**YESHIVAT HAR ETZION**

**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)**

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**midrash on the Parasha:**

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***Parashat Shoftim:***

**Orphaned Leadership, Renewed Leadership**

**Ideal and Rupture**

*Parashat Shoftim* describes the perfect vision of leadership for the nation of Israel. Torah sages and the court, the king, the priest, the prophet — all of them together manage the wellbeing and functioning of the nation, in matter and in spirit.

The king and the priest are God's chosen ones, as the same term is used for them as for the site of the Temple, "the place which the Lord your God shall choose (*yivchar*)”: "You shall surely set him king over you, whom the Lord your God shall choose (*yivchar*)…" (*Devarim* 17:15); "And this shall be the priests' due from the people… for the Lord your God has chosen (*bachar*) him out of all your tribes, to stand to minister in the name of the Lord, him and his sons forever" (*Devarim* 18:3-5). This wording also points to continuity and succession over time. By contrast, the judges (i.e. the Torah sages) and the prophets change, in accordance with the character of the people filling that role and the needs of the generation and the place.

Prophecy ceases early in the Second Temple Era. The beginning of the Tannaitic period, which coincides with the end of the Second Temple Era, is characterized by the decline of the priests as the spiritual leaders of the nation and the deterioration of the monarchy under Rome. By contrast, the standing of the Sages of the Oral Law steadily rises. With the Destruction of the Temple, the priesthood loses all of its institutional power, leaving only the Torah Sages at the helm of the nation.

What is an orphaned generation to do when three of the four institutions of leadership are gone?

In the *Sifrei* on this week's *parasha*, among the halakhic *derashot* of the Tannaim concerning the *parasha*'scommandments relating to the Sages (the appointment of judges, “righteous judgment,” the testimony of witnesses, turning to the Sanhedrin with a question), there emerge references to the Sages themselves, their work and their role in history. Let us examine these references, in an attempt to establish their significance for understanding the work of the Sages in their time, and the way in which it was perceived by them.

**Yavneh and its Sages**

The first mention of the Tannaitic period in the *Sifrei* on *Shoftim* appears as follows:

"Justice, justice shall you pursue" (*Devarim* 16:20).

From where is it derived that if one leaves the court exonerated, one is not returned for conviction [if incriminating arguments are raised]?

From: "Justice, justice shall you pursue."

If one leaves convicted, from where is it derived that one is returned for exoneration [if exculpatory arguments are raised]?

From: "Justice, justice shall you pursue."

Alternatively: "Justice, justice shall you pursue" —

Pursue a court *(beit din)* whose verdict is worthy *(she-dino yafeh):*

The court of Rabban Yochanan ben Zakkai and the court of Rabbi Eliezer.

(*Sifrei Shoftim* 144)

The verse reads: "Justice (*tzedek*), justice shall you pursue, that you may live, and inherit the land which the Lord your God gives you." The first two *derashot* relate to the very process of judgment. The doubling of the term "justice" is expounded not only as doing justice in the sense of judicial fairness and accuracy, but in favoring the exoneration of the accused party as opposed to conviction. That is to say, striving for righteous judgment is part of an approach of avoiding harshness or cruelty whenever that is possible.

By contrast, the third *derasha* relates to the nature of the court in which the judgment is being conducted. The act of pursuit in the verse is expounded as relating to the need to seek out a court of the highest caliber.[[1]](#footnote-1) The *derasha* continues with a precise identification of the desired courts: the court of Rabban Yochanan ben Zakkai and the court of Rabbi Eliezer.

What is the significance of this identification? The personalities mentioned here were key figures at the academy in Yavneh. Rabban Yochanan ben Zakkai is the founder of this *beit midrash*, as the site of the renewed growth of the Torah after the Destruction of the Temple, and Rabbi Eliezer is his disciple. It is reasonable to assume that this *derasha* was propounded in the first generation of Yavneh, pointing to this institution as the supreme authority in the nation for matters of Torah and Halakha.[[2]](#footnote-2)

Let us consider the opening verses of *Parashat Shoftim* in context:

Judges and officers shall you place for yourself in all your gates, which the Lord your God gives you, tribe by tribe; and they shall judge the people with righteous judgment *(mishpat tzedek)*.

You shall not pervert judgment. You shall not show partiality, and you shall not accept a bribe, for a bribe blinds the eyes of the wise and subverts the cause of the righteous

Justice, justice shall you pursue, that you may live, and inherit the land which the Lord your God gives you. (*Devarim* 16:18-20)

These verses are expounded as relating not only to the execution of righteous judgment, but also to the positive commandment of appointing justices:

"Righteous judgment" (*Devarim* 16:18).

Surely it is already stated: "You shall not pervert judgment" (v. 19)?

What then is taught by "righteous judgment"?

This refers to the appointment of judges…

"That you may live, and inherit the land which the Lord your God gives you" (v. 20).

This teaches that the appointment of judges suffices to give life to Israel, to settle them in their land, and to prevent their being felled by the sword.

It seems that "to give life to Israel, to settle them in their land, and to prevent their being felled by the sword" is not merely an exposition of the wording of the verse: "That you may live, and inherit the land which the Lord your God gives you," but rather a reading relating to the Tannaitic enterprise of creating the continuity of the Torah’s supreme authority in Israel in that time, as a guarantor of Israel's continued existence and dwelling in its land.[[3]](#footnote-3) This is true about Rabban Yochanan ben Zakkai and his disciples in Yavneh, and similarly about the disciples of Rabbi Akiva who reestablish the world of Torah in the Galilee after the Bar Kokhba revolt, two generations later.[[4]](#footnote-4)

Later on, the *Sifrei* explicitly mentions a court consisting of the Sages of Yavneh, in the context of the command to appear before the high court whenever the Halakha is unclear:

If there be a matter too hard for you in judgment, between blood and blood, between plea and plea, and between stroke and stroke, even matters of controversy within your gates; then shall you arise, and get you up to the place which the Lord your God shall choose.

And you shall come to the Levitical priests, and to the judge that shall be in those days; and you shall seek, and they shall tell you, the matter of the judgement.

And you shall do in accordance with the matter which they shall tell you, from that place, which the Lord shall choose; you shall observe to do all that they teach you. (*Devarim* 17:8-10)[[5]](#footnote-5)

"Then shall you arise" — in the court.

From here it may be derived that there were three courts: one at the entrance to the Temple Mount, one at the entrance of the Temple Courtyard,and one in the Chamber of Hewn Stone [the seat of the great Sanhedrin].

They [the dissenting sage and his colleagues in the local court] come to the court at the entrance of the Temple mount, and he [the dissenting sage] says to them [the members of that court]: Thus have I expounded, and thus have my colleagues expounded; thus have I taught, and thus have my colleagues taught.

If they [the latter] have heard [the ruling in that matter], they tell them; if not, they come to the one at the entrance of the Temple Courtyard], and he [the dissenter] says [to them]: Thus have I expounded and thus have my colleagues expounded; thus have I taught and thus have my colleagues taught.

If they have heard, they tell them; if not, they all come to the Great Court [the Sanhedrin] in the Chamber of Hewn Stone, from where Torah goes forth to all of Israel, as it is written: "From the place which the Lord shall choose."

"Then shall you arise, and get you up.”

This teaches that Eretz Israel is higher than all lands and that the Temple is the highest place in all of Eretz Israel.

"And you shall come" —

To include the court in Yavneh.

)*Sifrei Shoftim* 153)

After describing the ideal order of clarifying the Halakha in the nation's highest courts, the *Sifrei* moves on to include the court in Yavneh among these courts, despite the fact that it does not stand in the Chamber of Hewn Stone, nor is it identified with any of the three courts described in the *derasha.* Coming to the Temple Mount involves rising and going up, in both the geographical and the conceptual sense, whereas appearing before the court in Yavneh involves the simple directive “And you shall come." This is of far-reaching consequence, as it points to Yavneh as the direct continuation of the Sanhedrin in Jerusalem and as the supreme Torah authority of the generation.

The *derasha* continues along these lines:

"That shall be in those days.”

Rabbi Yosei the Galilean said: Would it enter your mind to go to a judge who is not in your days?

Rather the reference is to one who is eligible in those days.

If he was [once] related and the relationship was subsequently dissolved, he is eligible to [to judge].

And similarly it is stated:

“Say not you: How was it that the former days were better than these; for it is not out of wisdom that you inquire concerning this" (*Kohelet* 7:10).

"And you shall do in accordance with the matter" —

For [defying] a ruling of the Great Court in Jerusalem, one is liable for the death penalty,

But there is no liability for the death penalty for [defying] a ruling of the court of Yavneh.[[6]](#footnote-6)

(*Sifrei Shoftim* 152-154)

The lesson that emerges from this *derasha* is not to bask in a glorious past, but to focus on the present. Every member of Israel is commanded to accept the authority of the Torah sages of that generation who are recognized as the supreme Torah entity, and to follow them. This holds true without blurring the gap between the authority assigned to them and the broader authority assigned to the Sanhedrin which operated within the holiest precincts.[[7]](#footnote-7)

In the three passages from the *Sifrei* on *Shoftim* which we have seen, the court of Yavneh and the early sages there are mentioned by name: Rabban Yochanan ben Zakkai and Rabbi Eliezer. In the context of the *derashot* of the *Sifrei* concerning the various forms of sorcery prohibited by the Torah (*Devarim* 18:9-13), we find a statement of Rabbi Eliezer the Great concerning his period:

"For whoever does these things is an abomination to the Lord" (*Devarim* 18:12).

When Rabbi Eliezer came to this verse, he said: "Woe to us!

If the spirit of impurity reposes upon one who cleaves to impurity,

How much more so should the Holy Spirit repose upon one who cleaves to the *Shekhina*!

What has brought this [absence of the Holy Spirit] about?

"Your iniquities have separated between you and your God" (*Yeshayahu* 59:2).

(*Sifrei Shoftim* 173)

Rabbi Eliezer's words reflect the terrible sense of the absence of the *Shekhina,* the Divine Presence, in his generation, in the wake of the Destruction of the Temple.

Thus, the Tannaitic *derashot* throughout *Sifrei Shoftim* illuminate the historical consciousness of the Tannaim in relation to their time and the great challenge facing them, shaping the entire people around their Torah leadership, when the rest of the elements of the national leadership have been suppressed. Their words are a reflection of the Sages upon themselves and upon their situation, out of their acute awareness of the vast and painful void. Now, the Tannaim serve as the nation's leaders. They are building a new leadership, an edifice of Torah for future generations.

**Elements of the Priesthood and the Monarchy**

The *Sifrei* on *Shoftim* contains two *derashot*, each of which relates to a different law connected to the identity of the Sages of the court. The first of these relates to the priests and Levites:

"[And you shall come] to the Levitical priests" (*Devarim* 17:9).

It is a mitzva that there be priests and Levites on the court.

I might think that it is a mitzva and that if there are none, it is invalidated;

Therefore, it is written: "And to the judge" (ibid.) —

Even if there are no priests or Levites, it is a legitimate court.

Throughout *Tanakh*, the priests appear, in addition to their role as ministers to God in the Temple, as teachers who guide the people. After the Destruction of the Temple, the *Sifrei* directs their return to this additional role, in the context of the court of the Tannaim.

The second *derasha* relating to this matter appears in connection to a verse in the command regarding the appointment of a king:

That his heart be not lifted up above his brothers, and that he turn not aside from the commandment, to the right hand, or to the left; to the end that he may prolong his days in his kingdom, he and his sons, in the midst of Israel. (*Devarim* 17:20)

This points to the building of a dynasty as a characteristic trait not only of the monarchy, but of all proper leadership in Israel:

"He and his sons" (*Devarim* 17:20) —

For if he dies, his son succeeds him.

This tells me only of a king.

From where do I derive [the same for] all of Israel's leaders that their sons succeed them?

Therefore, the verse states: "He and his sons, in the midst of Israel" —

All who are "in the midst of Israel" are succeeded by their sons.

(*Sifrei Shoftim* 162)

A chain of leadership that connects father to son imparts stability and continuity, which is so vital after a crisis. Does the *derasha* relate to the dynasty of *nesi'im* from the descendants of Hillel the Elder, continuing throughout the period of the Tannaim and beyond? Even if this is not certain, the very noting of the legitimacy, and perhaps the importance, of creating a family dynasty of leadership for the benefit of Israel — "in the midst of Israel" — is not far off from this interpretation.

In light of the two additional points discussed here in the *Sifrei*, we wish to note the nature of the attempt on the part of the Tannaim to rebuild the broken world of Israel after the destruction of the Temple. The Torah Sages refashion patterns of leadership that existed during the nation's days of glory, which find initial expression in *Parashat Shoftim.* This is done by adopting characteristics of the monarchy (the creation of a dynasty) and of the priests themselves in the *beit midrash.*

**Epilogue**

Over the course of this *shiur,* we have become acquainted with the Sages' perspective on *Parashat Shoftim* in view of their time and place.

It seems that already in *Tanakh*, we find someone who adopts this *parasha* as a foundation and model for the style and messages of his prophecy: the prophet Zekharya. Embedded in his book are phrases found in this *parasha,* e.g.: "horses (*susim*)”(*Devarim* 17:16; *Zekharya* 1:8; 6:1-3; 10:3-5; 14:20); "if there be a matter too hard (*ki yipalei*)” (*Devarim* 17:8; *Zekharya* 8:6); "plotted (*zamam*)” (*Devarim* 19:19; *Zekharya* 14:15); king and priest (*Devarim* 17:14-18-5; *Zekharya* 6:9-15); “righteous/ true judgment,” the lack of which leads to the destruction of the land (*Devarim* 16:20; *Zekharya* 7:9-14; 8:16-17); measurement (*Devarim* 21:2; *Zekharya* 2:5); “elders” (*Devarim* 21:2, 6; *Zekharya* 8:4).

With the return to Eretz Israel and the reestablishment of life in it, the institutions of national leadership are also re-formed and re-shaped. The prophet Zekharya, who accompanies this miraculous process, tries to realize the ideal model of *Parashat Shoftim*, as Moshe lays it out before the people on the eve of their entry into the land. If so, this *parasha* constitutes an architectural map in the hands of the nation's spiritual leadership in times of transition — at a new beginning or in the shadow of disaster — as well as a mirror used to reflect the unique challenges of each period.

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What can we learn from *Parashat Shoftim*? What are the special insights for our generation in relation to communal leadership that emerge from the *parasha*? At a time when the State of Israel is having a difficult time establishing its leadership, and the term "halakhic state" makes it difficult to create channels of communication between the various sectors of Israeli society, we are left with much food for thought.

(Translated by David Strauss)

1. The meaning of the term *yafeh* in Rabbinic Hebrew is something of value. See Mishna, *Bava Kama* 4:1: "If an ox worth two hundred gored an ox worth two hundred, and the carcass is valued as nothing (*yafe kelum*)." According to this, “*beit din she-dino yafeh”* is a court whose rulings are of value, that is to say, true justice. [↑](#footnote-ref-1)
2. See BT *Sanhedrin* 32b:

   Our Rabbis taught: “Justice, justice shall you pursue” — pursue a worthy court (*beit din yafeh*), as for example, [pursue] Rabbi Eliezer to Lod, or Rabban Yochanan ben Zakkai to Beror Chayil…

   Our Rabbis taught: “Justice, justice shall you pursue” — pursue the scholars to their academies, e.g., Rabbi Eliezer to Lod, Rabbi Yochanan ben Zakkai to Beror Chayil, Rabbi Yehoshua to Peki'in, Rabban Gamliel to Yavneh, Rabbi Akiva to Bnei Berak, Rabbi Matya to Rome, Rabbi Chananya ben Teradyon to Sikhni, Rabbi Yosei to Tzippori, Rabbi Yehuda ben Betera to Netzivin, Rabbi Yehoshua to the Exile, Rabbi [Yehuda Ha-nasi] to Beit She'arim, or the Sages to the Chamber of Hewn Stone."

   Based on the names of the Sages and the places mentioned here, it would seem that this statement was formulated during the days of Rabbi Yehuda Ha-nasi. [↑](#footnote-ref-2)
3. The Gra in his glosses to the *Sifrei* deletes the end of the sentence, "and to prevent their being felled by the sword," even though these words are found in all the manuscripts. According to the interpretation suggested here, that this *derasha* relates to the first generation after the Destruction of the Temple, the wording is appropriate. [↑](#footnote-ref-3)
4. Regarding the generation of Rabban Yochanan ben Zakkai, see Tosefta, *Eduyot* 1:1:

   When the Sages entered the vineyard at Yavneh, they said: The time will come when someone will seek words of the Torah and not find them, words of the Scribes and not find them, as it is stated:

   “Behold, the days come, says the Lord God, that I will send a famine in the land, not a famine of bread, nor a thirst for water, but of hearing the words of the Lord. And they shall wander from sea to sea, and from the north even to the east; they shall run to and fro to seek the word of the Lord, and shall not find it” (*Amos* 8:11-12).

   “The word of the Lord” — this is prophecy.

   “The word of the Lord” — this is the end.

   “The word of the Lord” — that no word of the Torah shall be like any other.

   They said: Let us start with Hillel and Shammai… [↑](#footnote-ref-4)
5. The *Sifrei* here sees this mitzva as directed toward the great teachers of the generation. See the beginning of this source cited below (which does not appear here) on "If there be a matter too hard." [↑](#footnote-ref-5)
6. This *derasha* is repeated in *Sifrei Shoftim* 190, in the context of the laws governing witnesses. [↑](#footnote-ref-6)
7. Regarding the authority and power of the Torah Sages, which was also impaired as a result of the Destruction, see *Sefer Ha-Kuzari* III, 39. [↑](#footnote-ref-7)