevant question, I know that I would not have erred, since I approached the matter with no interest or motive other than to serve the will of G-d. But since your case was merely a hypothetical question designed to mislead me, my mind was just like every other mind, great and small alike — imperfect and manipulatable."

(Told by the Lubavitcher Rebbe)

AND IT WILL BE, WHEN HE SITS UPON HIS ROYAL THRONE, THAT HE SHALL WRITE FOR HIMSELF TWO COPIES OF THIS TORAH ON A SCROLL... (17:18)

The king has two Torah scrolls: one that is placed in his treasury, and the other that comes and goes with him.

(Talmud; Rashi)

If the ordinary person needs one Torah scroll, a king needs two: because of his greatness, he has greater need to be reminded of the higher authority to which he must submit.

(Yalkut David)

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your enemies. Let your hearts not be faint; you shall not be afraid, and you shall not be alarmed, and you shall not be terrified because of them. For the L-rd your G-d is the One Who goes with you, to fight for you against your enemies, to save you."

The following are exempted from participating in the battle:

## Commentary

There shall not be found among you... a soothsayer, a diviner of times, one who interprets omens, or a sorcerer, or a charmer, a pithom sorcerer, a yido'a sorcerer, or a necromancer. For whoever does these things is an abomination to G-d (18:10-12)

A soothsayer is one who takes his rod in his hand and says [as though to consult it], "Shall I go, or shall I not go?"

A diviner of times: According to Rabbi Akiva, these are people who determine the times, saying, "Such-and-such a time is good to begin a venture." The [other] Sages say, however, that this refers to those who "catch the eyes" [i.e., they deceive by creating optical illusions].

One who interprets omens — e.g., bread falling from his mouth, a deer crossing his path, or his stick falling from his hand.

Charmer: One who collects snakes, scorpions or other creatures into one place.

Pithom sorcerer: The sorcerer raises the spirit of the dead, and it speaks from the sorcerer's armpit.

Yido'a sorcerer: The sorcerer inserts a bone of the animal called yido'a into his mouth, and the bone speaks by means of sorcery.

A necromancer is one who raises the dead spirit upon his membrum, or one who consults a skull.

(Talmud, Sanhedrin 65b)

## BE WHOLEHEARTED WITH G-D (18:13)

Conduct yourself with Him with simplicity and depend on Him, and do not seek to manipulate the future; rather, accept whatever happens to you with simplicity and then, you will be with Him and to His portion.

(Sifri, Rashi)

AND WHEN G-D EXPANDS YOUR BOUNDARIES, AS HE SWORE TO YOUR FOREFATHERS, AND HE GIVES YOU ALL THE LAND OF WHICH HE SPOKE TO GIVE TO YOUR FOREFATHERS... YOU SHALL ADD THREE MORE CITIES FOR YOURSELF, IN ADDITION TO THESE... (19:8-9)

The Torah attests to the coming of Moshiach... Also, regarding the "Cities

"Is there who has built a new house and has not yet inaugurated it? Let him go and return to his house, lest he die in the war, and another man inaugurate it.

"Is there a man who has planted a vineyard, and has not yet redeemed it? Let him go and return to his house, lest he die in the war, and another man redeem it.

"Is there a man who has betrothed a woman and has not yet taken her in marriage? Let him go and return to his house, lest he die in the war, and another man take her in marriage."

And finally:

"Is there a man who is fearful and fainthearted? Let him go and return to his house, that he should not cause the heart of his brothers to melt, as his heart."

of Refuge" it is written: "And when G-d expands your boundaries... you shall add three more cities..." This never yet came to pass, and G-d did not command it in vain.

(Mishneh Torah, Laws of Kings 11:1-2)

WHEN YOU APPROACH THE BATTLE, THE KOHEN SHALL APPROACH AND SPEAK TO THE PEOPLE: "...HEAR, O ISRAEL, TODAY YOU ARE APPROACHING THE BATTLE AGAINST YOUR ENEMIES" (20:2-3)

These are not your brothers, for if you fall into their hands, they will not have pity on you; this is not like the war of Judah with Israel, of which the verse states, "And the men, who were mentioned by name, rose up and took hold of the captives, and, and clothed all their nakedness from the spoils, and they dressed them and shod them, and fed them and gave them to drink, and anointed them, and led them on donkeys, every feeble one, and they brought them to Jericho, the city of the palms, beside their brothers, and they returned to Samaria" (II Chron. 28:15). You, however, are going against your enemies; therefore strengthen yourselves for battle.

(Talmud, Sotah 42a; Rashi)

IS THERE A MAN WHO BUILT A HOUSE... WHO PLANTED A VINEYARD... WHO BETROTHED A WOMAN... (20:5-7)

[The order in which the Torah lists these actions teaches us] that a person of character should first find work that earns him a livelihood, then build himself a house, and after that marry... [not like] the fools who first get married, then, if they can afford it, buy a house, and toward the end of their lives start looking for a job or live off charity...

(Maimonides)

WHEN YOU BESIEGE A CITY FOR MANY DAYS TO WAGE WAR AGAINST IT TO CAPTURE IT, YOU SHALL NOT DESTROY ITS TREES BY WIELDING AN AX AGAINST THEM, FOR YOU MAY EAT FROM THEM (20:19)

One who breaks vessels, tears clothes, demolishes a building, stops a spring or disposes of food in a ruinous manner, transgresses the prohibition of Lo Tashchit.

(Mishneh Torah, Laws of Kings 6:10)

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Terms of peace must first be offered to a city, before attacking it. No fruit trees are to be destroyed to build siege towers — only non-fruit-producing trees may be cut down (this is the source of the prohibition of *Lo Tashchit*, not to wantonly destroy any useful thing). It is in this context that the Torah makes the famous analogy comparing man to “a tree of the field.”

**Eglah Arufah** (The Law of the Anonymous Murder Victim)

If a slain person be found in the land which the L-rd your G-d is giving you to possess, lying in the field, and it is not known who slew him.

Your elders and judges shall go forth, and they shall measure to the cities around the corpse. And it will be, [that from] the city closest to the corpse, the elders of that city shall take a calf

with which work has never been done, [and] that has never drawn a yoke.

And the elders of that city shall bring the calf down to a rugged valley, which was neither tilled nor sown, and there in the valley, they shall decapitate the calf...

And all the elders of that city, who are the nearest to the corpse, shall wash their hands over the calf that was decapitated in the valley.

And they shall announce and say: “Our hands did not shed this blood, nor did our eyes see. Atone for Your people Israel, whom You have redeemed, O L-rd, and lay not [the guilt of] innocent blood among your people Israel.” And so the blood shall be atoned for them.

And you shall abolish the [shedding of] innocent blood from among you, for you shall do what is proper in the eyes of G-d.

## Commentary

**A BODY... LYING IN THE FIELD (21:1)**

[One] who encounters a met mitzvah is obligated to bury it... What is a met mitzvah? The body of a Jew abandoned by the wayside that has no one to bury it... Even a Kohen Gadol (a “high priest” who is forbidden all contact with the dead, even his own parent or spouse) is obligated to become ritually impure and bury it.

*(Mishneh Torah, Laws of Mourning 3:8)*

**OUR HANDS DID NOT SPILL THIS BLOOD, AND OUR EYES DID NOT SEE... (21:7)**

But would it enter one’s mind that the elders of the court are murderers? Rather, [they declare:] We did not see him and let him depart without food or escort.

*(Talmud, Sotah 45a)*

The principle behind the law of Eglah Arufah is that a person is also responsible for what occurs outside of his domain — outside of the areas where he is fully in control. When a murdered traveler is found out in the field, the elders of the nearest city must go out there and bring the Eglah Arufah to atone for the crime, although it occurred “outside of their jurisdiction”; for it was nevertheless their responsibility to send the traveler off with adequate provision and protection.

The same applies on the personal level in all areas of life. A person never has the right to say, “This is outside of my element. I have no obligation to

deal with this.” If it is something that, by Divine Providence, one has been made aware of, that means that there is something one can, and must, do to positively influence the end result.

*(The Lubavitcher Rebbe)*

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FROM THE CHASSIDIC MASTERS

THE JUDGE AND THE REFUGEE

In the Torah-section of Shoftim (Deuteronomy 16:18-21:9) we read of the cities of refuge, to which a man who had killed accidentally could flee, find sanctuary and atone. The Chassidic masters note that Shoftim is always read in the month of Elul; for Elul is, in time, what the cities of refuge were in space. It is a month of sanctuary and repentance, a protected time in which a person can turn from the shortcomings of his past and dedicate himself to a new and sanctified future.

The Lubavitcher Rebbe analyzes an important feature of the cities: they were only to be found in the land of Israel, even though the judges and officers who executed Torah law were to be appointed wherever Jews live. Why does the law extend everywhere, while refuge belongs to the Holy Land? And what does this imply for the month of Elul, our place of spiritual refuge in the calendar of the Jewish year?

A Paradox

The Midrash Sifri interprets the opening verse of our Parshah, “You shall set judges and officers in all your gates” to apply to “all your dwelling-places,” even those outside Israel. It then continues: One might think that cities of refuge were also to exist outside the land of Israel. Therefore the Torah uses the restrictive term “these are the cities of refuge” to indicate that they were to be provided only within Israel.

Nonetheless, the Sifri says that someone who committed accidental homicide outside the land of Israel and who fled to one of the cities of refuge would be granted sanctuary there. It was the cities themselves, not the people they protected, that were confined to the land of Israel.

The fact that the Sifri initiates a comparison between the “judges and officers” and the cities of refuge, indicates that they have a relationship to one another. It is this: The judges who applied the law and the officers who executed the sentences, did not aim at retribution, but at the refinement of the guilty. And the aim of the cities of refuge was to impose on the fugitive an atoning exile—atonement in the sense of a remorse which effaces the crime until he regains

his original closeness to G-d’s will.

We might then have thought that if this safeguard, this place of atonement, was available in the holy environment of the land of Israel, it would be all the more necessary outside its borders where it was easier to fall into wrongdoing. And yet only judges and officers were to be provided beyond the land of Israel’s borders—only the agents of the law, not its refuge.

Transcendence or Empathy

There are two phases in *teshuvah*, or repentance. There is remorse over what has been done, and commitment to act differently in the future. These are inextricably connected. For the only test of sincere remorse is the subsequent commitment to a better way of life. To be contrite about the past without changing one’s behavior is a hollow gesture.

This the deeper significance of the law that the city of refuge is found only in the land of Israel. For a man could not atone while clinging to the environment which led him to sin. He might feel remorse. But he would not have taken the decisive step away from his past. For this, he had to escape to the “land of Israel,” i.e., to holiness. There, on its sanctified earth, his commitment to a better future could have substance.

Judges, however, could be appointed outside the land of Israel. For it is written in the *Ethics of the Fathers*, “Do not judge your fellow-man until you come to his place.” A court which sits in the land of Israel cannot know the trials and temptations which exist outside, or the difficulties of being loyal to one’s faith in a place of exile. The land of Israel is a land where “the eyes of the L-rd your G-d are always upon it, from the beginning of the year to the end of the year.” It is a land of Divine grace. One cannot judge a man by its standards if that man lives outside its protection.

So judges had to be drawn from the same environment as their defendants. They had not only to know what he had done; they had to experience for themselves the environment which brought him to it.

Rabbi DovBer of Lubavitch (the second Chabad Rebbe) was once giving private audiences, when he interrupted for some time before continuing. It transpired that a man who had had an audience wanted the Rebbe’s help in setting right a particularly

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degrading act he had done. The Rebbe later said to one of his close disciples that one must discover some analogous quality in oneself—on however refined a level—before one can help someone to remedy his sin. His interruption of the audiences had been to attempt to find in himself this point from which he could identify with the sinner.

It was this principle that lay behind G-d's command to Moses when the Israelites had made the golden calf: "Go, get thee down, for your people have dealt corruptly." For at that moment, Moses was inhabiting the spiritual heights of Mt. Sinai, neither eating nor drinking, divorced from the world. The Israelites were degraded through their sin. But by telling him to "go down" to "your people" G-d created a bond between Moses and the people, on the basis of which Moses was able to plead on their behalf.

## Three Degrees of Refuge

Although all the cities of refuge were to be in the land of Israel, they were not all in the same territory. There were the three in the land of Israel proper—the Holy Land. Three were in the territories east of the Jordan, where "manslaughter was common" (Talmud, Makkot 9b). And, in the Time to Come "the L-rd your G-d will enlarge your borders" three more will be provided, in the newly occupied land.

This means that every level of spirituality has its own refuge, from the relatively lawless eastern territories to the Holy Land, and even in the Time to Come. And this is true spiritually as well as geographically. At every stage of a man's religious life there is the possibility of some shortcoming for which there must be refuge and atonement. Even if he never disobeys G-d's will, he may still not have done all within his power to draw close to G-d.

This is the task of the month of Elul. It is a time of self-examination when each person must ask himself whether what he has achieved was all he could have achieved. And if not, he must repent, and strive towards a more fulfilled future. Businessman and scholar—he who has lived in the world and he who has spent his days under the canopy of the Torah—both must make Elul a time of self-reckoning and refuge.

It is the way of the Western world to make Elul—

the month of high summer—a time for vacation from study. The opposite should be the case. It is above all the time for self-examination, a time to change one's life. And the place for this is the city of refuge in the "Holy Land", which, in the geography of the soul, is a place of Torah.

Each Jew should set aside Elul, or at least from the 18th onwards (the last 12 days, a day for each month of the year), or at any rate the days when *Selichot* are said, and make his refuge in a place of Torah.

A refuge is a place to which one flees: That is, where one lays aside one's past and makes a new home. Elul is the sublimation of the past for the sake of a better future. And it is the necessary preparation for the blessings of Rosh Hashanah, the promise of plenty and fulfillment in the year to come.

*From Torah Studies (Kehot 1986), an adaptation of the Lubavitcher Rebbe's talks by Britain's Chief Rabbi, Dr. Jonathan Sacks*

## THE HUMAN TREE

*For man is a tree of the field*

Deuteronomy 20:19

The tree's primary components are: the **roots**, which anchor it to the ground and supply it with water and other nutrients; the **trunk, branches and leaves** which comprise its body; and the **fruit**, which contains the seeds by which the tree reproduces itself.

The spiritual life of man also includes roots, a body, and fruit. The roots represent faith, our source of nurture and perseverance. The trunk, branches and leaves are the body of our spiritual lives — our intellectual, emotional and practical achievements. The fruit is our power of spiritual procreation — the power to influence others, to plant a seed in a fellow human being and see it sprout, grow and bear fruit.

## Roots and Body

The roots are the least glamorous of the trees parts, and the most crucial. Buried underground, virtually invisible, they possess neither the majesty of the trees body, the colorfulness of its leaves nor the tastiness of its fruit. But without roots, a tree cannot survive.

Furthermore, the roots must keep pace with the body: if the trunk and leaves of a tree grow and

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spread without a proportional increase in its roots, the tree will collapse under its own weight. On the other hand, a profusion of roots makes for a healthier, stronger tree, even if it has a meager trunk and few branches, leaves and fruit. And if the roots are sound, the tree will rejuvenate itself if its body is damaged or its branches cut off.

Faith is the least glamorous of our spiritual faculties. Characterized by a simple conviction and commitment to one's Source, it lacks the sophistication of the intellect, the vivid color of the emotions, or the sense of satisfaction that comes from deed. And faith is buried underground, its true extent concealed from others and even from ourselves.

Yet our faith, our supra-rational commitment to G-d, is the foundation of our entire tree. From it stems the trunk of our understanding, from which branch out our feelings, motivations and deeds. And while the body of the tree also provides some of its spiritual nurture, the bulk of our spiritual sustenance derives from its roots, from our faith in and commitment to our Creator.

A soul might grow a majestic trunk, numerous and wide-spreading branches, beautiful leaves and lush fruit. But these must be equaled, indeed surpassed, by its roots. Above the surface, there might be much wisdom, profundity of feeling, abundant experience, copious achievement and many disciples; but if these are not grounded and vitalized by an even greater faith and commitment, it is a tree without foundation, a tree doomed to collapse under its own weight.

On the other hand, a life might be blessed with only sparse knowledge, meager feeling and experience, scant achievement and little fruit. But if its roots are extensive and deep, it is a healthy tree: a tree fully in possession of what it does have; a tree with the capacity to recover from the setbacks of life; a tree with the potential to eventually grow and develop into a loftier, more beautiful and fruitful tree.

## Fruit and Seed

The tree desires to reproduce, to spread its seeds far and wide so that they take root in diverse and distant places. But the tree's reach is limited to the extent of its own branches. It must therefore seek out other, more mobile couriers to transport its seeds.

So the tree produces fruit, in which its seeds are enveloped by tasty, colorful, sweet-smelling fibers and juices. The seeds themselves would not rouse the interest of animals and men; but with their attractive packaging, they have no shortage of customers who, after consuming the external fruit, deposit the seeds in those diverse and distant places where the tree wants to plant its seeds.

When we communicate with others, we employ many devices to make our message attractive. We buttress it with intellectual sophistication, steep it in emotional sauce, dress it in colorful words and images. But we should bear in mind that this is only the packaging—the fruit that contains the seed. The seed itself is essentially tasteless—the only way that we can truly impact others is by conveying our own simple faith in what we are telling them, our own simple commitment to what we are espousing.

If the seed is there, our message will take root in their minds and hearts, and our own vision will be grafted into theirs. But if there is no seed, there will be no progeny to our effort, however tasty our fruit might be.

*Based on the teachings of the Lubavitcher Rebbe, www.therebbe.org; adapted by Yanki Tauber, editor@chabadonline.com*

## WHAT YOU OBVIOUSLY DON'T KNOW

The incident I'm going to tell you about occurred more than ten years ago, but hardly a week goes by in which I don't think about it.

I had popped into a Jerusalem synagogue for *minchah* (afternoon prayers). A few rows in front of me there was this man, sitting with his four kids. The fellow in front of him had his arm over the back of the bench, and the fellow behind him was also disturbing him in some way. He kept snapping at his kids. What a jerk, I thought to myself. Ok, you're nervous, you're rude, that's fine, there are lots of nervous and rude people in these stress-ridden times, but does the whole world have to know it?

I'm really a live-and-let-live kind of guy, but this fellow was impossible to ignore. His ill-will and discontent filled the room. Yes, I thought, your kids are a rowdy bunch, but do you have to yell at them all the time? Why don't you leave them home if they get on your nerves so much?

At the conclusion of the service, his four kids—the



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twelve-year old, the nine-year old, the eight-year old and the six-year old—stood in a row and recited the mourner's *kaddish*. What a jerk, I muttered—meaning myself of course—my face hot with shame.

Since there's so much that we'll never know about another person, any attempt to pass judgement on him or her seems doomed to failure. In the words of the Talmud, "Do not judge your fellow until you have reached his place." What the Talmud is really saying, I suspect, is, "Don't judge your fellow, ever," since "his place" is a place where you can never truly be.

The problem, however, is that there are times and circumstances in which we have to judge others, or at least appoint people to do the job for us. We call these people "judges," and without them, no society could function.

Indeed the Torah instructs, "Judges and officers you shall appoint in all your [city] gates." But the Torah also sets down numerous rules and regulations which delimit the judge's power to judge, and ensure that when he does judge, he does so with utmost caution and sensitivity.

A case in point is the law of the "indefensible criminal." This is how it works:

Under Torah law, capital crimes are tried by a tribunal of 23 judges called a "Minor Sanhedrin." After hearing the testimony of the witnesses, the judges themselves would split into two groups: those inclined to argue for the acquittal of the accused would serve as his "defense team" and seek to convince their colleagues of his innocence; those inclined to convict would make the case for his guilt. Then the judges would vote. A majority of one was sufficient to exonerate, while a majority of two was necessary to convict.

But what if all twenty-three judges form an initial opinion of guilt? What if the evidence is so compelling and the crime so heinous that not a single member of the tribunal chooses to argue in the accused's favor? In such a case, says Torah law, the accused cannot be convicted and must be exonerated by the court.

The Lubavitcher Rebbe explains the rationale

behind this law as follows: No man is so utterly evil that there is nothing to be said in his defense. There is always some explanation, some justification, some perspective from which the underlying goodness of his soul can be glimpsed. This does not mean that he is going to be found innocent, in the legal sense, by a court of law: at times the "mitigating circumstances" result in a verdict of acquittal; at times, they do not. But if not a single member of the court perceives the "innocent side" of the person standing accused before them, this a court that obviously has very little understanding of who he is and what has done. Such a court has disqualified itself from passing judgement on him.

But that's a lesson for judges. The rest of us have neither need or cause to pass judgement on anyone. Which is fortunate, because there's so much that we don't know.

*By Yanki Tauber, editor@chabadonline.com; based on the teachings of the Lubavitcher Rebbe, www.therebbe.org*