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ענין השבוע

ALIEI DESHE

Weekly Torah Insights and inspiration on the Parsha from the Rosh Yeshiva Shlit"za of Gur

Justice for All

שִׁפְטִים וְשֹׁטְרִים תִּתֵּן לָהּ בְּכֹל שְׁעָרֶיהָ

Judges and officers shall you appoint in all your cities. (Devarim 16:18)

Rashi comments, citing Chazal, "The merit of appointing upstanding judges is sufficient to give life to Bnei Yisrael and settle them in their Land." Chazal teach,¹ as well, that justice is one of the pillars of the world, which support and maintain the universe.

One who deliberates before each action whether this is what Hashem wants him to do, creates in himself a more vibrant perception of Hashem's koach in this world.

The Midrash² adds: "Do not belittle justice, which is one of the three legs

of the world. Know that if you pervert justice you cause the world to shake, since justice is one of its legs." What is the message of this Midrash?

One might reason that judging improperly isn't so terrible, if the world has two other legs to stand on. The Midrash therefore teaches that from improper justice alone the world trembles. But still, the Midrash is difficult to understand. To start with, is the only reason not to judge crookedly that it makes the world shake? What about the simple fact that it is wrong to do so? That is surely enough of a reason not to do it.³ Perhaps the Midrash means to convey the greatness of proper justice – that it keeps the world steady. But if so, it could have said it the other way around: "Justice is so great that the world could not exist without it." Why does it focus on the negative?

The Midrash is teaching us the proper outlook toward the world's continued existence. One might think

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Kings and Pawns

שׁוּם תִּשִּׂים עָלֶיךָ מֶלֶךְ

You shall surely set over yourself a king. (Devarim 17:15)

The *mefarshim* deal with the seeming conflict between the mitzvah to appoint a king and the criticism that ensued when Bnei Yisrael sought to appoint one.⁶ Shmuel HaNavi told them (Shmuel I 12:17), הֲלוֹא קָצִיר חֲטִימֵי הַיּוֹם, אֶקְרָא אֵל ה' וַיִּתֵּן קִלּוֹת וּמָטָר, וַדַּעְו וַרְאוּ כִי רַעַתְכֶם רַבָּה אֲשֶׁר עָשִׂיתֶם בְּעֵינֵי ה', לְשֹׂאוֹל לָכֶם מֶלֶךְ – *Is today not the wheat harvest season? I shall call to Hashem and He will set forth thunder and rain; then you shall recognize and see that your wickedness is great, that which you perpetrated before the eyes of Hashem, requesting a king for yourselves.* In our parshah the Torah instructs that Bnei Yisrael appoint a king. What did they do wrong?

Perhaps the answer lies in the wording. The Gemara⁷ states that an expression of נתינה implies that there must be a *k'zayis*, to count as a substantial "placing." Another term, שימה, refers to setting down even the smallest amount; it is an expression of nominal "placing." The mitzvah to appoint a king is worded as שׁוּם תִּשִּׂים, *set over yourself a king* – in the most nominal fashion. A king should merely be a *mashal* for the King of kings; through him, Klal Yisrael would accept Hashem's kingship. But that is not what Bnei Yisrael sought during Shmuel's time. The pasuk says (Shmuel I 8:6), וַיִּרַע הַדָּבָר בְּעֵינֵי שְׁמוּאֵל,

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1 Avos 1:2, 1:18

2 Devarim Rabbah 5:1

3 ד"ה ובמדרש 5633 See *Sfas Emes*

6 See Shmuel I 8 and 12

7 Menachos 59b-60a with Rashi

Justice for All

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that once Hashem created the world, it continues to run on its own, irrespective of our actions. Although we must keep the Torah and mitzvos, does that matter to the world's continued existence?

Just as the world has existed for more than five thousand years, one might assume that it will automatically continue to do so. The Midrash is imparting that this is not the case. The world only continues to exist in the merit of our adhering to the Torah; if we fail to do so and tamper with the world's pillar of justice, we cause the world to shudder. We must internalize this message until it becomes deeply etched into our consciousness.

The Gemara (Shabbos 10a) says that R. Ami and R. Assi would judge *dinei Torah* and bring peace between disputants “ביני עמודי דהוי גרסי – between the pillars (of the *beis midrash*, Rashi), where they studied Torah.” Why doesn't the Gemara simply say that they judged *dinei Torah* where they learned? Why the detailed description? Based on the above, the Gemara's intention is clear: when R. Ami and R. Assi adjudicated cases, they felt deeply that the world was resting on the “pillars” of the justice and peace that they were upholding.⁴

A close look at the Sfas Emes's comments on this topic reveals

additional depth. The *sefarim hakedoshim* explain that the word *עולם*, world, derives from *העלם*, concealment; in this world, Hashem's Presence is concealed, which allows people to think they can do as they please. But that is precisely where our task lies: we are charged with revealing Hashem's Presence in this world by fulfilling Torah and mitzvos. When a judge perverts justice, he has not only brought upon himself a great sin; he has not only caused the entire universe to tremble; he has also undermined his personal world and shaken it to its foundations. His personal level of *העלם* is knocked off kilter, as instead of lightening it by adherence to Torah, he has intensified it by his perversion of justice. It will now be harder for him to find and connect with Hakadosh Baruch Hu.

This is not just about judges. Our *Rebbeim* have taught us that the Torah is addressing every individual and instructing that he must stand over himself as a judge. The Sfas Emes explains the Mishnah's teaching (*Avos* 1:9), “הוי מרבה לחקור העדים – Interrogate the witnesses at length,” as referring to those witnesses that constantly testify before us – the *yetzer tov* and the *yetzer hara*. Each one swears that he is telling the truth and that we ought to follow his guidance. A Yid must preside over his

every move and every sentiment, and judge what the proper course of action is. If he fails to judge his attitudes and actions, besides not acting properly, his *העלם* will grow beyond its natural state and further blur his perception of Hashem as Master of this world.

Conversely, one who deliberates before each action whether this is what Hashem wants him to do – shrinks his *העלם* and creates in himself a more vibrant perception of Hashem's *koach* in this world.

The Gemara (Shabbos 10a) states, “One who implements justice with absolute truth becomes a partner with Hakadosh Baruch Hu.” The Gemara is referring to each person's individual justice system – judging and determining his own day-to-day actions and choosing to act properly.⁵ By doing this one brings the world closer to the perfection that Hashem intended, proclaiming that even through the concealment a person can seek and find Hashem.

(בנאות דשא – שופטים תשפ"ב)

4 The Gemara elsewhere (*Berachos* 8a, 30b) says that R. Ami and R. Assi would daven “ביני עמודי.” The concept is the same: since *tefillah* is also one of the pillars of the world (*Avos* 1:2), they understood that the world rested on the pillars of their *tefillos*.

5 See *Sfas Emes*, *Mishpatim* 5652

Kings and Pawns

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כַּאֲשֶׁר אָמְרוּ תַּנְה לָנוּ מֶלֶךְ לְשִׁפְטוֹנוּ – *It was wrong in Shmuel's eyes that they said, "Give us a king to judge us."* They asked for a king with an expression of נתינה; they wanted a kingship for its own sake, not as a stepping-stone to *yiras Shamayim*.

On this theme, *Degel Machaneh Efraim*⁸ explains Chazal's comment (Sanhedrin 22a): "You shall surely set over yourself a king – his fear should be upon you." This means that *his fear*, the king's fear of Hashem, should spread and envelop the people. The kingship of a Jewish king is meant to symbolize the kingship of Hashem, and lead Bnei Yisrael to fear – to true fear of Heaven.

The Jewish people are referred to as *beni melachim* because a Yid has an instinctive sense of Hashem's kingship – a *yiras haromemus* – a feeling that he is in the Presence of the King

The *parshah* of appointing a king concludes with the pasuk לַמְעַן יֵאָרֶיךָ יָמִים עַל מַמְלַכְתּוֹ – *so that he will lengthen his years over his kingdom* (17:20). *Malbim* explains the difference between the terms מלכותו and ממלכתו: the former means *kingship* – the mantle of rulership, while the latter means *kingdom* – the nations and peoples under the king's rule. The Torah says that a king is to be עַל מַמְלַכְתּוֹ, *over his kingdom*; he must remember that his role is to care for the people, to inspire them to *yiras Shamayim*.

In *L'David Hashem Ori*, which we now recite twice daily, David Hamelech tells Hashem, לֵךְ אֲמַר לִבִּי בְקִשׁוֹ כִּנִּי, אֶת פְּנֵיךָ ה' אֲבַקֵּשׁ

– *For Your sake has my heart said, "Seek my presence." Your Presence, Hashem, do I seek* (Tehillim 27:8). *Etz Hada'as Tov* explains what David was conveying to Hashem: "Although I told the Jewish people, 'Seek my presence,' pay me homage and honor – You know, Hashem, that I only did so for Your honor, so that they would gain *yiras Shamayim*."

The Sfas Emes further develops this theme. The Mishnah in Avos (3:2) teaches that if not for the fear of the monarchy, each man would devour his neighbor. But this is only necessary when Bnei Yisrael are lacking in *yiras Shamayim*; then they need a king to inspire them to *yirah*. If Jews would have proper *yiras Shamayim* of their own, they would not need a king as a middleman and a symbol for the true kingship of Hashem; they could be ruled directly by Hashem Himself, as the pasuk says (Shmuel I 12:12), וְהָיָה אֱלֹהֵינוּ מֶלֶךְ – *Hashem, your G-d, is your King*. This, the Sfas Emes explains, was the reason for Shmuel's criticism. Had Bnei Yisrael feared Hashem of their own accord, they would not have needed a king. Although the Torah instructs Bnei Yisrael to appoint a king, it is intended only for a time of necessity, when Bnei Yisrael's *yiras Shamayim* is deficient.

The Sfas Emes further explains that the Jewish people are referred to as *beni melachim*⁹ because a Yid has an instinctive sense of Hashem's kingship – a *yiras haromemus*, an awe and fear in the presence of exaltedness – a feeling that he is in the Presence of the King. The Sfas Emes laments the lack of a natural, instinctive *yiras Shamayim* that makes it necessary to acquire it by studying the fear of mortals. In this light he reads the pasuk (Yeshayah 29:13), וְתִירָא יִרְאָתָם אֶתִּי מִצּוֹת אֲנָשִׁים מְלֻמְּדָה – *their fear of Me is like learning of human commands: Yiras Shamayim* gleaned from fear of humans is מְלֻמְּדָה, learned fear, as opposed

to fear accessed by tapping into a Yid's internal reservoir of *yiras Shamayim*. The *navi* deplores those whose fear of Heaven is learned from fear of humans.

Unfortunately, we do not even have *malchei Yisrael* from whom to gain *yiras Shamayim*. The Gemara (Berachos 9b) teaches, "One should always hurry to meet Jewish kings; not only Jewish kings, but even non-Jewish kings – so that if he will merit (to see Mashiach), he will be able to distinguish between Jewish and non-Jewish kings." How can the future Jewish king, the *Melech HaMashiach*, be compared to today's non-Jewish monarch? Is this a fitting comparison for the greatness we will merit to observe *l'asid lavo*?

Based on the Sfas Emes's approach we can understand that the contrast between Jewish and non-Jewish kings is the contrast between *yiras haromemus* and *yiras ha'onesh* (fear of punishment). A non-Jewish monarch does not inspire awe for his intrinsic greatness; one fears him only because of his power to punish and destroy. But a Jewish king brings one to heartfelt *yiras haromemus*, fear of Hashem for His exaltedness.

The Sfas Emes concludes, "We have fallen tenfold. Not only do we require a human king to awaken our *yiras Shamayim*, but we are subjugated to kings of the nations, and even to servants of such kings.¹⁰ And after all this there is only a hope that one might merit fear of Heaven resembling one's fear of people."

We must add, how low have we fallen? We stand now after years of a tragic pandemic, and we do not awaken to *yiras Shamayim* unless Hashem grabs us by the neck and shakes us, *chas v'shalom!* We must take the current events to heart and be inspired to at least a small measure of *yiras ha'onesh*, a modicum of fear of the Ribbono Shel Olam.

(שופטים תשפ"א – ס"ג, שבע ברכות מאמר א)

8 Devarim 10:12

9 Shabbos 111a

10 At the time the Sfas Emes wrote this, Poland was ruled by the Czar of Russia, and was governed by a governor appointed by the Czar; and the town of Gur was administered by an appointee of his.

Fit For a King

שום תְּשִׁים עָלֶיךָ מְלֶכֶךְ

You shall surely set over yourself a king.

(Devarim 17:15)

The Rambam writes¹¹ that a Jewish king may “marry women from across the land, both as wives and as *pilagshim*; wives, with a *kesubah* and *kiddushin*, and *pilagshim*, without a *kesubah* and *kiddushin*... but an ordinary citizen is forbidden to marry a *pilegsh*.”

This needs explanation. Although a king has the right to marry whoever he wishes, why should he be freed of the mitzvos of *kiddushin* and *kesubah*?

*Erech Shai*¹² explains this based on the following Gemara (Bava Basra 3b): Although normally it is forbidden to demolish an old *beis knesses* before a new one is built, a king may demolish it and then build a new one. The reason is that there is no concern that a king will change his mind and not build a new *beis knesses*. “Shmuel said: “If a king says ‘I will uproot a mountain,’ he will do so and not renege.”

We may now understand the above halachah that a king may take a woman as a *pilegsh*. The source for this halachah is an opinion of Shmuel in Sanhedrin (20b). What is the reason for the obligation of *kiddushin*? It is to ensure that the wife will be set apart for her husband only and nobody else. Since Shmuel himself holds that a king would never renege on his commitment, as in the case of demolishing a *beis knesses*, he maintains that a king’s wife feels secure enough to give herself over to him even without *kiddushin*, since she knows, she will remain set apart only for him.

But this leads us to a problem: why must a king perform a *kinyan* to acquire items in

general; why don’t we rationalize that the *makneh* (giver) relies on the king’s credibility and approves the transaction even without a *kinyan*? Perhaps only marriage can be performed in this manner, relying on a king’s dependability, since (as the Ran writes¹³) the woman’s role is not to actively give herself, but simply to consent to the *kiddushin*. Relevant to other *kinyanim*, however, where the giver must be an active *makneh*, one could not rely on a king’s reliability and waive the *kinyan*.

Rabbeinu Yonah, in *Shaarei Teshuvah*,¹⁴ has a different explanation for the king’s right to marry a *pilegsh*. Since the people fear their king, no one would dare approach his wife, so *kiddushin* is unnecessary. In a similar vein, Maharit explains¹⁵ that since even a king’s widow is forbidden to the populace, a woman does not need an act of *kiddushin* to be considered set aside for him.¹⁶

All these approaches explain a woman’s willingness to be married to a king even without *kiddushin*. But what about a *kesubah*? The *kesubah* is meant to deter a husband from easily divorcing his wife. How is a king’s *pilegsh* secure in this regard?

In truth, even if a husband neglects to write a *kesubah*, he is still responsible for the *kesubah* obligations; it is only written so that women will feel secure enough to marry. If so, in keeping with *Erech Shai*’s above approach, a king’s *pilegsh* would feel secure in marrying him even without a written *kesubah*, since she knows that he would keep his commitment regardless and pay the *kesubah*.

*Chiddushei HaRim*¹⁷ offers a different explanation. A king can marry without a *kesubah* because a *kesubah*’s payment is

ultimately intended for when the woman remarries – and a king’s former wife may not remarry.

But if so, why does a king’s wife – whom he marries with *kiddushin* – get a *kesubah*? After all, she too can never remarry. Perhaps, although she will never be able to collect the *kesubah*, she is given a *kesubah* as a sign of distinction since she is married to the king with *kiddushin*. Additionally, the *kesubah* also contains provisions that are relevant when the couple is married, and thus is relevant to a king’s wife as well.

But we may ask a different question on *Chiddushei HaRim*’s explanation. There are several other cases of women who may not remarry: a woman who vows not to be married to any Jew,¹⁸ and a *katlanis*, a woman whose previous two husbands died.¹⁹ In both cases, the women collect their *kesubah* from their former husbands. But according to *Chiddushei HaRim*, they should not be entitled to their *kesubah* since they cannot remarry.

We may draw a distinction, however, between these cases and that of a king’s wife. A king’s wife may not remarry because of her connection to him: being married to a king means that she can never remarry. Since her connection to her husband is the reason she may not remarry, he need not give her a *kesubah*. But in the above cases, the women may not remarry for peripheral reasons: a vow, or the concern that her third husband will die. Since their restriction from remarrying is not connected to their former husbands, they are entitled to their *kesubah*.²⁰

(בנאות דשא – שופטים תש"פ)

11 *Hilchos Melachim* 4:4

12 *E.H.* 26

13 *Nedarim* 30a, cited by *Avnei Miluim*, 27:6

14 *Shaar* 3 no. 94

15 *Chiddushim on Rif*, *Kiddushin* 32b

16 This reason is given as well by *Chiddushei HaRim*, *E.H.* 66 and *Avnei Nezer*, *E.H.* 56:3. See also *Sefer Hamafte'ach* to the Rambam, *ibid*.

17 *Ibid* no. 2, end of *בזזה וכו'*

18 *Nedarim* 90b

19 *E.H.* 9

20 See *Rosh*, *Kesubos* 4:3