

**Parshat Shoftim**  
**Shaking the Foundations**  
**Rabbi Alana Suskin - Advanced Kollel: Executive Ordination Track**  
**Class of 2020**

The power of the legal system is in many ways the closest humans can come to godliness. It is through the rule of law that humans create order out of chaos, rein in the powerful from abusing the weak, hold individuals to their obligations, expose lies, and reveal truths people have taken great care to hide. It should therefore be no surprise that our Sages connect the first verses of parshat Shoftim— which direct the appointment of judges “in all your gates,” require those judges to judge with justice (*mishpat tzedek*), and forbid the perversion of justice — with the final mishna of the first chapter of Pirkei Avot,<sup>1</sup> which states:

רַבֵּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר, עַל שְׁלֹשָׁה דְבָרִים הָעוֹלָם עוֹמֵד,  
עַל הַדִּין וְעַל הָאֱמֶת וְעַל הַשְּׁלוֹם,  
שֶׁאִמְרָא (זְכַרְיָה ח) אֱמֶת וּמִשְׁפָּט שְׁלוֹם שְׁפָטוּ בְּשַׁעְרֵיכֶם:

*Rabban Shimon ben Gamaliel used to say: on three things does the world stand: On justice, on truth and on peace, as it is said: “execute the judgment of truth and peace in your gates” (Zechariah 8:16).*

Although establishing courts that will do justice, as opposed to corrupt courts, might seem obvious, we have seen recently that it is much harder to achieve than we would like to think. Setting aside those who glory in white supremacy and other evils, all of us believe that what we do is just and fair – and yet the reality is that most of us have biases, some of which are not obvious even to ourselves. Human brains seek shortcuts – not out of evil, but simply because it is efficient – but those shortcuts often lead us to believe things about others that are simply false, and sometimes those things are so deeply embedded in our habits that we don’t even recognize when we’re doing them. There are numerous studies that show us acting on these beliefs in all kinds of settings, even when we don’t know that we are doing so. It should therefore not be surprising when the institutions that humans build reflect and perpetuate those biases.

Consider our own communities. In the US, most Jewish communities are Ashkenazi and largely white-skinned. So when a person who is Black comes into our shul, it might feel natural to ask if they are there as a guest and explain to them what they are seeing around the room. Or perhaps, when they are seated, no one thinks to offer them an aliyah. Or perhaps, when they introduce themselves as David ben Avraham, we think to engage them by asking them their conversion story. None of these are mean-spirited gestures. Yet all of them assume that the person is not “one of us.” Not Jewish ... or, at the very least, not born Jewish; but it turns out that “David ben Avraham” wasn’t referring to “Avraham Avinu,” but actually to “Avraham ben Shmuel.” Oops. Our brains have failed us in their shortcut seeking, and in doing so, have caused us to treat another Jew improperly.

Other examples shared by Black Jews in our communities include the experiences of being assumed to be janitorial staff in synagogues, individuals refusing to believe that a Black Jew or other Jew of Color is really Jewish, people referring to Black Jews as “schvartze,”... and worse. But even people engaging in behaviors like these do not generally do so maliciously.

I mention these cases because, as Jews and members of the Jewish community, these are actions which have been reported by our fellow Jews in Reform, Conservative, and Orthodox communities. If we are able to accept that we, in our own communities, are behaving this way – and we must – then it should also

<sup>1</sup> Midrash Tanchuma, parshat Shoftim, 15; Zera Yitzchak on Pirkei Avot 1:18.

lead us to understand how likely it is that these things are also happening in the wider society. So when our fellow human beings cry out that their lives matter, we must listen.

The institutions that our society has built are, like we are, flawed. Without intending to, we have allowed harm to be perpetuated by them, including through our legal system.

Midrash Rabbah on Shoftim, commenting on the first verse of the parsha — שִׁפְטִים וְשֹׁטְרִים תִּתֶּן-לָךְ בְּכָל-ֶרֶץ (establish judges in all your gates) — ties it to the mishna in Pirkei Avot quoted above, paraphrasing it this way:

*Rabbi Shimon Ben Gamliel said, "Don't make a mockery of judgment, for it is one of the three legs of the world." Why did the sages teach "on three things the world stands: on justice, on truth, and on peace?" Pay attention, for if you bend justice, you shake the foundations of the world, for it is one of its legs. (Dvarim Rabbah 5:1)*

Zera Yitzchak (a work by Rabbi Yitzchak HaGer, published Amsterdam 1798), commenting on Pirkei Avot, states that "shaking the foundations" means that when a judge perverts the law it causes the *Shekhina* to depart from Israel, as proven by the verse "'For the oppression of the poor, for the sighing of the needy, now will I arise' says the Lord" (Tehillim 12:6).

Rabbeinu Bachya (1255-1340, Spain), in a long comment on Devarim 16:18, ends by saying that as long as humans sit in honest judgment, God in God's aspect of Din (judgment) doesn't need to sit alongside the judges, but rather God sits with them in God's aspect of Chesed (mercy). But, on the other hand, if human justice is perverted, then it is God's attribute of Din which judges humankind, referring to Midrash Tehillim 72:2: "when justice is not practiced on earth, it will be practiced in heaven."

It seems to me that we could read the Zera Yitzchak as referring to the explicit corruption that we see when someone engages in overt perversion of justice: taking bribes, for example. In contrast, the comment by Rabbeinu Bachya can be understood to apply not only to this overt corruption of justice, but also to the more insidious corruption that results from unconscious biases. Because even though we don't mean to cause harm, in many ways this second kind of corruption is much harder to fight, because it is so very difficult for us to see. In other words, God departs from the world when justice is perverted through open evil, but God sits with us in God's aspect as Din — rather than as Chesed — when we allow the perversion of justice through bias, even inadvertent, since we have an obligation to prevent this type of perversion of justice as well.

In secular society, with its separation of powers, we rely on judges to rein in the other branches of government, so it is especially important that judges and judgment be incorruptible. It is not mere serendipity that we read parshat Shoftim on the first Shabbat of Elul. As we head into the month which begins with *cheshbon hanefesh* and reaches its apex with the crowning of the Ruler on Rosh Hashana and all nations passing before God to be judged, and through Yom Kippur as we attempt to wrest our souls back into order, it is worth noting that this very first verse of Shoftim addresses us both in the singular and the plural. The verse itself says:

שִׁפְטִים וְשֹׁטְרִים תִּתֶּן-לָךְ בְּכָל-שַׁעְרֶיךָ

appoint judges and officers for yourself (singular) in all your gates (singular). Even though it is clearly addressing the nation as a whole, it reminds us that it is up to us, each of us, to admit to our part in creating unjust systems, and up to each of us to fix them.



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